

Zoning By-Law
For
The Town of Tolland, Massachusetts

Revision of June 1978

Approved by Attorney General: December 29, 1978

**Note: This is a digital faithful replica. The original is on file in the
Town Clerk's Office, Town of Tolland, MA**

Tolland Planning Board

Richard A. Voudren, Chairman 1977
Eugene A. Drost, Chairman 1978
Virginia Griffin
Julian Work
Eloise Dunn
Bradford A. Prince (Resigned February 1978)
John Wisner (Temporary Member 1977)

I hereby certify that the attached is a true copy of the Zoning bylaw of the Town of Tolland, adopted, approved and amended as follows:

Zoning Bylaw	Adopted by Town Meeting	Approved by Attorney General
Original Bylaw	December 7, 1970 Special Town Meeting	January 9, 1971
Amendments:		
1. Board of Appeals and Use Restrictions	July 9, 1973 Special Town Meeting	September 10, 1973
2. Zone changes and compliance with Chapter 40A, General Laws, as Amended.	June 29, 1978 Special Town Meeting	December 10, 1978

Peg Papa, Town Clerk

Town Seal

SECTION I

PURPOSE

These regulations are enacted to promote the health, safety and welfare of the inhabitants of Tolland; to secure the proper growth of the Town by encouraging the most appropriate use of the land throughout the Town; to stabilize the value of the land; to maintain the beauty of the town; to reduce the hazard of fire by regulating the locations and use of buildings; in accordance with the General Laws of the Commonwealth of Massachusetts, Chapter 40A and any amendments thereof.

SECTION II

PRESENTLY EXISTING USES PERMITTED

This Bylaw shall not apply to any existing buildings or structure, nor to the continuation of the existing lawful use of any building or structure, nor to any land or premises or part thereof to the extent of the use existing at the time of adoption of this Bylaw.

SECTION III

A. ZONING DISTRICTS: The Town is hereby divided into the following Districts:

T-C	Town Center
A-R-I	Agricultural – Residential Zone (Moderate Density)
A-R-II	Agricultural – Residential Zone (Low Density)

B. The location and boundaries of these Districts shall be as shown on the “Zoning Map”, Town of Tolland, Massachusetts, dated 14 June, 1978, and bearing the signatures of the members of the Planning Board; the original of which shall be on file in the office of the Town Clerk. Said Zoning Map, and such amendments thereto as shall be duly adopted, shall be considered an integral part of the Bylaw.

C. For purposes of interpretation, it shall be assumed that:

1. Boundaries which appear to follow streets or streams shall coincide with the center line thereof.
2. Boundaries which appear to follow public or institutional property lines shall coincide with such property lines
3. Where a District boundary shall include a numerical figure followed by the letters MSL, it is at that number of feet above mean sea level. The basic source for determining such a line shall be the U.S. Geological Survey (U.S.G.S.) or adequate field surveys, based on the U.S.G.S. benchmarks, or by Registered Land Surveyors.

SECTION IV

DEFINITIONS

Definitions	In this Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:
Accessory Use	The use of a building or premises for a purpose customarily incidental to the main or principal use or Building
Agriculture	Agriculture shall include, but not be limited to, farming, animal husbandry, horticulture, floriculture, nursery, truck gardening, greenhouses, maple sugar production and display and sale of natural products raised in the Town with the necessary structures needed for these uses.
Alteration	A change in external form, shape or size of a building or structure which creates a change in land use.
Building	Any roofed structure permanently located on the land and used for housing or enclosing persons, animals or material.
Building (Principal)	A building in which is conducted the principal use of the lot on which it is situated.
Building (Non-conforming)	Any lawful use of a building existing on the effective date of the adoption of this Bylaw, but not conforming to it.
Building Height	The vertical measurement of a building from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, excluding chimneys, antennae, water tanks, silos and similar structures.
Business	Place where the activity of a commercial, industrial, service or professional organization is transacted.
Club	An association or persons which are the owner, lessee or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose, whose activities are confined to the members and guests and are not open to the general public. This includes the establishment so-operated. Where appropriate, this definition shall apply to camps organized on a similar basis.
Commercial Animals	Animals raised for sale as food, food products, breeding stock, or pets.
Commercial Poultry	Poultry raised for sale as food or food products when in excess of fifty (50) fowl are involved.
Commercial Recreation	Indoor or outdoor recreation facilities provided for the public where a fee is charged.
Dwelling, One-Family	A detached residential dwelling unit other than a mobile home designed for and occupied by one family only. It shall include prefabricated and modular units that meet the State standards for building construction.

Dwelling, Two-Family	A detached residential building, other than a mobile home containing two (2) dwelling units, designed for occupancy by not more than two (2) families. It shall include prefabricated and modular units that meet the State standards for building construction.
Earth Removal	Excavation, stock piling, processing and/or sale of gravel, sand, stone, peat and loam for commercial purposes.
Family	One or more persons, related by birth, marriage or legal adoption or not more than four (4) individuals who are not so related, living together as a single housekeeping unit.
Farm	A tract of land devoted primarily to agriculture. Includes necessary personnel, structures, buildings, vehicles and equipment but not residential or commercial structures other than those directly related to farm operation.
Filling Station	Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used, for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles. A filling station is not a sales, major repair or rental agency for autos, trucks or trailers.
Footprint	The land area occupied by Buildings or structures, at the surface of the ground, excluding open porches. From Norfolk MA
Firm and Continuous Masonry Foundation	Solid or block wall foundation, or equal, constructed according to accepted practice and with due consideration for frost and soil conditions.
Garage (Private)	A building used for the storage of one or more automotive vehicles, owned or used by the owner or tenant of the premises, and not exceeding two additional vehicles (not commercial) owned or leased by others. A private garage is considered an accessory building.
Garage (Public)	A building, not a private garage, used for the repair, servicing or storage of automotive vehicles.
Home Occupation	Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling used for living purposes and which does not change the character thereof.
Junk Car	An unregistered or unusable motor vehicle which is ready for destruction or has been collected or stored for salvage or conversion to some other use.
Junk Yard	Land or structures used commercially for collecting, storing or selling wastepaper, rags, scrap metal, or discarded material, or for collecting, dismantling, storing, salvaging or selling inoperative machinery, vehicles, or parts thereof.
Junk Yard (Motor Vehicle)	Any business or place of storage or deposit, whether in connection with another business or not, where four or more junk cars or parts thereof exist.

