

ARTICLE 10 – PLANNING AND ZONING COMMISSION

SECTION 84 – PLANNING AND ZONING COMMISSION

84.1 AUTHORITY AND APPOINTMENT

The City of West Haven Planning and Zoning Commission, being duly appointed, impaneled and empowered by the City Charter of the City of West Haven pursuant to Connecticut General Statute, Section 8-4a, hereby adopts the provisions of Chapters 124 and 126 of the 1958 Revisions of the General Statutes of the State of Connecticut, as amended, and is accorded full authority hereunder.

84.2 MEMBERSHIP

The Planning and Zoning Commission shall consist of five (5) regular members whose appointments and terms are established by the City Charter.

84.3 ALTERNATES

In addition, there shall be three (3) alternate members of the Planning and Zoning Commission as provided for by Section 8-1(b) of the Connecticut Statutes, whose appointment and terms are established by the City Charter.

84.4 POWERS OF ALTERNATES

Whenever any alternate member shall replace a regular member, said alternate shall have all of the power and rights conferred upon the regular member.

84.5 BY-LAWS

The Commission shall adopt by-laws relative to the conduct of the Commission and shall annually elect officers pursuant to said by-laws.

84.6 POWERS

The Planning and Zoning Commission shall have all the powers and duties conferred and imposed upon Planning and Zoning Commission by Chapters 124 thru 126 of the General Statutes of the State of Connecticut.

84.7 MEETINGS

The Planning and Zoning Commission shall file an annual schedule of meetings as required by law. In addition, the Board may meet and have special meetings at their pleasure, provided notice is given in accord with the Connecticut General Statutes.

84.8 SPECIFIC RESPONSIBILITIES

In addition to those general powers and duties imposed upon such Commissions by Chapters 124 thru 126 of the Connecticut General Statutes, the Planning and Zoning Commission shall have the following specific responsibilities:

84.8.1 To hear, decide and regulate Site Plans;

84.8.2 To administer and enforce these regulations;

84.8.3 To hear, decide and regulate Special Permits and Special Use Exceptions;

84.8.4 To amend, alter, or change the regulations and/or district boundaries as the need arises to conform to the Comprehensive Plan of Conservation and Development;

84.8.5 To hear, decide and regulate Subdivisions (See Subdivision Regulations);

84.8.6 To adopt, amend or appeal such rules, regulations or interpretations as may be necessary to carry into effect the provisions of these Regulations.

SECTION 85 – SPECIAL PERMITS

85.1 PURPOSE AND INTENT

The Planning and Zoning Commission (hereafter *Commission*) shall have exclusive jurisdiction over those matters involving the use of property for such uses are permitted by Special Permit only. It is hereby recognized that such *uses* are an important part of an overall community, but are of the type of *use* that would not normally be concentrated together within a single area. Instead, these *uses* are typically interspersed throughout a community, and therefore, should be regulated on a lot-by-lot basis to determine the particular suitability of the requested location for the proposed *use*.

85.2 DEFINITIONS

85.2.1 **SPECIAL PERMIT:** The *use* of property for uses normally incidental to urban life but permitted only upon limited, regulated circumstances specified within zoning district regulations.

85.3 GENERAL REQUIREMENTS

85.3.1 **Findings Required.** The *Commission* shall make all the findings required in the applicable sections of this Article and the provision of the applicable zoning district with respect to each special permit *use*.

The *Commission* shall deny a special permit *use* whenever such *use* is contrary to the Plan of Conservation and Development or will interfere with an existing or proposed public improvement project (including streets or highways, public buildings or facilities, redevelopment or renewal projects, or rights of way for sewers, transit or other public facilities which are planned for the City of West Haven.

85.3.2 **Traffic Referral.** In all cases, the *Commission* may refer the application to the Traffic Authority of the City of West Haven for its report with respect to the anticipated traffic congestion resulting from such special permit use in the proposed location. The *Commission* shall, in its determination, give due consideration to such report and, further shall either adopt same or shall state on the record its reasons for rejecting the Traffic Authority's recommendations.

85.3.3 **Time Limit.** Where appropriate, the *Commission* may limit any special permit use for a term of years, provided it states on the record its reasons therefore.

85.3.4 **Enlargement or Extension.** A Special Permit Use may only be created, or if pre-existing, moved, reconstructed, expanded, or enlarged upon application under the process provided herein. The *Commission* may permit the enlargement or extension of any existing use which, if new would be permitted only by special permit, provided that such enlargement or extension does not create a new **non-compliance** with applicable bulk regulations.

85.4 SPECIFIC FINDINGS

It shall be a further requirement that the decision or determination of the *Commission* shall set forth the following specific required findings in each grant of a special permit, and in each denial thereof, which of the required findings has not been satisfied. In any case, each finding shall be supported by substantial evidence of other data considered by the *Commission* in reaching its final decision, including the personal knowledge of or inspection by members of the Commission.

85.4.1 The principal vehicular access for such *use* is not located on a minor street (local), but is located on an arterial street or collector street within one-quarter mile of an arterial street.

