

### 10.3 Multiple Dwelling Units in Commercial Structures

(Added 6/1/2015)

- 10.3.1 Purpose: The Town of Clinton adopted the following special exception regulation to allow multiple dwelling units in commercial structures. The goal and purpose of this regulation is to craft a procedure for more flexible uses of land, while still remaining consistent with (a) the adopted Plan of Conservation and Development; (b) the zoning laws and standards of the State of Connecticut; and (c) the administrative standards set forth in these Regulations as a whole.

A Multiple Dwelling Unit development in Commercial Structures shall consist of both residential and commercial uses, as hereinafter permitted, in a balance that recognizes that these developments are designed to be integrated neighbors, encouraging access to commercial and recreational services provided within the village setting ~~without the~~while limiting the need to travel by vehicle. Unlike the accessory apartment regulations, the goal of this regulation is to allow a mixture of commercial and residential uses to reflect the needs of the specific location, with the possibility of the residential use having a greater percentage of the square footage of the structure than the commercial use.

- 10.3.2 Qualifications: A Special Exception may be granted for a Multiple Dwelling Unit in a Commercial Structure provided that:

- (a) The structure must be serviced by the exclusive public water supplier.
- (b) The first story of the structure facing the street and completely above grade must be designated exclusively for commercial use, consistent with allowing access to the residential uses on other floors. Residential uses may be accessed from both the front and rear of the structure and may be provided with a separate entrance. In the case of a structure with direct exterior access to a sub-grade level from the front, the sub-grade level may be either residential or commercial.
- (c) None of the commercial uses in the structure can be: adult entertainment (Section 10.27) or tattoo parlors (10.26). If a ventilation system is required to be installed for a retail or restaurant use, it shall be designed so that it does not affect any residential units above that space or elsewhere in the building.

- 10.3.3 Standards and Requirements: A Special Exception may be granted for a Multiple Dwelling Unit may be granted provided that the following standards are met in addition to the standards, criteria and conditions stated in Section 9:

- (a) All residential units within each structure shall have a gross floor area of no less than six hundred fifty square feet (650 sq. ft.)
  - (b) The average number of bedrooms located within the Multiple Dwelling Unit development shall not exceed 1.75 per unit.
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- (c) Transient lodging shall not be permitted. The minimum length of stay shall be 180 days. The applicant shall provide a copy of the written lease agreement or other rental agreement, inclusive of the specified duration, that will be required of tenants, as part of the application documentation. Upon the sale of the property, the new property owner shall file an updated model lease within thirty (30) days of the change in ownership.
- (d) Provisions for removal of trash shall be provided. Trash collection areas shall be screened from the public right-of-way.
- (e) While dedicated parking spaces for each commercial and residential unit are not required, the applicant shall demonstrate that there is adequate convenient available parking.
- (f) Lighting shall be located in a manner which minimizes glare or direct lighting into residential units. All commercial lighting shall be extinguished within one hour of the close of business, except for security, street lighting or safety lighting.
- (g) All new buildings shall conform to the design standards for the underlying zoning district, if any or the overall Design Standards.
- (h) Open Space: A minimum of one hundred square feet (100 sq. ft.) per dwelling unit shall be dedicated as usable open space. This open space shall be located within the area dedicated for the Multiple Dwelling Units within Commercial Structures.

#### 10.3.4 Amenity Bonus and Incentives:

- (a) Purpose: In the interest of promoting public amenities, innovative site design and a community-friendly neighborhood on land subject to this permit, the Commission, at the applicant's request, may approve any combination of incentives listed within this Section.
    - (1) The application must demonstrate conformance to the principle of this Regulation and the intent of this Section and each request must be submitted as a separate request for Commission determination.
    - (2) Approval will be based on whether or not the applicant demonstrates adherence to this Section, complies with the intent of the Plan of Conservation and Development, all other regulations required by the Town and State and must be in the interest of public health, safety and welfare.
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- (3) If the Commission determines that the applicant has not satisfied this burden of proof or compliance with this Section, the Commission may deny the request.

(b) Existing Amenities: The developer shall utilize any existing amenities in order to minimize the development footprint and maximize the amount and quality of the open space.

~~(b)~~(c) Recommended Amenities:

- (1) Public Amenities shall include, but are not limited to: window boxes, awnings, balconies, outdoor seating, “green” roofs, usable outdoor spaces, public seating and other outdoor furniture or reduction in impervious surfaces.

(2) Best management practices promoted by the US Green Building Council.