Kennel	A group of four (4) or more dogs maintained on the premises except animals kept on the premises of a registered veterinarian.
Line (Front Lot)	The front lot line is the line separating the lot from the street. See also, definition of "Street Line".
Line (Rear Lot)	The lot line opposite and most distant from the front lot line.
Line (Side Lot)	Any lot line to a front or rear lot line.
Living Area	The area enclosed by the outside walls of a dwelling and commonly used as living quarters by the occupants, excluding unheated attached garages, porches and breezeways.
Lot (Building)	A tract of land under separate ownership which is, or can be, occupied by a principal building and the structures and areas accessory to it, having adequate frontage on a street and defined by measurements and/or boundaries in a deed or plan.
Lot Frontage	The length of a front lot line dividing a lot from a street as defined herein.
Lot Line	A division line between adjoining properties, or a division line between individual lots of between the lot and the street.
Lumbering	All operations associated with the cutting and removal of timber from the land for commercial purposes ,but which shall not include milling or processing.
Mobile Home	A vehicle used or intended to be used for human habitation as a dwelling and designed to be drawn by a motor vehicle. If the unit is jacked or blocked so as to be immobile, it shall nevertheless be considered a mobile home.
Mobile Home Village or Court	Any lot, parcel or tract of land upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations. Mobile home villages or courts are not allowed in Tolland under this By-Law.
Non-conforming Use	The use of a building or land that does not conform with the provisions of this Bylaw or subsequent amendments thereto.
Recreational Facility	A facility designed to offer recreational opportunities to the public such as ski tow, riding stable, golf course, park, swimming pool, tennis courts, campgrounds and picnic areas.
Recreation Vehicle	A recreation vehicle shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways whether licensed or not, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and not designed to be used as a principal place of abode. A recreation vehicle under this ordinance shall also mean tent trailers, truck campers, vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit. This definition includes uses to which trailers might be put.
Sawmill	A facility utilized to process timber into boards, beams or related wood stock for commercial purposes.

Seasonal Dwelling or Camp	An existing dwelling constructed for temporary use or occupancy on an intermittent or short-term basis primarily during the summer months and/or weekends. Such temporary use shall not exceed a total of more than 130 days during a twelve-month period. Such seasonal dwelling existing on less than the minimum size lot required in this By-law shall not be inhabited for more than 130 days per twelve-month period unless additional land is secured to make the parcel conform to this By-law and the State Building Code.
Set-back	The distance from the front lot line to the nearest point of a building, excluding steps.
Sign	Any permanent or temporary structure, device, letter, word display, pennant, insignia, or trade flat which is used as an announcement, direction, or advertisement and which is visible from any public way, or from abutting property.
Small Business	Any business not employing more than five people except the owner and his/her family and regardless of whether employees are on a permanent or temporary basis.
Special Permit	An authorization of permit granted by the Planning Board for any of the uses which require a Special Permit as listed in Section V and elsewhere in this By-law, when it shall be found that the use involved will not be detrimental to the neighborhood and town and subject to appropriate conditions or safeguards if deemed necessary.
Street	A thoroughfare used as a public right-of-way for general access purposes and which is maintained by the Town.
Street Line	The dividing line between a street and a lot, and in the case of a public way, the street line established by the public authority in laying out the way upon which the lot abuts. If the street line cannot be established, it shall be considered to be a line parallel with and twenty-five feet distance from the center line of the street.
Structure	A combination of material assembled at a fixed location to give support or shelter or for other purposes. Included are buildings, frameworks, sheds, platforms, towers, and similar objects.
Variance	An authorization granted by the Board of Appeals to modify a permitted use when special physical conditions affect such use and where a literal enforcement of this By-law would involve substantial hardship to the owner. Provided also that such authorization shall not take away from the intent or purpose of the By-law. See also Section VIII.0.2 "Variances".
Warehouse	A building where goods are stored for commercial purposes other than in conjunction with a home occupation.
Yard (Front)	The space across the full width of the lot and extending from the front line of the building located on such lot to the street line of such lot.
Yard (Rear)	The space across the full width of a lot and extending from the rear foundation line of the building located on such lot to the rear line of such lot.
Yard (Side)	The space extending from the front yard to the rear yard between a building and the adjacent side line of the lot on which said building is located.

SECTION V

TABLE OF LAND USE REGULATIONS: Except as provided in the section on *Non-conforming Uses*, and elsewhere in this By-law, no building or structure shall be constructed, and no building, structure, or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as “permitted” in Table I –n Land Use, or set forth as “permissible by Special Permit” and so authorized by the Special Permit Granting Authority as designated in Section VIII-A., herein.

1. Special Permit Granting Authority and symbols used in the Table of Land Use Regulations, Section V, herein, shall mean the following:

YES – Use permitted by-right.

SPA – Use which will be authorized by the Planning Board after endorsement of a Site Plan in accordance with the provisions of Section VIII.B herein.

SP – Use which may be authorized by Special Permit from the Special Permit Granting Authority (Planning Board) in accordance with the provisions of Section VIII-A herein.