- 85.4.2 Such **use** is so located as to draw a minimum of vehicular traffic to and through local streets within any surrounding residential development.
- 85.4.3 The architectural and landscaping treatment of such **use** will blend harmoniously with the rest of the area.
- 85.4.4 Provisions have been made to minimize any disturbances or nuisance to surrounding properties arising out of the creation of such **use**, including the provision of landscaped screens and buffers.
- 85.4.5 Reservoir space at vehicular entrances and exits are provided to prevent traffic congestion and vehicular entrances and exits for such **use** are separately provided.
- 85.4.6 Provision is made with respect to drainage, outside lighting or illumination and signs so as to minimize any adverse effect on the character of the surrounding area.
- 85.4.7 Provision is made with respect to requirements for soundproofing, construction of fences, barriers, or other safety devices.

85.5 SPECIAL PERMIT USES IN RESIDENTIAL DISTRICTS

- 85.5.1 **Purpose. Uses** Special permit **uses** in residential districts are permitted only at the discretion of the **Commission**, subject to the standards and procedures of Article 10, including a public hearing and Site Plan Review (Section 75).

It is hereby recognized that there are certain, non-residential uses which are a necessary part of the community that if properly controlled are compatible within residential neighborhoods.

In making its decision on any application for a Special Permit use the **Commission** must weigh the interests of the community in having the Special Permit use, together with the interest of the landowner, against that of the surrounding neighborhood.

If the **Commission** deems that the proposed use is in the best interests of the community as a whole, the **Commission** shall make findings relative to the interest of the community and the impact of the application on the Plan of Conservation and Development.

Nothing herein shall prohibit the combining of any public hearing for municipal improvement as required by Connecticut General Statutes 8-24 with the public hearing required for a Special Permit for such a municipal improvement.

- 85.5.2 **Standards for Special Permit in Residential Zones.** The **Commission** shall establish conditions or requirements to protect adjoining, residential neighborhoods, to minimize any adverse effect on the surrounding area and to have the Special Permit blend into the neighborhood as unobtrusively as possible. In granting any Special Permit the **Commission** shall establish as a minimum condition of approval, conditions concerning the operation, location and use of the property relative to the following:

1. Landscaped buffers (of not less than 15 feet, nor more than 50 feet);
2. Signs and lighting design so as not to permit light to exit beyond the property boundary;
3. Design and character of buildings to blend in with surrounding residences;
4. Location of accessory uses on property so as to minimize impact on the surrounding neighborhood;
5. Location of property on a major street or artery.

85.6 SPECIAL PERMIT USES IN COMMERCIAL DISTRICTS

85.6.1 Standards for Special Permit Uses in Commercial Zones:

1. In addition to the criteria set forth in the sections above the *Commission* shall establish certain conditions or requirements to protect adjoining property values, to minimize any potential traffic, safety or other hazard which may be created, to prevent encouragement of immoral behavior, and to have the Special Permit Use blend into the adjoining neighborhoods as unobtrusively as possible.
2. In granting any Special Permit the *Commission* may establish conditions limiting the Special Permit operation, location and use, provided same fulfills this section's purposes.
3. In granting any Special Permit the *Commission* shall establish as minimum conditions of approval that the property have landscaped buffers (of not less than 25 feet nor more than 75 feet) when adjoining any residential district;
4. All Special Permit Uses shall be subject to provisions that may apply relative to liquor and day care regulations;
5. In addition, no gaming facility, Drive-In or Drive-Up Restaurant, Massage Parlor, Adult Book Store, or Amusement Center shall be located within 1,000 feet from any school, park or playground.

85.7 SPECIAL PERMIT USES IN INDUSTRIAL DISTRICTS

85.7.1 Standards for Special Permit use in Industrial Districts. The Commission shall establish certain conditions or requirements to protect adjoining property values, to minimize any potential traffic, safety or other hazard which may be created.

1. In granting any Special Permit the *Commission* may establish conditions affecting the operation, location and *use* provided same fulfills the purposes of this Section and Article.
2. In granting any Special Permit the *Commission* shall establish as a minimum condition of approval that the property has landscaped buffers of not less than 75 feet or more than 100 feet when adjoining any district other than other industrial zones.
3. No Special Permit may be granted without a certification from a Connecticut Licensed Engineer that the facility as designed and built will meet all state, local and federal standards for air, water and noise pollution.

85.8 Continuing Nature of Standards.

The regulations, prohibitions, and standards herein set forth are expressly declared to be of **continuing application**. Any permission granted by the Planning and Zoning Commission to use land for business or commercial purposes shall be subject to compliance with the regulations, prohibitions and standards set forth herein and **failure to comply within 72 hours** after written notice of non-compliance from the Planning and Zoning Commission, said **Commission may revoke any permission previously granted** and enjoin such use. No building permits shall be issued until a fixed mylar of the final approved Special Permit Site Plan is recorded in the Office of the City Clerk and the required bonds have been received by the City Engineer.