(3) For properties with waterfront access, the following public amenities may include, but are not limited to: boat slips, beach access for the residents of the development and the public and viewing platforms.

(4) For properties with wetlands, the following improvements shall be considered amenities eligible for bonuses:

(i) Restoration, enhancement or creation of productive wetland or watercourse resources

(ii) Preservation of existing native vegetation, including shrubs and trees.

(iii) Removal of invasive species and replacement with native species.

(iv) Elimination and/or minimization of mowing to encourage a variety of native species including shrubs and trees, and

~~(i)~~(v) Planting of native vegetation.

(5) Inclusion of an Affordable Housing Component as defined by 8-30G of the Connecticut General Statutes.

(6) Innovative Stormwater/Wastewater Design: Energy and environmentally responsible and energy efficient stormwater and/or wastewater facilities may be eligible based on their relevance to the environmental concerns of the area, their use of new technology and efficiency.

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~~(c)~~(d) Bonuses: Upon adequate demonstration of conformance to the purposes set forth in Section 10.3.4(a) above, the Commission shall grant the following incentives:

- (1) A reduction in the front setback to allow for rear parking, or to otherwise create a sense of “street front” consistent with adjacent uses and setbacks.
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- (2) An increase in the maximum height consistent with allowing three (3) stories while creating a greater opportunity for: compliance with flood elevation requirements, sound buffering between commercial units and upper story residential units and more flexible architectural styles.

10.3.5 Public Waterfront Access (PWA): The public will be allowed unimpeded access to the water front as deemed appropriate by the Commission either through a deeded restriction satisfactory to Commission Counsel or by donating a piece of property to either the Town of Clinton or a non-profit organization as approved by the Commission.

(a) Examples of access include but are not limited to:

- (1) Public walkways, aesthetically consistent with the overall development; and
- (2) Common Green Space and waterfront areas (if available).
- (3) Outdoor furniture and fixtures which encourages pedestrian and bicycle use, such as bicycle racks and benches.
- (4) Existing beachfront areas. In areas where there is no beachfront access, a scenic waterfront viewing area will be provided for public use.

(b) The PWA must provide the following:

- (1) Adequate public parking availability
- (2) Maintained road access to the public parking area(s).

~~(c) A traffic study shall be provided that includes management, circulation, and minimization of traffic flow. In the event of traffic congestion and/or limited parking, a shuttle service shall be considered.~~

~~10.3.5~~10.3.6 Water Dependent Uses: All prior public water dependent uses shall be protected and access maintained consistent with the standards set forth in the Connecticut Coastal Management Act. The proposal shall not foreclose the possibility of future water dependent uses.

~~10.3.6~~10.3.7 Procedures: The applicant shall follow the procedures set forth in Section 4 of these Regulations, in addition to the following:

- (a) The following plans shall be submitted:
- (1) Lighting Plan

(2) Sign Design Plan

~~(2)(3)~~ For developments located in the Marine (M) Zone, a traffic study.

(b) The following additional materials shall be submitted:

- (1) A streetscape rendering of the proposed front of the structure
- (2) A model lease for the residential units

**(c) A traffic study shall be provided that includes management, circulation, and minimization of traffic flow. In the event of traffic congestion and/or limited parking, a shuttle service shall be considered.**

(3) A Parking Analysis prepared by a Professional Engineer or Traffic Engineer which addresses the following:

- (i) Demonstration that the parking provided is adequate for all combined uses
- (ii) Calculation methods
- (iii) Indication whether shared parking is being utilized
- (iv) Provisions for reserve parking

(4) Public Waterfront Access plan which shows the following:

- (i) Proposed public access
- (ii) Proposed public parking availability
- (iii) Proposed road access to the public parking area(s)

~~(4)(5)~~ An Amenities Plan which shows in detail all proposed public amenities which are eligible for bonuses.

## 10.5 Common Interest Community Development (CICD)

10.5.1 Purpose: The purpose of these Regulations is to allow for the arrangement of multiple dwelling units (units) on larger properties in a way to focus development in one or more groupings or clusters of units, and protect open space and common areas so as to create a village atmosphere, while still remaining consistent with the Plan of Conservation and Development, and promoting the health, safety and welfare of the town of Clinton.

10.5.2 Qualifications: A Special Exceptions for a Common Interest Community Development (CICD) may be granted provided that:

- (a) The minimum area of the tract of land to be considered for a CICD shall be no less than ten (10) acres.
- (b) The tract must have a minimum frontage of twenty-five feet (25') on an accepted Town road, State road, a road in an approved subdivision or to a road which is part of a proposed subdivision.
- (c) The tract shall be served by public water or a community water system approved by the Department of Energy and Environmental Protection and the Department of Public Health.