NO – Specifically excluded or prohibited use. However, a land use variance may be allowed by the Zoning Board of Appeals, Reference Section VIII C

2. Every use permitted by-right or authorized by Special Permit under the provisions of this By-law shall be subject to the State Building Code, State Sanitary Code and The Town’s Board of Health Regulations and all other applicable statutes, By-laws and regulations.
3. Where a structure or use might be classified under more than one of the listed uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.
4. Subject to the limitation contained in this By-law, a related minor use, building or structure which is customarily incidental and subordinate to any lawful principal use shall be permitted on the same lot with the building to which it is accessory, provided that it does not alter the character of the premises nor be detrimental to the neighborhood.
5. Farm buildings and structures used exclusively for agricultural purposes shall be deemed to be accessory buildings and structures for the purpose of this By-law. Such buildings and structures may be located on the lot with the principal permitted use or on separate lots.

6. Any use of land, buildings or structures which creates excessive and objectionable noise, fumes, odor, dust, electrical interference, or undue traffic shall be prohibited in all districts.

***Home Occupation**

- a. **Home Occupation** and accessory uses which are incidental to a permitted main use on the same premises, including, but are not limited to the following:
 - (1) Antique or gift shop, art studio, dressmaker, hairdresser, handicraft, insurance or real estate broker, milliner, musical instruction.
 - (2) Professional offices
 - (3) Use of premises or a building thereon in connection with his trade by a resident carpenter, electrician, painter, plumber, mason or other artisan providing that no manufacturing or business requiring substantial continuous employment shall be carried on.
- b. A **Home Occupation** shall not be interpreted to include those uses which require a Special Permit from the Special Permit Granting Authority (Planning Board) as listed in TABLE 1 – LAND USE.
- c. The **Home Occupation** must conform to the following conditions
 - (1) The occupation must be carried on wholly within the building, provided that no more than 25% of the residence is used for the purpose above.
 - (2) Adequate off-street parking must be provided to prevent interference with traffic flow.
 - (3) An outside display will be permitted provided that it is thirty (30) feet from the edge of a traveled way and provided that it is set up in an orderly manner.

***** Conversion of One-Family-Dwelling to Two-Family Dwelling**

Conversion of a one-family dwelling existing at the time of the adoption of this By-law, into a two-family dwelling, provided the lot size is at least 30,000 square feet and meets the sanitary regulations of the Commonwealth.

Table I: Land Use

Land Use	Zoning District		
	T-C	A-R-I	A-R-II
<u>Extensive Uses</u>			
Forestry	Yes	Yes	Yes
Agriculture	Yes	Yes	Yes
Farm Stand	SPA	SPA	SPA
Commercial Animals	No	Yes	Yes
Earth Removal	No	Yes	Yes
Processing Earth Products	No	SP	SP
<u>Residential Uses</u>			
Detached one-family Dwelling	Yes	Yes	Yes
Conversion of One-family Dwelling to Two-family dwelling***	SP	SP	SP
Home occupation*	Yes	Yes	Yes
<u>Institutional Use</u>			
Nursery School or kindergarten	SP	SP	SP
Church	SP	SP	SP
Library-Museum	SP	SP	SP
Lodge or Club	SP	SP	SP
Cemetery	SP	SP	SP
Educational Institution	SS	SP	SP
<u>Public Service</u>			
Public Utility	SP	SP	SP
Aviation Field	No	No	No
Government Building	SP	SP	SP
Water Supply Use	Yes	Yes	Yes
<u>Commercial- Industrial</u>			
Lumbering	Yes	Yes	Yes
Sawmill operations on site for up to one year	No	SP	SP
Sawmill operations on site for over one year	No	No	No
Warehouse (other than agriculture)	No	SP	SP
Soil, sand, gravel or loam removal (Ref. Section VII--C)	No	SP	SP
Junk Yards	No	No	No
Radio, Television, Communication Stations or Relays	No	SP	SP
Commercial Poultry Raising	No	SP	SP
Manufacturing, packaging, testing	No	SP	SP

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Table I: Land Use

Land Use	Zoning District		
	T-C	A-R-I	A-R-II
<u>Retail Business</u> Farm or nursery including the display and sale of natural products principally raised in town	SPA	SPA	SPA
Mortuary	SP	SP	SP
Retail Store	SP	SP	SP
Restaurant	SP	SP	SP
Kennel	No	SP	SP
Crafts Shop or Gifts Shop	SP	SP	SP
Professional Office or Personal Service Shop	SPA	SPA	SPA
Rental of rooms and/or furnishing board for not more than four persons in a dwelling not living as a single housekeeping unit.	SP	SP	SP
Commercial Recreation (to include horse shows)	No	SP	SP
Recreational Vehicle Park and Campgrounds	No	No	No
Veterinary	SP	SP	SPA
Garage, Auto Service Station or Auto Salesroom	No	SP	SP
Small Business	SP	SP	SP
Antique Shop	SP	SP	SP
Laundromat	SP	SP	SP
Inn	SP	SP	SP
Motel	SP	SP	SP

SECTION VI

TABLE OF DIMENSIONAL REQUIREMENTS: Every lot for dwelling purposes shall contain not more than one dwelling structure together with accessory buildings. The following minimum dimensions for lot frontage, area and open spaces adjacent to buildings shall be required.

“Walkout” type basements are not considered a floor in this calculation.
 Maximum height limitations prevail in all instances.

ACCESSORY BUILDINGS attached to the principal buildings are subject to the same minimum front and side yard clearances applicable to the principal buildings. A rear or back yard may contain detached or accessory buildings covering no more than 40% of the area of the back yard. Such buildings in the back or rear yard may be located no closer than twenty five (25) feet to a side or rear lot line.

TABLE 2: DIMENSION REQUIREMENTS						
Zoning District	Basic Minimum Lot Per Dwelling Unit	Minimum Frontage	Minimum Setback (Feet)	Minimum Rear and Side Yards (Feet)	Maximum Number of Floors *	Maximum Height (Feet)
T-C	2 Acres (87,120 sq. ft)	200	50	25	2 1/2	35
A-R-I	2 Acres (87,120 sq. ft)	200	50	25	2 1/2	35
A-R-II	2 Acres (87,120 sq. ft)	275	50	25	2 1/2	35

* “Walkout” type basements are not considered a floor in this calculation.
 Maximum height limitation prevails *in all instances*.