SECTION 86 – APPLICATIONS FOR ZONING MAP OR TEXT AMENDMENT

86.1 APPLICATIONS

Applications shall be filed with the Planning and Zoning Commission and thereafter be acted upon and Notice given as provided in section 8-3 of the Connecticut General Statutes and the additional standards below.

86.2 PRELIMINARY HEARINGS AND WORKSHOPS

The Commission may in its discretion hold such preliminary hearings and/or workshops as it deems necessary.

86.3 FACTORS FAVORING AND DISFAVORING A CHANGE

In passing upon any such petition, the Planning and Zoning Commission shall take into account the various factors favoring and disfavoring a change, such as, but not limited to, the following:

86.3.1 **Errors and Changes.** Errors in the existing ordinance, changes that have taken place in the city and in patterns of construction and land use, the supply of land and its peculiar suitability for various purposes, the effect of a map change on the surrounding area, the purposes of zoning and the Plan of Conservation and Development of the City of West Haven;

86.3.2 **Other Method or Procedure.** Whether some other method or procedure under the zoning ordinance is more appropriate; and

86.3.3 **Minimum Area.** In the case of a map change, the size of the area involved. As a general policy the Planning and Zoning Commission shall not consider favorably any petition which would result in a total contiguous area (separated only by streets, and excluding the area of streets) of less than 2 acres in the case of a Residence District, less than 1 acre in the case of a Commercial District, less than 4 acres in the case of an Industrial District or Mixed Use District.

86.4 NO MAP OR SITE PLAN TO BE FILED

No map or site plan of the proposed development shall be filed with the zone change application so that the Commission may render an impartial decision of the zoning of the property.

86.5 FEE WAIVED FOR CITY APPLICATION

Whenever the applicant for a change in the zoning regulations is the City of West Haven or the West Haven Planning and Zoning Commission, no application fee is required and only such plans or application as the Commission determines necessary to properly advise any interested party of the nature of the requested change will be required.

86.6 EFFECTIVE DATE

Any change of a zoning district boundary or amendment to these regulations shall automatically be effective upon legal publication of the Notice of Decision of approval of same, unless otherwise expressly stated by the Commission at the time of adoption.

86.7 PUBLIC HEARING REQUIRED

A public hearing in accordance with the provisions of Section 8-6 of the Connecticut General Statutes shall be held. At such public hearing, the petitioner may be heard and any other person may be heard to speak in favor or against the said petition.

86.8 LEGAL NOTICE

Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in such municipality at least twice, at intervals of not less than 2 days, the first not more than 15 days nor less than 10 days, and the last not less than 2 days before the date of such hearing, in accordance with the provisions of Section 8-3 of the Connecticut General Statutes.

86.9 NOTICE TO CITY COUNCIL

The Clerk of the Board shall give notice to the Council Member of the district or districts in which the subject property is located.

86.10 NOTICE TO ADJOINING MUNICIPALITIES

In the case of applications where any portion of a tract of land is within 500 feet of a town line, the Clerk of the Board shall notify the adjoining municipality Clerk by US Mail, .

86.11 PUBLIC INSPECTION OF DOCUMENTS

All applications, maps, and documents relating to a public hearing shall be open for public inspection in the Planning and Development Department not less than fifteen (15) days prior to the day of the public hearing.

86.12 PLANNING AND ZONING COMMISSION, CITY NOTICE EXEMPTION

Unless expressly required by State Statute neither the City nor the Planning and Zoning Commission shall be required to comply with the posting and mailing requirements of this section.

86.13 PROPERTY OWNERS TO BE NOTICED

In addition to published notice, the Clerk of the Board or Commission shall provide mailing labels for notice to property owners as recorded at the Office of the City Assessor whose property is located within and including a distance of 200 feet as measured from all boundaries of the property which is the subject of such application if such property is within the city.

86.13.1 **Applicant to Mail Notices.** The applicant shall use the provided mailing labels to notify property owners as recorded at the Office of the City Assessor whose property is located within and including a distance of 200 feet as measured from all boundaries of the property which is the subject of such application if such property is within the city.

86.13.2 **Applicant to Provide Affidavit of Mailing.** The applicant shall provide a signed affidavit on a form provided by the Department of Planning and Development that the furnished Mail Notices have been sent by US Mail in conformance with these Regulations.

86.13.3 **Notice to Condominiums.** In the case of a condominium, notice shall be furnished to the official business address of the association or other business entity responsible for its business affairs.

86.13.4 **Date of Mailing.** The mailing shall be made not less than 10 days or more than 15 days prior to date of the hearing.

86.13.5 **Source for Notice.** The most recent published annual list of the Office of the City Assessor shall be the basis for notice.

86.14 POSTING OF NOTICE

A sign of a design approved by the *Board* or *Commission* shall be posted City staff or the Applicant not less than 10 days prior to the public hearing on the property for which application is made where practical.