10.5.3 Standards: A Special Exception for a Common Interest Community Development (CICD) may be granted provided that:

- (a) Area, Bulk and Height:
    - (1) Any area to be developed within a CICD shall have a minimum area of forty thousand square feet (40,000 sq. ft.).
      - (i) A limited common element, exclusive use area or other restriction on the use or portion of land created through the declaration of a common interest community and not as a division of land through the subdivision process or otherwise shall not be considered a "lot" for the purposes of this Section.
    - (2) Each area to be developed shall include a minimum square of one hundred ten feet by one hundred ten feet (110' x 110') within and upon which multiple units may be constructed.
    - (3) The maximum ground coverage shall not exceed eighty percent (80%).
    - (4) The maximum building height shall not exceed the maximum permitted in the underlying zoning district.
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- (5) Lots must remain under a unified ownership as part of a master common interest community, but may contain units that are separately and individually owned.
- (6) Setbacks:
- (i) Minimum setback from front lot line Ten feet (10')
  - (ii) Minimum setback from any lot line other than a front or rear lot line Fifteen feet (15')
  - (iii) Minimum setback from rear lot line Twenty feet (20')
- (7) Perimeter setback: The setback for the underlying zoning district shall apply to each developed area within a tract.
- (b) Building Standards:
- (1) Each unit shall be served by a public water supply or a community water system approved by the Department of Energy and Environmental Protection and the Department of Public Health.
  - (2) Utilities serving the unit shall be buried underground as feasible.
  - (3) The minimum floor area for each unit shall be eight hundred fifty square feet (850 sq. ft.).
- (c) Parking: The provisions of Section 29.11 do not apply. The applicant must demonstrate that parking is adequate for the proposed use.
- (d) Stormwater Management: The CICD shall provide for the maintenance or reduction of pre-development level stormwater runoff from the site upon completion.
- (e) Landscaping:
- (1) To the greatest extent possible, mature trees shall be retained on-site. The Commission may require street trees (minimum three inch [3"] caliper) be planted on thirty foot (30') centers.
  - (2) Utility terminal boxes and connections placed above ground shall be adequately landscaped to screen them from view and shall be shown on initial and final residential plans. The Commission recognizes that the utility companies have the final decisions as to locations and therefore the locations shown on the plans are the suggested locations.
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- (3) Trees shall be planted adjacent to parking areas, if feasible.
- (f) Open Space
- (1) A minimum of thirty percent (30%) of the tract shall be preserved as open space, through deed or conservation easement.
  - (2) Wherever possible, open space shall be located so as to preserve existing woodlands, farmland, unique natural features, stone walls and sites of historic, archeological or scenic value. Due to the unique and fragile coastal environment, the primary public good of open space within the Coastal Area Management Review Zone is anticipated to be for conservation.
  - (3) Open space shall be located to provide linkage with reserved open space on adjacent properties whenever possible.
- (g) Common Green Space: Usable common green space is encouraged in addition to the required open space. Desirable features for green space include:
- (1) Walking paths, open fields, picnic areas and other park-like features.
  - (2) Landscaped and outdoor furnished spaces including playground, exercise course, picnic, amphitheater, play table, court, field and reflective areas.
  - (3) Bicycle, walking and information paths and where they may be appropriate, viewing platforms.
  - (4) Garden plots, and public swimming pools.
  - (5) Community notice boards and commemorative monuments within the common green spaces listed above.
- (h) Public Waterfront Access (PWA): The public will be allowed unimpeded access to the waterfront as deemed appropriate by the Commission, through a deeded restriction satisfactory to Commission Counsel:
- (1) Examples of access include but are not limited to:
    - (i) Public walkways, aesthetically consistent with the overall development;
    - (ii) Common Green Space and waterfront areas (if available); and
    - (iv) Existing beachfront areas. In areas where there is no beachfront
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access, a scenic waterfront viewing area will be provided for public use.

(iii) Outdoor furniture and fixtures which encourages pedestrian and bicycle use, such as bicycle racks and benches.

(2) The PWA must provide the following:

(i) Adequate public parking availability

(ii) Maintained road access to the public parking area(s).

(iii) A traffic study shall be provided that includes management, circulation, and minimization of traffic flow. In the event of traffic congestion and/or limited parking, a shuttle service shall be considered.

(i) Water Dependent Uses: All prior public water dependent uses shall be protected and access maintained consistent with the standards set forth in the Connecticut Coastal Management Act. The proposal shall not foreclose the possibility of future water dependent uses.