Accessory Buildings attached to the principal buildings are subject to the same minimum front and side yard clearances applicable to the principal buildings.

- A rear or back yard may contain detached or accessory buildings covering no more than 40% of the area of the back yard.
- Accessory buildings in the back or rear yard may be located no closer than twenty-five (25) feet to a side or rear lot line.

SECTION VII

GENERAL REGULATIONS

A. Non-conforming Uses

1. The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-law may be continued, although such use does not conform with the provisions of the By-law.
2. An existing non-conforming use shall not be changed to any other conforming use.
3. A non-conforming use which has been discontinued for one year or more shall not be reestablished and all future use shall conform to this By-law.
4. A non-conforming use which has been changed to a more restricted or conforming use shall not revert to its previous use.
5. A non-conforming use which has been damaged or destroyed by fire or other accidental cause may be repaired or rebuilt and used as before, provided such restoration is carried out within two years and does not exceed the size of the original non-conforming use, except as allowed by the Zoning Board of Appeals.
6. On a lot of less than the required area which have been recorded by plan or deed or assessed as a separate parcel before the date of adoption of this By-law (December 7, 1970), the lot area and width requirements need not apply, unless, this parcel prior to the time of adoption of this By-law adjoined other land of the same owner available for use in connection with such parcel. Any lot on which more than one house existed at that time may be divided and sold to separate owners.
7. A non-conforming use may be continued by a new owner subject to the provisions of this section.
8. Pre-existing non-conforming structures or uses may be extended or altered by Special Permit when the Special Permit Granting Authority (Planning Board) makes a finding that such change, extension or alternation is not substantially more detrimental than the existing non-conforming use is to the neighborhood.

B. General Provisions for New Buildings

1. Any building or structure hereafter erected and used for dwelling purposes shall conform to the following:
 - a. Uniform Building Code, Commonwealth of Massachusetts, January 1975, as amended.
 - b. Title V, Environmental Code, Commonwealth of Massachusetts
 - c. Town of Tolland, Board of Health Regulations and other applicable Town of Tolland and State requirements.
2. **Occupancy of Dwelling During Construction:** A dwelling may be occupied by the owner and his/her family during the construction thereof providing said dwelling conforms to the Board of Health regulations at the time of occupancy and to this By-law or amendments thereto, within one (1) year from the date construction is commenced.
3. **A Temporary Dwelling** on the premises may be occupied by the owner and his/her family during the construction of a permanent residence providing the temporary dwelling conforms to Board of Health regulations and providing the construction of the permanent residence starts within six (6) months of the date of issuance of the Building Permit and is completed within two (2) years of the date of issuance of the Building Permit.

C. Earth Removal

1. The removal for sale of sod, loam, clay, sand, gravel, except when incidental to and in connection with the construction of a structure, or incidental to the grading and developing of contiguous property, shall be permitted only after issuance of a Special Permit by the Special Permit Granting Authority (Planning Board) after a public hearing. The Board in each instance shall impose such conditions as will protect the neighborhood and Town against permanent and temporary hazards because of conditions which may be left after operations are completed or because of the methods of handling such materials at the site or of transporting such materials through the town.

The Special Permit Granting Authoring (Planning Board) shall include the following as the minimum conditions to be complied with when issuing a permit:

- a. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 150 feet to such road.
- b. No excavation below the natural grade of any property boundary shall be permitted nearer than 25 feet to such boundary.
- c. No slope created by the removal operation shall be finished at a grade in excess of 1: 1 ½; that is, one (1) foot vertical for each foot and one and one-half (1 ½) horizontal.

- d. Within all zones, excavation of earth products shall be prohibited in such cases where it is anticipated that such excavation will lower the level of the water table or will interfere with the natural flow patterns or reduce the flood storage capacity of a stream.
 - e. No permit for earth products removal shall be issued if such removal will: (1) endanger the general public health or safety or, (2) constitute a nuisance, or, (3) result in detriment to the normal use of adjacent property by reasons of noise, dust, or vibration, or, (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways.
 - f. In approving the issuance of a permit, the Board shall impose reasonable requirements which shall constitute a part of the permit and which may include: grading, seeding and planning, fencing necessary for public safety, methods of removal, location and use of structures, hours of operation, routes of transportation of material removed, control of drainage and disposition of waste incident to the operation.
 - g. The Special Permit Granting Authority (Planning Board) may require suitable bond or other security adequate to assure compliance with the provisions of this section.
 - h. Permits for earth resources removal shall be granted for five (5) years
2. No Special Permit shall be required for the following:
 - a. Moving earth products within the limits of an individual property or series of contiguous properties of land in single ownership.
 - b. Removal of earth products from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same.
 - c. The moving and removal of earth products of any municipal purpose by, or on behalf of, any department of the Town of Tolland.
 3. The application to the Special Permit Granting Authority (Planning Board) for a Special Permit for the removal of earth products shall include the following specific information.
 - a. The location of the proposed excavation.
 - b. The legal name and address of the owner of the property.
 - c. The legal name and address of the petitioner.
 - d. Names and addresses of all abutting property owners including those on the opposite side of any streets.

- e. A plan of the land involved showing all man-made features, property lines, and existing topography by ten-foot contours, plus proposed contours at ten-foot intervals showing the finish grade of the site after the completion of the proposed excavation project.
- f. The estimated quality of material to be removed.