86.15 LOCATION AND CONTENT OF POSTING

APPLICATIONS FOR ZONING MAP OR TEXT AMENDMENT

A minimum 11" x 17" size sign shall be posted. The sign shall be plainly readable from curbside of the addressed street frontage and shall normally be posted on a door or window of the principal structure on the property. If there is no structure, the sign shall be attached to a board or post and prominently placed on the property near the street face at a 4 foot minimum height. The sign shall contain language which provides, but is not limited to, the following information:

1. Notice that zoning relief has been applied for.
2. An address and telephone number where further information can be obtained regarding the application.
3. Date, location and hearing time.

86.16 NOTICE FOR LARGE TRACTS OF LAND

When land area of 10 acres or more or involving more than 250 notices to owners of record within 200 feet of the subject petition area are involved the application shall be considered a large tract of land that may use one or more of the alternative means and outreach efforts listed below under the direction of Board or *Commission* involved:

- Newspaper article(s)
- Door to door distribution of Flyers or Leaflets distributed by City or Council Members
- Newsletters
- Larger display ad in legal notices section
- Informational meeting(s) before public hearing
- Larger on-site sign(s)
- Postings in or at local businesses
- Upload to Internet

86.17 DECISIONS

After the Public Hearing, the *Commission* may grant, deny or table said petition. In the case of a petition for a change in Zoning Regulations Map or Text, the *Commission* may amend and approve such amended petition, provided the amendment does not substantively alter the purpose of nature of the original petition.

Should the application for Zone Map or Text Amendment be denied, the *Commission* will not hold a public hearing for the same property, properties or amendment(s) within a twelve-month period from the date of denial. The *Commission* may also deny any petition without prejudice so as to allow the rehearing of the same application within the twelve (12) month period.

Any decision shall be filed with the City Clerk's Office, sent to the petitioner at the address listed on the application, and a statement of the decision of the *Commission* shall appear in a legal ad in the newspaper.

86.18 APPEALS

Any person or persons aggrieved by the action of the *Commission* may appeal any decision to the Superior Court of the State of Connecticut.

ARTICLE 11- ZONING BOARD OF APPEALS

SECTION 87 – ZONING BOARD OF APPEALS

87.1 AUTHORITY AND APPOINTMENT

The Zoning Board of Appeals shall have all of the power and duties confirmed and imposed by the General Statutes of the State of Connecticut, under Chapter 124, revised 1958. The Zoning Board of Appeals is appointed by authority of the City of West Haven Charter by its adoption by the City Council.

87.2 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members whose appointment and terms are established by City Ordinance.

87.3 ALTERNATES

In addition, there shall be three (3) alternate members of the Zoning Board of Appeals as provided for by Section 8-5 of the Connecticut General Statutes, whose appointment and terms are established by City Ordinance.

87.4 ALTERNATE POWERS

Whenever any alternate member shall replace a regular member, said alternate shall have all the power and rights conferred upon the regular member.

87.5 BY-LAWS

The Board may adopt by-laws relative to its conduct and shall annually elect officers.

87.6 POWERS

The Zoning Board of Appeals shall have all of the powers and duties conferred and imposed upon Zoning Board of Appeals by Chapter 124 of the General Statutes of the State of Connecticut.

87.7 MEETINGS

The Zoning Board of Appeals shall file an annual schedule of meetings as required by law. In addition, the Board may meet and have meetings at their pleasure.

87.8 SPECIFIC RESPONSIBILITIES

In addition to those duties imposed by statute, the Zoning Board of Appeals shall have the power, after public notice and hearing:

- 87.8.1 To hear, decide and determine, only in those specified cases of practical difficulty or unnecessary hardship, whether to vary the application the provisions of these Regulations;
- 87.8.2 To hear and decide appeals from and to review interpretations of these regulations;
- 87.8.3 To hear and decide appeals from a decision of the Commissioner of Planning and Development and/or Zoning Enforcement Officer;
- 87.8.4 To hear and decide application for Special Exceptions and Special Use Exceptions, as provided and under such circumstances as permitted by these Regulations;
- 87.8.5 To hear and decide applications for Special Use Exceptions for Liquor Permits and for Motor Vehicle Permits.

ARTICLE 11- ZONING BOARD OF APPEALS

SECTION 88 – ZONING BOARD OF APPEALS

88.1 AUTHORITY AND APPOINTMENT

The Zoning Board of Appeals shall have all of the power and duties confirmed and imposed by the General Statutes of the State of Connecticut, under Chapter 124, revised 1958. The Zoning Board of Appeals is appointed by authority of the City of West Haven Charter by its adoption by the City Council.

88.2 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members whose appointment and terms are established by City Ordinance.

88.3 ALTERNATES

In addition, there shall be three (3) alternate members of the Zoning Board of Appeals as provided for by Section 8-5 of the Connecticut General Statutes, whose appointment and terms are established by City Ordinance.

88.4 ALTERNATE POWERS

Whenever any alternate member shall replace a regular member, said alternate shall have all the power and rights conferred upon the regular member.

88.5 BY-LAWS

The Board may adopt by-laws relative to its conduct and shall annually elect officers.

88.6 POWERS

The Zoning Board of Appeals shall have all of the powers and duties conferred and imposed upon Zoning Board of Appeals by Chapter 124 of the General Statutes of the State of Connecticut.

