

Petition of NSTAR Electric Company  
d/b/a Eversource Energy Pursuant to  
G.L. c. 40A, § 3 for Exemptions from the  
Operation of the Zoning Bylaws of the  
Towns of Sudbury, Hudson and Stow for  
Modifications of an Existing Substation in  
Sudbury and for the Construction of a New  
Underground 115-kV Transmission Line

Now comes NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) hereby requesting pursuant to G.L. c. 40A, § 3, that the Department of Public Utilities (the “Department”) grant individual and comprehensive zoning exemptions from the operation of: (1) the *Zoning Bylaw, Article IX, Town of Sudbury, Massachusetts* as amended through June 13, 2016 (the “Sudbury Zoning Bylaw”) in connection with the Company’s proposal to modify the Company’s existing substation, Station #342, located at 163 Boston Post Road in Sudbury (“Sudbury Substation”), and to construct portions of a new 115-kilovolt (“kV”) underground electric transmission line (“New Line,” together with modifications to the Sudbury Substation, the “Sudbury-Hudson Transmission Reliability Project” or the “Project”) in Sudbury along an unused railroad corridor (“ROW”) owned by the Massachusetts Bay Transportation

Authority (“MBTA”); (2) the *Town of Hudson Protective Zoning By-Laws*, as amended through February 28, 2017 (“Hudson Zoning Bylaw”), in connection with the Company’s proposal to construct portions of the New Line in Hudson along the MBTA ROW and public ways; and (3) the *Town of Stow, Massachusetts Zoning Bylaw*, as amended through May 2, 2016 (“Stow Zoning Bylaw”) in connection with the Company’s proposal to construct portions of the New Line in Stow along the MBTA ROW.<sup>1</sup>

## **I. INTRODUCTION**

1. The Petitioner is a Massachusetts corporation that is an electric company as defined by G.L. c. 164, § 1 and, therefore, is authorized to transmit electricity. NSTAR Electric Company, D.P.U. 11-80, at 4-7 (2012) (“NSTAR Plympton 2012”); NSTAR Electric Company, D.P.U. 07-60/07-61, at 2-6 (2008) (“NSTAR Carver 2008”); NSTAR Electric Company, D.P.U. 07-9/07-10, at 3-7 (2007) (“NSTAR Plympton 2007”).

2. As described below, the modifications of the existing Sudbury Substation and the construction of the New Line may be inconsistent with certain provisions of the Zoning Bylaws. At the same time, construction of the Project is needed in the immediate time frame in order to provide reliable service to customers. Thus, Eversource is seeking individual zoning exemptions from the Department in order to allow for the timely construction of the Project.

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<sup>1</sup> Attested copies of the Sudbury, Hudson and Stow Zoning Bylaws are attached as Exhibit A, Exhibit B and Exhibit C hereto, respectively. Portions of the New Line will also be constructed in Marlborough, but no zoning relief is required for that construction.



3. The Company also respectfully requests comprehensive exemptions from the Zoning Bylaws. The Department has recognized that comprehensive zoning relief is appropriate in circumstances where, as here, individual exemptions are required and the issuance of a comprehensive exemption could avoid substantial public harm by serving to prevent delay in the construction and operation of needed utility infrastructure. New England Power Company d/b/a National Grid and Western Massachusetts Electric Company, EFSB 10-1/D.P.U. 10-107/10-108, at 93 (2012) (“NEP/WMECO 2012”); New England Power Company d/b/a National Grid, D.P.U. 09-136/09-137, at 49 (2011) (“NEP Auburn-Millbury 2011”); New England Power Company d/b/a National Grid, D.P.U. 09-27/09-28, at 53 (2010) (“NEP Amesbury 2010”); NSTAR Carver 2008, at 49-52; NSTAR Plympton 2007, at 37-38; Boston Edison Company d/b/a NSTAR Electric, EFSB 04-1/D.T.E. 04-5/04-7, at 147 (2005) (“Boston Edison 2005”); Commonwealth Electric Company, D.T.E. 03-7, at 33-34 (2003) (“Commonwealth Electric 2003”); Massachusetts Electric Company, D.T.E. 01-77, at 30-31 (2002) (“MECO 2002”). As shown below, the need for the Project is immediate and exemptions are required. Accordingly, comprehensive zoning exemptions are warranted. Boston Edison 2005, at 147; see NSTAR Electric Company, EFSB 10-2/D.P.U. 10-131/10-132, at 111 (2012) (“NSTAR Lower SEMA”).