D. Mobile Homes/Recreation Vehicles

1. Mobile Homes/Recreation Vehicles designed or used for human occupation as dwellings shall not be kept within the boundaries of the Town of Tolland unless they are in a bona fide storage or unless they are being used as a temporary dwelling.
2. This prohibition does not apply to Temporary Dwelling as established in Section VII-B (General Provisions for New Buildings) wherein a temporary dwelling on the premises may be occupied by the owner and his/her family during the construction of a permanent residence.
3. This prohibition does not apply to mobile homes used for living purposes at the time of the effective date of this By-law which may be replaced by a mobile home of the same or greater value

E. Commercial Recreation

1. The Special Permit Granting Authority (Planning Board) may issue Special Permit for a commercial recreation after a Public Hearing.
2. Such Special Permit for Commercial Recreation shall not be issued or approved unless the Special Permit Granting Authority (Planning Board) finds that the proposed Commercial Recreation Area:
 - a. Is consistent with the Land Use Study of the Town of Tolland
 - b. Will cause no hazards to health, safety, and property from fire, accident, sanitary and drainage conditions, excessive traffic, noise, vibrations, electrical interference, odors or other nuisance,
 - c. Shall not interfere with any public water supply
 - d. When involving campsites, the use is to be temporary in nature for short term occupancy not to exceed one hundred and thirty (130) days in any twelve (12) month period.
 - e. Is contained in an area of not less than fifty (50) acres; except those areas strictly for campsites shall be contained in an area of not less than twenty (20) acres.

- f. Shall comply with all other applicable laws, regulations, and codes set forth by the Commonwealth of Massachusetts and the Town of Tolland.

3. Application

Each Special Permit application for Commercial Recreation shall be accompanied by a Site Plan, two copies of which shall be submitted to the Planning Board for its review. The Site Plan shall show:

- a. The boundaries of the property and all roads and buildings within 300 feet of the property.
- b. Proposed and existing roads, parking areas, required drainage and sanitary facilities, existing and proposed topography, location of proposed buildings and the limits of proposed activities, proposed lighting and other utility installations, access and egress ways, together with a specific list of the proposed use or uses, including daytime and nighttime activities.
- c. Names of all abutters as they appear on the most recent tax list
- d. Procedure for hearing and rules shall be in accordance with the provisions of Chapter 40A of the General Laws, as amended, and the Zoning By-laws of Tolland, Massachusetts.

4. Approval by Planning Board

Approval by the Special Permit Granting Authority (Planning Board) of a Special Permit for Commercial Recreation shall be based on an approved Site Plan, filed with the Board of Health, Planning Board and, where applicable, the State Department of Environmental Quality Engineering, which shall show clearly the locations of buildings, construction, improvements, outdoor lighting and the limits of the open spaces for outdoor activities of the Commercial Recreation use.

- a. Two copies of the Site Plan are required by each Board.
- b. The applicant may submit, and the Planning Board may approve, amendments to the approved Site Plan, provided that any amendments that extend the limits or numbers of kinds of activities or buildings, or the scope of lighting, or major modifications shall not be approved until after a Public Hearing.
- c. Unless otherwise extended by the Special Permit Granting Authority (Planning Board), approval of a Special Permit for Commercial Recreation shall become null and void after two years, unless a substantial part of the facility is in operation.

5. Building Permits

- a. Commercial Recreation areas shall be subjected to the State Building Code, effective January 1, 1975, as amended.
- b. No Building Permit shall be issued for construction except in accordance with an approved Site Plan for a Special Permit for Commercial Recreation. No Certificate of Occupancy shall be issued until the protective requirements and public improvements shown on the approved Site Plan have been completed.

F. Signs

1. Signs Permitted By-Right

- a. Each family residing on the premises may have one sign not exceeding an area of one (1) square foot, indicating the name of the owner or occupant.
- b. An accessory use or Home Occupation may be indicated by the use of not more than two (2) signs, provided that a single sign shall not exceed an area of six (6) square feet. If two signs are erected, the area of each shall not exceed six (6) square feet. Two signs back-to-back shall be considered one sign.
- c. The sale, lease or rental of a building or lot may be advertised by the use of not more than two signs, provided that a single sign shall not exceed six (6) square feet and if two signs are erected, each shall not exceed four (4) square feet. Two signs back-to-back shall be considered one sign.
- d. Hazard, warning and property posting signs.

2. Signs Allowed by Special Permit

- a. Stores, farms, orchards, or other uses involving sales or services as shown under Section V, Table 1, may advertise goods sold or services rendered on the premises by one or more signs with a combined area, not exceeding forty (40) square feet.
- b. Gasoline stations and garages may be allowed one permanent oil company trademark sign in addition to name sign, plus the customary lubrication, greasing and other service signs displayed in the positions to which they apply and one "A Frame" or easel-type sign at the property frontage. So-called specialty signs may be permitted on the sides or heads of gasoline pumps only. Each sign use is subject to the approval of the Planning Board.

3. Prohibited Sign Use

- a. Flashing, animated, noise-making or intermittently illuminated
- b. Companion signs, advertising successively or repetitively.
- c. Reflectors which are parts of letters of a sign.
- d. Exposed neon or gas-filled tube type signs.
- e. Streamers, “whirligigs” or other similar advertising devices
- f. Any signs tacked, painted, posted or otherwise attached to a utility pole.
- g. Pylon signs, or special ground signs supported by tall mast-like members, or pyramidal tower supports.
- h. “Sold” signs usually erected to indicate a complete sale of property, must be removed not later than fifteen (15) days after the date of the sale.
- i. Exposed, permanent lighting which outlines any part of a building or structure, such as a gable roof, side wall or corner, except temporary holiday lighting in use for a period no longer than six (6) weeks in any calendar year.
- j. Unshielded sign illumination, including floodlighting which results in high intensity lighting shining onto any street or adjoining property.

4. Maintenance of Signs

Any sign which is dangerous, unsafe or unsightly shall be repaired and made safe, or be removed by the owner, lesser, agent or occupant of the building, land or property upon which it is located.

5. Location of Signs

All signs shall be placed a minimum of fifteen feet (15') from the edge of the pavement or traveled way.

G. View Obstruction and Corner Clearance

No wall or other structure shall be erected, and no hedge, tree or other obstruction exceeding a vertical height of 3 ½ feet from the road level shall be maintained on a lot which may cause danger to traffic on a public street or way by obscuring the view.