88.7 MEETINGS

The Zoning Board of Appeals shall file an annual schedule of meetings as required by law. In addition, the Board may meet and have meetings at their pleasure.

88.8 SPECIFIC RESPONSIBILITIES

In addition to those duties imposed by statute, the Zoning Board of Appeals shall have the power, after public notice and hearing:

- 88.8.1 To hear, decide and determine, only in those specified cases of practical difficulty or unnecessary hardship, whether to vary the application the provisions of these Regulations;
- 88.8.2 To hear and decide appeals from and to review interpretations of these regulations;
- 88.8.3 To hear and decide appeals from a decision of the Commissioner of Planning and Development and/or Zoning Enforcement Officer;
- 88.8.4 To hear and decide applications for Motor Vehicle Permits.

SECTION 89 – GENERAL PROVISIONS REGARDING ZONING RELIEF

89.1 PURPOSE AND INTENT

It is hereby found that there are certain, specific uses which are a necessary part of an urban community such as West Haven. However, it is also found that these uses, if not properly regulated, would be detrimental to the safety, welfare, and health of the community and could have an adverse affect on the property values surrounding them. The particular uses to which this Article applies are set forth herein and elsewhere in these Regulations.

It is, therefore, the purpose and intent of these Regulations and specifically this Article, to review the application to permit those uses on a lot-by-lot basis and where appropriate, permit them only under certain limited circumstances in limited quantities, and with proper safeguard and controls based upon pre-established standards to assure a minimum of injury to surrounding property.

89.2 DEFINITIONS

89.2.1 **VARIANCE:** A land use permitted when a reasonable basis is found to so some act contrary to the usual rule permitted when the standards contained within the Regulations have been met.

89.3 VARIANCES AND REVIEW OF ADMINISTRATIVE DECISION OR ORDER

Variences or Review of Administrative Order or Decision applications shall be filed with the Zoning Board of Appeals and thereafter shall be acted upon as provided in section 8-6 of the Connecticut General Statues and the additional standards of Section 90 below.

89.4 INTENT

As provided in Section 8-6 of the Connecticut General Statutes, the Zoning Board of Appeals may vary the strict enforcement of these Regulations whenever particular hardship is established. This power shall be used in only those circumstances wherein practical difficulty has made these regulations almost impossible and/or renders the property unusable. The use of a Variance shall not be permitted in those instances where these Regulations provide for a Special Permit, Special Use Exception or Special Exception.

89.5 GENERAL REQUIREMENTS FOR ZONING RELIEF

Pursuant to Connecticut General Statutes Section 8-2 and in harmony with the general purpose and intent of these Regulations and in accordance with provisions set forth in this Article 8.

89.6 PROCEDURE

89.6.1 **Application.** Any person or property owner who feels that they are aggrieved by the strict application of these Regulations may petition the Zoning Board of Appeals upon written application form provided for such purposes from the Planning and Development Department office. Such petition shall set forth with specificity the *exact section of these Regulations which imposes the practical difficulty*, the *nature of the hardship* and the *basis for the peculiar hardship as it relates to the applicant's property*.

89.6.2 **Public Inspection of Documents.** All applications, maps, and documents relating to a public hearing shall be open for public inspection in the Planning and Development Department not less than fifteen (15) days prior to the day of the public hearing.

89.6.3 **Decisions.** The Zoning Board of Appeals after the public hearing may grant, grant with conditions, or deny the petition. A copy of the decision will be filed with the City Clerk's Office and be mailed to the petitioner. Notice of the decision shall also be legally advertised in the local newspaper.

Whenever the Board grants or denies a variance in the zoning regulations pursuant to a petition for same, it shall state upon the records the reason for its decision.

The Board may prescribe such conditions or restrictions applying to a grant of a variance as it may deem necessary in the specific case to minimize the adverse effects of such variance upon other property in the neighborhood, and such conditions or restrictions shall be incorporated in the building permit and Certificate of Occupancy (C of O). Failure to comply with such conditions or restrictions shall constitute a violation of these regulations, resulting in the automatic denial or revocation of a building permit or certificate of occupancy (C of O) as well as giving rise to all other applicable enforcement remedies.

89.7 APPEALS FROM DECISION

Any person or persons may appeal any decision of the Zoning Board of Appeals to the Superior Court of the State of Connecticut pursuant to Section 8-8 of the Connecticut General Statutes.

SECTION 90 – VARIANCES

90.1 INTENT

As provided in Section 8-6 of the Connecticut General Statutes, the Zoning Board of Appeals may vary the strict enforcement of these Regulations whenever particular hardship is established. This power shall be used in only those circumstances wherein practical difficulty has made these regulations almost impossible and/or renders the property unusable. The use of a variance shall not be permitted in those instances where these Regulations provide for a Special Permit or Special Use Exception.

90.2 PROCEDURE

Any person or property owner who feels that they are aggrieved by the strict application of these Regulations may petition the Zoning Board of Appeals upon written application form provided for such purposes from the Office of Planning and Development. Such petition shall set forth with specificity the exact section of these Regulations which imposes the practical difficulty, the nature of the hardship and the basis for the peculiar hardship as it relates to the applicant's property.