~~(h)~~(i) Street Standards:

- (1) All streets within the CICD shall be constructed in accordance with these Regulations, town ordinance and the Town of Clinton Construction and Development Standards.
- (2) All internal roadways and driveways shall be private roads and shall be maintained by the owner or Home Owners Association.
- (3) Emergency Vehicle Access
  - (i) All streets must provide adequate fire truck and emergency vehicle access.
  - (ii) Developers are encouraged to design roads and accesses that minimize the expanse of pavement through the employment of "natural" roadside surfaces that accommodate the turning radii and clearances necessary for the maneuvering of emergency vehicles.
    - (I) Examples of natural roadside surfaces include but are not limited to, grass over a road base, grass paver blocks, granite cobblestones and concrete brick pavers.

~~(j)~~(k) Sidewalks, Pedestrian and Bike Paths: These may be provided as deemed necessary by the Commission and consistent with the proposed aesthetic concepts.

- (1) Concrete, brick pavers, and pervious cinder walkways area examples

of acceptable sidewalk construction. Asphalt is not an acceptable material for sidewalks but asphalt may be used for pedestrian and bike paths.

- (2) Where appropriate pedestrian paths shall be lighted at night consistent with the principles of the International Dark Sky Association.

~~(j)(l)~~ All provisions of the Subdivision and Zoning Regulations which have not been modified or eliminated by this Section shall pertain to CICD areas, together with the requirements of Section 9, Special Exceptions.

10.5.4 Requirements: A Special Exception for a CICD shall not be approved until the Commission **finds** that the following requirements have been met:

- (a) The proposed units are clustered in a manner that is in harmony with the natural site so as to promote the preservation of natural resources, unique natural and manmade site features, and scenic views.
  - (b) The proposed unit layout contributes to the convenience of residential living and has a relationship to adjoining properties and neighborhoods that is harmonious with their character and serves to protect their values.
  - (c) The purposes, qualifications and standards for a CICD have been met.
  - (d) The provisions for traffic, water, stormwater and usable open space are adequate, do not overburden the existing streets, water and stormwater drainage facilities on- and off-site and do not create water problems off-site.
  - (e) The site drainage and layout in terms of location of buildings and locations of residential uses provides for the safety of the residents.
  - (f) The development and design of the CICD will not have a significant adverse effect on surrounding properties or property values in the area.
  - (g) The proposed development will not have an adverse effect on the environment and, in particular, wetland and watercourse areas. In making this finding, the recommendations of the Inland Wetlands Commission regarding the development will be taken into account.
  - (h) Where appropriate, the applicant has providing for continuing maintenance of parking areas, stormwater drainage facilities, open space and other infrastructure or amenities not to be accepted by the Town of Clinton.
  - (i) The CICD is found to be consistent with the health, welfare and public safety needs of the community.
  - (j) Performance standards and soil erosion control measures have been met.
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- (k) The proposed development must demonstrate its proximity to state highways and/or locations of mass transit access and be serviced by a public water supply.

10.5.5 Procedures: The applicant shall follow the procedures set forth in Section 4 of these Regulations, in addition to the following:

- (a) If the tract is being subdivided into lots, the approval of a CICD is a two-part process. An applicant must obtain Special Exception approval under these Regulations and must receive approval of a subdivision under the requirements of the Subdivision Regulations. A tract need not be subdivided into separate lots.

- (1) The applicant shall submit all the required applications concurrently.
- (2) The Commission may hold a single, combined public hearing on the application(s) for Special Exception and the application for subdivision approval.
- (3) In accordance with Connecticut General Statutes, the Commission must vote separately on the applications for Special Exception(s) and for subdivision.

- (b) The following plans shall be submitted:

- (1) Lighting Plan
- ~~(2)~~ Landscaping Plan

~~(2)~~(3) For developments located in the Marine (M) Zone, a traffic study.

- (c) The following materials shall be submitted:

- (1) Parking analysis prepared by a Professional Engineer or Traffic Engineer which demonstrates that the parking provided is adequate for the use.
- (2) Sample common interest community documents, easements and/or shared driveway agreement documents.

~~(3)~~ Maintenance agreement documents.

(d) Public Waterfront Access plan which shows the following:

- (1) Proposed public access
- (2) Proposed public parking availability

- (3) Proposed road access to the public parking areas(a)
  - (4) A traffic study shall be provided that includes management, circulation, and minimization of traffic flow. In the event of traffic congestion and/or limited parking, a shuttle service shall be considered.
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