H. Parking Requirements

Any building hereafter constructed for business use shall be so located upon its parcel of land that there may be provided a private parking area equal to twice the floor area of the building to be constructed and where deemed necessary, this parking area shall be paved and provided with proper drainage. The parking area must contain a service, loading and unloading zone as well as parking space for customers>

I. Storage

Equipment and supplies necessary for the operation of any business must be so located and/or stored in a manner than will not detract from the external appearance of any building and the surrounding area.

SECTION VIII

SPECIAL PROVISIONS

A. Special Permits

1. Special Permit Granting Authority (Planning Board)

The Planning Board is the Special Permit Granting Authority in this By-law and may hear and decide applications for Special Permits upon which such Board is specifically authorized to act under this By-law, in accordance with the provisions of Section 9, Chapter 40A of the General Laws, as amended. Through this section, references to the Special Permit Granting Authority and Planning Board refer to the same body.

2. Actions by Application

- a. The applicant shall file a Special Permit Application, a filing fee, a list of abutters or property owners within an otherwise specified distance from the property , and two (2) copies of the required Site Plan with the Special Permit Granting Authority (Planning Board) Applications are available from the Planning Board and the Town Clerk.
- b. The applicant is responsible for filing one (1) copy of the Special Permit Application with the Town Clerk. The effective date of filing is the date the application is filed with the Special Permit Granting Authority (Planning Board).
- c. Filing fee to cover the expense of legal notices and administrative costs shall be set by the Special Permit Granting Authority (Planning Board). The fee shall be delivered to the Planning Board with the application and made payable to: Planning Board, Town of Tolland.
- d. The petitioner shall file with the application a list of abutters with their addresses as recorded on the tax records. Abutters include all those property owners within a three hundred (300) foot radius of the site and, as defined by Chapter 40A General Laws, as amended.

3. Actions by Planning Board

- a. After receipt of an application for Special Permit which fulfills the requirements of Paragraph 2, this Section, the Board shall schedule a Public Hearing, public notice of which shall appear in a local newspaper and be posted in public places in the Town of Tolland at least fourteen (14) days prior to the date of the hearing.

- b. Notice of the Public Hearing shall include: (1) name of the applicant or petitioner; (2) a description of the area or premises including a street address, if any; (3) the date, time and place of the Public Hearing; (4) the subject matter of the hearing; and (5) the nature of the action or relief requested.
- c. In addition, the Planning Board shall ensure that notice of Public Hearings on Special Permits is sent to the petitioner, abutters, owners across the street, all owners within three hundred (300) feet of the property, and Planning Boards of all abutting towns, as required by Section II, Chapter 40A of the General Laws, as amended.
- d. The Planning Board, acting as the Special Permit Granting Authority, shall conduct the Public Hearing no later than sixty five (65) days after the effective date of the filing of the Special Permit Application, and shall take action on the application within ninety (90) days of the Public Hearing.
- e. The Planning Board shall, within ten (1) days after receipt of an application for Special Permit, transmit a copy thereof for review to the Board of Health, the Board of Selectmen, the Conservation Commission and any other municipal board or agency at the discretion of the Special Permit Granting Authority. Any board of agency to which such applications are referred for review shall make such recommendations as they deem appropriate in writing, provided however, that failure to make recommendations within thirty-five (35) days of receipt by such board of agency of the application for review shall be deemed lack of opposition thereto.
- f. In exercising its jurisdiction under this Section, the Planning Board shall conform to all requirements of procedure applicable to the Special Permit Granting Authority when deciding requests for Special Permits under this Bylaw (including the imposition of conditions) and under Chapter 40A General Laws, as amended.

g. Site Considerations

In considering a Special Permit Application under this Section, the Special Permit Granting Authority (Planning Board) shall assure, to a degree consistent with a reasonable use of the site for the purpose permitted or permissible by the regulations of the district in which located, the following:

- (1) Protection of neighboring premises and/or the Town as a whole, whichever is deemed appropriate by the Planning Board, against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance.

- (2) Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.
- (3) Adequacy of the methods of disposal of sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and the methods of drainage for surface water.
- (4) Adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.
- (5) Protection from flood hazards, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; construction methods; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extend of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.

4. Site Plan Requirements

In all instances where a "Special Permit" is required for the proposed uses as specified in Table 1, Land Use, no building or structure shall be erected or externally enlarged, or operation conducted and no area for parking, loading or vehicular service (including driveways giving access thereto) shall be established or changed, except in conformity with a Site Plan bearing the endorsement of approval of the Special Permit Granting Authority (Planning Board). Said Site Plan shall show, among other things, all existing and proposed buildings and structures and their uses, parking areas, loading areas, driveway service areas and all other open space areas, all facilities for sewer, refuse and other waste disposal and for surface water drainage, zoning district boundaries, and all landscape features (such as walks, planting areas, trees, fences, and signs) on the lot. Said Plan shall be subject to such rules relating to scale, dimensions, legend, form and preparation as may from time-to-time be promulgated by the Planning Board.

5. Conditions, Safeguards and Limitations

Special Permits may be issued subject to such conditions, safeguards, or limitations as the Special Permit Granting Authority (Planning Board) may impose for the protection of neighboring uses or otherwise serving the purposes of this Bylaw. Such conditions, safeguards or limitations may include, but are not limited to the following:

- a. Front, side and rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences or walls as specified by the Planning Board.

- b. Limitations upon the size, number of occupants, method and time of operation, time duration of the permit, or extent of facilities.
- c. Regulations of number and location of driveways or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this Bylaw.

Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the Special Permit.

6. Decisions and Vote Requirements

The Special Permit Granting Authority (Planning Board) shall act within ninety (90) days following the date of Public Hearing. Failure to take final action upon an application for Special Permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

Special Permits issued by the Special Permit Granting Authority (Planning Board) shall require an affirmative vote of at least three members of a five-member Board.