90.3 REQUIRED FINDINGS

When it is alleged that there are practical difficulties or unnecessary hardship, the Board may grant a variance in the strict application of the provisions of these regulations provided it makes the following findings:

- 90.3.1 There exist **special circumstances** which result in difficulty of unnecessary hardship.
- 90.3.2 That said special circumstances **peculiarly pertain to the property** under appeal and the variance petition would be in harmony with the general purpose of the zoning regulations.
- 90.3.3 That **failure to grant a variance** would deprive the owner of the property any reasonable use thereof.

ARTICLE 12 – PUBLIC HEARING PROCEDURES

SECTION 92 – PUBLIC HEARING PROCEDURES

92.1 PROCEDURE

- 92.1.1 **Application.** Upon application on a written prescribed form by the Commission, the Board or Commission shall hear, review, and decide any petition for a Special Use Exception, Variance, Special Permit or Zoning Ordinance Map and/or Text change.
- 92.1.2 **Content.** Such application shall contain as a minimum, written statements setting forth the Regulations section under which the application is submitted, with a narrative, site or plot plan and such diagrams and/or photographs as appropriate. All such documents shall become part of the record of such application.
- 92.1.3 **Start of Public Hearing.** The public hearing must be scheduled within sixty-five (65) days of receipt of the application.
- 92.1.4 **Hearing Continuation.** Public hearings shall be completed in a single session where possible, but may be continued to a date certain where necessary for full development of evidence or for full and adequate participation of the parties, or for such other substantial purposes. In no case shall continuances be used as a delay device.
- 92.1.5 **Completion of Hearing.** The public hearing shall be completed within thirty-five (35) days of its commencement.
- 92.1.6 **Time Extensions.** An applicant may consent to time extension(s) for the start or completion of the public hearing or decision action phase in accord with section 8-26d C.G.S., but the total of all extensions together may not exceed 65 days. All time specified is in workdays per Sec. 1-225(g), C.G.S.

92.2 PUBLIC HEARINGS AND NOTICE

- 92.2.1 **Notice of Public Hearing Required.** The legal advertisement shall describe the petition and the public hearing time and location and where additional information may be secured. Notice of a public hearing shall be published at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the hearing date in a newspaper having a substantial circulation in West Haven, in accordance with the provisions of Section 8-7d of the Connecticut General Statutes. At such public hearing, the petitioner may be heard and any other person may be heard to speak in favor or against the said petition.
- 92.2.2 **City, Planning and Zoning Commission Notice Exemption.** Unless expressly required by State Statute neither the City nor the Planning and Zoning Commission shall be required to comply with the posting and mailing requirements of this section.
- 92.2.3 **Notice for Large Tracts of Land.** When land area of 10 acres or more or a list of more than 250 notices to owners of record within 200 feet of the subject petition area are involved, the application shall be considered a large tract of land that may use one or more of the alternative means and outreach efforts listed below, or other method as directed by the Board or Commission involved:
- Newspaper article(s)
 - Door to door distribution of Flyers or Leaflets distributed by City or Council Members
 - Newsletters
 - Larger display ad in legal notices section
 - Informational meeting(s) before public hearing
 - Larger on-site sign(s)

- Postings in or at local businesses
- Upload to Internet

92.2.4 **Notice to adjoining municipalities.** In the case of applications where any portion of a tract of land is within 500 feet of a town line, the Clerk of the Board shall notify the adjoining municipality Clerk by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application or request, as required by Section 8-7(e) C.G.S.

92.2.5 **Notice to City Council.** The Clerk of the Board shall give notice to the Council Member of the district or districts in which the subject property is located not less than 10 or more than 15 days prior to the public hearing date.

92.2.6 **Notice to Property Owners.** In addition to published notice, the Clerk of the Board or Commission shall prepare a list of property owners as recorded at the Office of the City Assessor whose property is located within and including a distance of 200 feet as measured from all boundaries of the property which is the subject of such application if such property is within the city.

1. **Notice to Condominiums.** In the case of a condominium, notice shall be furnished to the official business address of the association or other business entity responsible for its business affairs. Individual notice to unit owners is not required.
2. **Date of Mailing.** The mailing shall be made not less than 10 or more than 15 days prior to the public hearing date.
3. **Source for Notice.** The most recent published annual list of the Office of the City Assessor shall be the basis for notice.
4. **Public Hearing Notices.** The Planning and Development Department shall furnish a model Notice of Public Hearing to the applicant.
5. **Notices by Applicant.** The applicant shall mail by U.S. Mail individual Notices of Public Hearing to the property owners on the list prepared by the Clerk and to abutters by U.S. Certified Mail, Return Receipt Requested.
6. **Affidavit and Certified Mail Return Receipts Required.** The applicant shall furnish an Affidavit to the Board/Commission at the Public Hearing that the individual notices were sent by U.S. Mail in accordance with the requirements of this section and shall provide certified mail receipts (PS Form 3800) for the abutter list.