4. Simultaneously herewith, Eversource has submitted a petition to the Energy Facilities Siting Board (the “Siting Board”) requesting approval pursuant to G.L. c. 164, § 69J to construct the New Line and to make

modification to the Sudbury Substation (the “Siting Board Petition”) (EFSB 17-02). In addition, Eversource has submitted a petition to the Department requesting a determination that the New Line is necessary and will serve the public convenience and be consistent with the public interest in accordance with G.L. c. 164, § 72 (the “Section 72 Petition”) (D.P.U. 17-83). Finally, Eversource has filed a separate motion with the Department requesting that the Department refer this Petition and the Section 72 Petition to the Siting Board for a consolidated review with the Siting Board Petition. See G.L. c. 25, § 4; G.L. c. 164 § 69H(2).

5. The Siting Board Petition, which includes a report entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Sudbury-Hudson Transmission Reliability Project*, dated April, 2017 (the “Analysis”) in support thereof, provides the factual basis for the Company’s conclusion that the Project is imminently needed to maintain a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. The Analysis provides an extensive description of the Project, including plans for the modification of the Sudbury Substation as well as the construction of the New Line. The Analysis also includes an explanation of the purpose of, and need for, the Project and a discussion of the public interest that would be served by the construction and operation of the Project. The Analysis is incorporated herein by reference and made a part hereof.

## **II. PROJECT DESCRIPTION**

6. The Project consists of an underground transmission line along an approximately nine mile route. The route begins at the Sudbury Substation, located off Route 20, and travels in a northwesterly direction within the existing MBTA ROW for approximately 7.64 miles, traversing within the MBTA ROW through the Town of Sudbury (for a distance of 4.29 miles), the Town of Stow (for a distance of 0.07 miles), the City of Marlborough (for a distance of 0.01 miles), and the Town of Hudson (for a distance of 1.9 0 miles). The route leaves the MBTA ROW in Hudson at the intersection of the MBTA ROW and Wilkins Street and proceeds in a southwesterly direction along Wilkins Street (Route 62) and Forest Avenue for a distance of approximately 1.37 miles before terminating at the Hudson Substation.

7. The New Line will consist of three cross-linked polyethylene (“XLPE”) insulated cables. The duct bank will contain a total of eight conduits: four high density polyethylene (“HDPE”) 8-inch-diameter conduits (including one spare) for the insulated XLPE cables, two 4-inch-diameter polyvinyl chloride (“PVC”) conduits for relay and communication cables, and two 2-inch-diameter PVC conduits (one for a grounding conductor and one for possible future temperature-monitoring cables).

8. To accommodate the New Line, the following equipment would be installed at the existing Sudbury Substation:

- 115-kV breaker with associated disconnect switch
- 115-kV surge arresters (three)
- 115-kV cable disconnect switch (one) and termination structures (three)
- 115-kV air core shunt reactor with associated foundations

- 115-kV breaker with associated disconnects and foundations to switch the shunt reactor
- Shielding mast (approximately 100-feet tall)
- 115-kV bus support structures (one) for 115-kV conductors
- Control, protection, and communication equipment inside the existing control house
- Underground conduits and cable trench for control cables

Plans showing the route of the New Line and the proposed modifications at the Sudbury Substation are provided in Section 4 of the Analysis.

### **III. COMMUNITY OUTREACH**

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9. The Company is planning to meet shortly with zoning officials in the Towns, after which the Company will provide the Department with an update.

10. A list of outreach meetings held to date regarding the Project is provided in Section 1 of the Analysis.

11. Following the submittal of this Petition, and throughout the permitting and construction of the Project, the Company will continue to address any concerns or issues that may arise with the Towns and interested parties.

### **IV. STANDARD OF REVIEW**

12. G.L. c. 40A, § 3 provides, in relevant part, that:

Land or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or bylaw if, upon petition of the corporation, the [Department] shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.