7. Construction Period

Within six (6) months of the Special Permit Granting Authority's (Planning Board) issuance of a Special Permit, constructions or operations must commence.

If construction or operations have not begun within six (6) months or if construction is not continuing towards completion in as continuous and expeditious manner as reasonable, after six (6) months the construction or operations must conform to any amendment to this Bylaw.

8. Lapse of Permit

If substantial use or construction has not commenced without good cause within two (2) years from the date of a Special Permit being granted, including the time required to pursue or await the determination of an appeal, the Special Permit will lapse.

9. Accessory Uses

Special Permits may be granted for accessory uses which are necessary in connection with scientific research, scientific development, or related production activities which are permitted by right. The accessory use does not have to be on the same parcel as the principal use, and the proposed accessory use shall not substantially derogate from the public good.

B. Site Plan Approval

1. Site Plan Approval Authority

The Planning Board shall be the Site Plan Approval Authority for the Town of Tolland.

2. Requirements

- a. IN all instances where a “SPA” (Site Plan Approval) is required for the proposed use as specified in Table 1, Land Use, no building or structure shall be erected or externally enlarged, or operation conducted, and no area for parking loading or vehicle service (including driveways giving access thereto) shall be established or changed, except in conformity with a Site Plan bearing the endorsement of approval of the Planning Board.
- b. Wherever in “Table I - Land Use” Site Planning Approval (SPA) is required and the proposed use is permitted by right, the requirement for a Public Notice and Hearing shall not apply.
- c. Two (2) copies of the proposed Site Plan shall be submitted by the applicant for review by the Planning Board at a regular meeting. After review and appropriate endorsement, one (1) copy shall be returned to the applicant and one (1) copy maintained on file by the Planning Board.

The Site Plan may be prepared by the applicant and shall be in accordance with the Site Plan requirements for a Special Permit, Section VIII A 4 of this Bylaw.

- d. In reviewing a Site Plan, the Planning Board shall, in addition to assuring reasonable compliance with the **Site Considerations**, Section VIII A 3-g of this Bylaw, ensure that the proposed Site Plan is compatible with the Planning Board Land Use Study Overlays 1978, in that the proposed Site Plan responds in a reasonable manner to the constraints of the site.

The Site Plan may be drawn in pencil on paper with a preferred scale of 1” = 40’0” and a sheet size not to exceed 18” by 24”.

C. Board of Appeals

There is hereby established a Board of Appeals of three (3) Members and three (3) associate members to be appointed by the Selectmen as provided in Section 12, Chapter 40A of the General Laws. The Board shall act within its statutory powers as provided in Section 14, Chapter 40A, General Laws, and on matters within its jurisdiction under this Bylaw in a manner prescribed in Section 15, Chapter 40A, General Laws.

The Members of the Board of Appeals shall be appointed for terms of one, two, and three years, the term of one Member expiring each year. Thereafter, appointments are to be for three (3) years. Vacancies shall be filled by the Selectmen for the balance of any unexpired terms. No Member shall act in any case in which he may have personal or financial interest. An Associate Member shall be designated by the Chairman of the Board of Appeals to serve in such cases, and in the case of the absence of, or the inability to act by a Member. The Board of Appeals shall have the following powers:

1. Appeals

The Board of Appeals is authorized to hear and decide an appeal, as provided in Section 8, Chapter 40A, General Laws, taken by any person aggrieved by reason of his or her inability to obtain a Permit or enforcement action from any administrative officer under the provisions of Chapter 40A, General Laws, or by any person, including an officer or board of the Town of Tolland or of an abutting Town, aggrieved by an order or decision of the Building Inspector, or other administrative official, in violation of any provision of Chapter 40A, General Laws, or of this Bylaw. Any such appeal must be taken within thirty (3) days from the date of the order or decision which is being appealed, by filing a Notice of Appeal with the Town Clerk, as provided in Section 15, Chapter 40A, general Laws, as amended.

2. Authority to Grant a Variance

To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon, a variance from the terms of this Bylaw where, owing to unique circumstances relative to soil conditions, slope, or topography which specifically affect the land or structure in question, but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the appellant, and where a desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw, but not otherwise.

Upon receipt of a petition for a variance, the Board of Appeals shall ask the Planning Board for an advisory report on said petition. The Zoning Board of Appeals shall not grant a variance which would constitute an amendment to this Bylaw.

The following findings must be made by the Board of Appeals before a variance can be issued:

1. The variance must be with respect to a particular parcel of land or to an existing building on the land.

2. There must be circumstances relating to the soil conditions, shape, or topography especially affecting such land or structure, but not affecting general the zoning district in which it is located.
3. Literal enforcement of the ordinance or Bylaw must involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
4. Desirable relief may be granted if there will not be substantial determinant to the public good, or nullification or substantial derogation from the intent and purpose of this Bylaw.

The Board of Appeals shall make a finding hat the granting of the variance will be in harmony with the general purpose and intent of this Bylaw and will not be injurious to the neighborhood or Town, or otherwise detrimental to the public welfare.

The Board of Appeals may impose limitations both of time and use, and prescribe appropriate conditions and safeguards, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time-to-time thereafter. Violation of such limitations, conditions and safeguards when made part of the terms under which the variance is granted shall be deemed a violation of this Bylaw.

3. Meetings and Procedure

The meeting and procedure of the Board of Appeals shall be governed by the provisions of Chapter40A of the General Laws, as amended. The Board shall adopt rules and regulations, not inconsistent with the law or the provisions of this Bylaw, governing its procedure and the transaction of its business. A copy of such rules shall be filed with the Town Clerk.