92.2.7 **Posting of Notice.** A sign of a design approved by the Board or Commission shall be posted not less than 10 days prior to the public hearing, on the property for which application is made.

1. **Location and Content of Posting.** A minimum 11" x 17" size sign shall be posted so that it is readable from curbside. The sign shall normally be posted on a door or window of the principal structure on the property. If there is no structure, the sign shall be attached to a board or post and prominently placed on the property near the street face at a 4 foot minimum height. The sign shall contain language which provides, but is not limited to, the following information:
 - Notice that zoning relief has been applied for.
 - An address and telephone number where further information can be obtained regarding the application.
 - Date, location and hearing time.
2. **Sign.** Said sign may be obtained from the Clerk of the Board or Commission or other individual as designated by the Zoning Board of Appeals or Planning and Zoning Commission or may be posted by Planning and Development Department staff.

92.3 DECISION PROCESS

- 92.3.1 **Finding.** In making its decision the *Board* or *Commission* shall state upon the record the reasons therefore, and shall make such specific findings as may be required by these Regulations that such application is not detrimental to either the community at large or the surrounding neighborhood.
- 92.3.2 **Conditions of Approval.** The *Board* or *Commission* shall in each case determine that the adverse effects, if any, on the privacy, quiet, light, safety, environment or aesthetics in the neighborhood of such use will be minimized by appropriate conditions governing location of the site, design and method of operation.
- In the granting of an application the *Board* or *Commission* may prescribe such conditions or restrictions as deemed appropriate as it may deem necessary in the specific case, in order to minimize the adverse effects of such petition upon other property in the neighborhood as provided for by these Regulations. Such conditions or restrictions shall be incorporated in the building permit.
- 92.3.3 **Decision.** The *Board* or *Commission* after the public hearing shall take action on an application within thirty-five (35) days after completion of the public hearing, and may grant, grant with conditions or deny a petition.
- 92.3.4 **Decision to be Filed with City Clerk.** A copy of the decision shall be filed with the City Clerk's Office.
- 92.3.5 **Legal Notice.** Notice of the decision shall also be advertised in the local newspaper.
- 92.3.6 **Applicant Certificate of Decision.** If the *Board* or *Commission* grants an application, it shall issue a Certificate of Decision to the applicant for recording in the West Haven Land Records, to be sent by Certified Mail in accord with Sec. 8-26e CGS within 15 working days following the public hearing. Any condition which is attached to the grant of approval shall be clearly set forth on the Certificate of Decision.
- 92.3.7 **Applicant Certificate of Decision to be Recorded.** An application approval shall be effective upon recording of the Certificate of Decision for the zoning relief granted in the West Haven Land Records within 90 days from the Notice of Decision date. Any approval for which a Certificate of Decision has been issued but not recorded within such time shall automatically be null and void.
- 92.3.8 **Failure to Comply with Conditions or Restrictions** shall be a violation of this regulation and will automatically result in the denial or revocation of a building permit or certificate of occupancy and may result in the imposition of such other enforcement remedies available.
- 92.3.9 **Appeals from Decision.** Any person or persons may appeal any decision of the Zoning Board of Appeals to the Superior Court of the State of Connecticut pursuant to Section 8-8 of the Connecticut General Statutes.

ARTICLE 13 – VALIDITY, SEPARABILITY AND EFFECTIVE DATE

SECTION 93 – VALIDITY AND SEPARABILITY EFFECTIVE DATE

93. VALIDITY AND SEPARABILITY

93.1 **Legislative Intent.** It is hereby declared to be the legislative intent that:

93.2.1 **Separability.** If a court of competent jurisdiction finds any provisions of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all the other provisions of this ordinance shall continue to be separately and fully effective.

93.2.2 **Limited Effect.** If a court of competent jurisdiction finds the application of any provision or provisions of this ordinance to any *lot, building* or other *structure*, or tract of land to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

93.2.3 **Effect on Other Requirements.** The previous provisions of the West Haven Zoning Regulation are repealed as of the effective date of this revision. It is not intended that the requirements of any other law or ordinance be repealed or otherwise made ineffective by this ordinance, and in case of conflict the strictest of the relevant provisions of this and other laws and ordinances shall apply

SECTION 94 – EFFECTIVE DATE

94 EFFECTIVE DATE.

The effective date of this revision shall be AUGUST 30, 2006

APPENDIX A-1

ZONING TEXT AMENDMENTS

The West Haven Zoning Regulations were updated and recodified in 2006 and the effective date of the revision is August 30, 2006. Amendments prior to that date may be found by consulting the records of the City Clerk.