- a. The Board of Appeals shall not act on any matter unless and until a written application is submitted to such Board, indicating the section of this Bylaw under which it is requested to act and stating the grounds on which the request is based.
- b. Each application for a variance shall be filed in duplicate with the Board of Appeals together with two sets of plans and information. The Board of Appeals shall transmit a copy of the application with a set of the plans and information to the Planning Board for review and advisory opinion prior to holding a Public Hearing thereon.
- c. Before exercising any of its powers, the Board of Appeals shall hold a Public Hearing on the matter referred to it. Notice of the Public Hearing shall be:

- (1) Published in a newspaper of general circulation in the Town of Tolland once in each of the two successive weeks. The first publication may not be less than fourteen (14) days before the day of the Hearing. (The day of the Public Hearing should not be counted in the fourteen (14) days.);
- (2) Posted in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of the hearing;
- (3) Mailed to “parties of interest” (certified mail, return receipt) who shall include: the petitioner or applicant, abutters, owners of land directly opposite on any public or private street or way, the owners of land within three hundred feet of the property line, the Planning Board of the Town, and the Planning Boards of every abutting Town. (The Assessors shall certify the names and addresses of “parties in interest”.);
- (4) Mailed to other individuals, boards or agencies if required by the Town.

Such notice must identify the subject matter of the Hearing and the following information must be printed in bold face type:

- (1) The name of the petitioner.
- (2) The location of the area of premises which are the subject of the petition including a street address, if any;
- (3) The time and place of the Public Hearing; and
- (4) The nature of the action requested.

Costs of publication and mailing notices shall be paid by the applicant.

- d. The decisions of the Board of Appeals shall be made within seventy-five (75) days after the date of filing of an appeal, application or petition, and the Board shall keep a detailed record of its proceedings showing the vote of each member of each question, or, if absent or failing to vote, indicating such fact and setting forth clearly the reasons for its decisions, and of its other official actions. Copies of all such records shall be filed within fourteen (14) days in the office of the Town Clerk and in the office of the Planning Board, and notice of decisions shall be mailed forthwith to the parties of interest, to the Planning Board, the Selectmen, and to every person present at the Hearing who requests that notice be sent to him and states the address to which such notice is to be sent.

- e. Upon the granting of a limited or conditional variance, the Board of Appeals shall issue to the land owner a notice, certified by the Chairman or Clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance has been granted which is set forth in the decision of the Board on file in the office of the town Clerk. No such variance shall take effect until such notice is recorded in the Registry of Deeds.

D. Repetitive Application and Petitions

Should an appeal, petition, or application be unfavorably and finally acted upon by the Special Permit Granting Authority (Planning Board) or by the Zoning Board of Appeals, no re-application shall be allowed within two (2) years after the date of the unfavorable action unless, upon re-application to the Board which originally heard the matter, all of the following conditions are met.

1. The Board finds specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the records of its proceedings.

In a matter heard by the Zoning Board of Appeals, such finding must be by unanimous vote; in a matter heard by the Planning Board, such finding must be by two-thirds vote;

2. The Planning Board gives notice to parties of interest of the time and place of proceedings to consider the question of consent to re-application; and
3. All but one of the Members of the Planning Board consent thereto.

Section IX

ADMINISTRATION

A. Enforcement

This bylaw shall be enforced by the Board of Selectmen and by the Building Inspector appointed by them in accordance with Chapter 40A, General Laws, as amended, and upon any well-founded information as to a violation, the said Board shall take immediate steps to enforce this Bylaw. The Building Inspector shall have the power to withhold a permit for the construction, alternation or moving of any building or structure if such action would be in violation of the zoning ordinance or Bylaw. Also, no permit or license shall be granted for a new use of a building, structure or land which would be in violation of the zoning ordinance or Bylaw

B. Penalties

Any person violating any of the provisions of this Bylaw may be fined not more than twenty (\$20) dollars per day for each of the violations commencing ten (1) days following date of registered mailing of written notice from the Board of Selectmen or their Agent.

C. Permits

No building or structure shall be erected without a Permit issued by the Building Inspector on behalf of the Board of Selectmen. Applications for Building Permits shall contain reasonable information on forms provided by the Selectmen, and such information shall be in accordance with the Uniform State Building Code, January 1, 1975.

1. A Building Permit shall become void unless construction is commenced within six (6) months of the date of issue and completed within two (2) years of the date of issue.
2. Permits are not required for accessory buildings of less than 300 square feet which are not to be used for habitation, business or public gatherings.
3. **Buildings in Course of Construction**

Nothing contained herein shall require any change in plans of construction, size and use of building, structure or part thereof, which shall have a foundation built upon the date of the adoption of this Bylaw.

SECTION X

AMENDMENT

This Bylaw may be amended from time-to-time at an Annual or Special Town Meeting in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth, as amended.

SECTION XI

VALIDITY

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

STATEMENT

Subdivision Control Law is in effect. Copies of the Tolland Subdivision Control Regulations are available at the Office of the Planning Board, Town of Tolland office building.

**APPLICATION FOR SPECIAL PERMIT
Town of Tolland, Massachusetts 01034**

Instructions: File in accordance with the provisions of Section VIII A.2 Zoning Bylaw. Filing requirements consist of

1. Completed application filed in duplicate with the Planning Board (recommend certified mailing to ensure receipt).
2. Site Plan in duplicate at a recommended scale of 1' = 40'0", sheet size to be no larger than 18" x 24". (Recommended pencil on paper)
3. Filing fee of twenty dollars (\$20.00) made payable to Planning Board, Town of Tolland.
4. List of abutters as determined from recent tax listings. Abutters are all property owners within a three hundred (300) foot radius of the site. The applicant is responsible for preparing the list of abutters.

The undersigned herewith submits the accompanying Site Plan(s), filing fee and list of abutters in conjunction with this application for a Special Permit for a proposed use of land within the Town of Tolland.

1. Applicant _____
Print or Type Name *Signature*

Address: _____

2. Owner of Land _____
Print or Type Name *Signature*

3. Location of Land _____

4. Deed of Property recorded in Hampden Registry

_____ _____
Property Book *Page*

5. Description of Proposed Use:

Date of Submission: _____

Town Clerk (Signature) _____