- 10-24-06 Table 39.2 Amended to add "Automobile or Truck Rental"
- 11-14-06 Table 39.2 Amended to Eliminate Pawn Shops in NB zones
- 11-14-06 Table 39.2 Amended to add "Consignement Shop for Clothing, Furniture and Sporting Goods" in RB NB, RPD, RCPD, CD and SCR zones.
- 11-28-06 Definitions added:
 - Consignment
 - Consignment Shop or Store
 - Hawker or Peddler
 - Itinerant Vendor
 - Pawnbroker
 - Principal Use
 - Solicitors
 - Temporary or Transient Business
- 11-28-06 Added Exception in CBD to 20.4
- 11-28-06 Added Outdoor Display and Sales of Merchandise as 20.9
- 11-28-06 Added Tag Sales as 55.2
- 11-28-06 Added Staff Acceptance and Review of Plan as 80.4.1
- 11-28-06 Added Continuing Nature of Standards as 85.8
- 4-10-07.1 Added Interpretation as 1.14
- 4-10-07.1 Added Convenience Store/Gas Facility to Definitions
- 4-10-07.1 Modified Handicapped Parking at 60.17

- 4-10-07 Modified Front Yard Parking at 60.7
- 4-10-07.1 Modified Relief from Standards at 60.28
- 4-10-07 Modified Penalties to increase fine to \$100.00 per day at 83.6
- 4-10-07.1 Deleted Enforcement at 60.29
- 7-24-07 Table 39.2 modified to add Massage Therapy as a Special Permit use in the CBD zone
- 7-24-07.1 Added Definition of Massage Therapy
- 7-24-07.1 Added Section 36.6 to the WD zone
- 7-24-07.1 Eliminated Subsection 85.4.8
- 7-24-07.1 Eliminated Subsection 85.7.1.3
- 7-24-07 Table 39.1 modified to eliminate Religious Service or Fraternal Organization from TOD and WD zones
- 7-24-07 Table 39.2 modified to eliminate Place of Worship, Parish House, Similar Uses in NB, RB, RCPD, and CD zones
- 7-24-07 Table 39.2 modified to eliminate Religious Service or Table Fraternal Organization in NB, RB, WD and TOD zones
- 7-24-07 Table 39.2 modified to eliminate Private Club, Hall or Similar Facility in NB, RB, WD and TOD zones
- 9-25-07 Create Section 31—Planned Research and Development Design District
- 9-25-07 Table 36.1 amended to include PRD Design District
- 9-25-07 Table 39.2 amended to include PRD Design District
- 9-25-07 Amended Section 10.6 Special Use Exceptions
- 9-25-07 Amended Section 20.33 Special Permit and Special Use Exception
- 9-25-07 Amended Section 25.3.3 Special Permit and Special Use Exception Uses

- 9-25-07 Amended Section 30.3.1 As-of-Right
- 9-25-07 Amended Section 30.3.2 Special Permit and Special Use Exception
- 9-25-07 Amended Section 35.3.2 As-of-Right
- 9-25-07 Amended Section 35.3.3 Special Permit and Special Use Exception\
- 9-25-07 Amended Section 36.3.2 As-of-Right
- 9-25-07 Amended Section 36.3.3 Special Permit and Special Use Exception
- 9-25-07 Amended Section 41.3 Conditions of Approval
- 9-25-07 Amended Section 42 Accessory Apartments
- 9-25-07 Amended Section 43.5 Finding of Suitability
- 9-25-07 Amended Section 48.5.1 Special Permit
- 9-25-07 Amended Section 53.2 Where Permitted
- 9-25-07 Amended Section 71 Coastal Area Management
- 9-25-07 Amended Section 71.5 Exemptions
- 9-25-07 Amended Section 82.2.1 General Provisions
- 9-25-07 Amended Section 84.8 Specific Responsibilities
- 9-25-07 Amended Section 87.8 Specific Responsibilities
- 9-25-07 Amended Section 87 by renumbering it to Section 88 Zoning Board of Appeals
- 9-25-07 Amended Section 88 and renumbered it to Section 89 General Provisions Regarding Zoning Relief
- 9-25-07 Eliminated Section 89 Special Exceptions
- 9-25-07 Amended Section 90 and renumbered it to Section 87 Special Use Exceptions
- 9-25-07 Amended Section 91 by renumbering it to Section 90 Variances

- 9-25-07 Amended Section 92 Public Hearing Procedures
- 9-25-07 Amended Table 39.1 to add Day Care as a Special Use Permit
- 9-25-07 Modified Table of Contents to reflect current zoning amendments
- 10-23-07 Modified Table 39.2 to add Hotel as a Special Permit use in and RCPD zone
- 11-13-07 Modified Table 36.1 to indicate University Buildings may be 6 stories by Special Permit

APPENDIX A-1

ZONING TEXT AMENDMENTS

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APPENDIX A-2

ZONING MAP AMENDMENTS

The West Haven Zoning Regulations and Zoning Map was revised effective August 30, 2006. For Map amendments prior to August 30, 2006, you may consult the Department of Planning and Development.

APPENDIX A-2

ZONING MAP AMENDMENTS

The West Haven Zoning Regulations and Zoning Map was revised effective August 30, 2006. For Map amendments prior to August 30, 2006, you may consult the Department of Planning and Development.

9-25-07 Changed area bounded generally Westerly by Orange Town Line, Northerly by Interstate 91, Easterly by Morgan Lane and Southerly by Heffernan Drive from IPD to PRD.