13. A petitioner seeking exemption from a local zoning bylaw under G.L. c. 40A, § 3 must meet three criteria. NSTAR Plympton 2012, at 4-7; NSTAR Carver 2008, at 2-6; NSTAR Plympton 2007, at 3-7. First, the petitioner must qualify as a public service corporation. Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667, 680 (1975) (“Save the Bay”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-85, at 3 (2016) (“Eversource Woburn”). Second, the petitioner must demonstrate that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare. Eversource Woburn at 3; Boston Edison Company, EFSB 04-1/D.T.E. 04-5/04-7, at 147 (2005) (“Boston Edison 2005”); Commonwealth Electric Company, D.T.E. 03-7, at 3 (2003) (“Commonwealth Electric 2003”); Massachusetts Electric Company, D.T.E. 01-77, at 4 (2002) (“MECo 2002”); Tennessee Gas Pipeline Company, D.T.E. 01-57, at 3-4 (2002) (“Tennessee Gas 2002”). Finally, the petitioner must establish that it requires a zoning exemption. Eversource Woburn at 3; Boston Edison 2005, at 147; Commonwealth Electric 2003, at 3; Boston Gas Company, D.T.E. 00-24, at 3 (2001) (“Boston Gas 2001”).

## **V. EVERSOURCE IS A PUBLIC SERVICE CORPORATION**

14. In determining whether a petitioner qualifies as a “public service corporation,” the Supreme Judicial Court (the “SJC”) has stated:

[A]mong the pertinent considerations are whether the corporation is organized pursuant to an appropriate franchise from the State to provide for a necessity or convenience to the general public which could not be furnished through the ordinary channels of private business; whether the corporation is subject to the requisite degree of governmental control and regulation; and the nature of the public benefit to be derived from the service provided.

Save the Bay, 366 Mass. at 680. See also Commonwealth Electric 2003, at 4; Boston Gas 2001, at 3-4; Berkshire Power Development, Inc., D.P.U. 96-104, at 26-36 (1997) (“Berkshire Power”).

15. Eversource has its principal place of business at 800 Boylston Street, 17<sup>th</sup> Floor, in the City of Boston, Massachusetts 02199. Eversource is an electric company as defined in G.L. c. 164, § 1 and, therefore, is a public service corporation authorized by the Commonwealth to transmit and distribute electricity. Eversource Woburn at 6; NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-02, at 6-7 (2015) (“Eversource Hopkinton”); NSTAR Electric Company, D.P.U. 14-55/14-56, at 12 (“NSTAR Belmont”); NSTAR Electric Company, D.P.U. 13-177/13-178, at 10-11 (2015) (“NSTAR Seafood Way”); NSTAR Plympton 2012, at 7; NSTAR Carver 2008, at 47; NSTAR Plympton 2007. As an electric company and a public service corporation in the Commonwealth, the Company is entitled to seek a zoning exemption pursuant to G.L. c. 40A, § 3.<sup>2</sup> Eversource Hopkinton at 6-7; NSTAR Plympton 2012, at 7; NSTAR Carver 2008, at 47; NSTAR Plympton 2007, at 8, Save the Bay, at 680; see also Commonwealth Electric 2003, at 4; Boston Gas Company 2001; Berkshire Power, at 26-36.

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<sup>2</sup> Consistent with the Department’s checklist applicable to requests for zoning relief, Eversource has submitted with its petition herewith all of the requisite information to obtain zoning exemptions from the Department.

## **VI. THE PROJECT IS REASONABLY NECESSARY FOR THE PUBLIC CONVENIENCE OR WELFARE**

16. When making a determination as to whether a present or proposed use is reasonably necessary for the public convenience or welfare, the Department and the Siting Board balance the interests of the general public against the local interest. Save the Bay, 366 Mass. at 680; Town of Truro v. Department of Public Utilities, 365 Mass. 407, 410 (1974); Eversource Woburn at 4. Specifically, the Department and the Siting Board undertake “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected.” New York Central Railroad v. Department of Public Utilities, 347 Mass. 586, 592 (1964) (“New York Central Railroad”); Eversource Woburn at 4-5. When reviewing a petition for a zoning exemption, the Department and the Siting Board consider the public effects of the requested exemption in the state as a whole and upon the territory served by the petitioner. Save the Bay, 366 Mass. at 685; New York Central Railroad, at 592; Commonwealth Electric 2003, at 5; NSTAR Carver 2008, at 5.

17. With respect to the project site chosen by a petitioner, a petitioner is not required to demonstrate that its preferred site is the best possible alternative, nor must the Department consider and reject every possible alternative site presented. Commonwealth Electric 2003, at 5. Rather, the availability of alternative sites or routes, the efforts necessary to secure them and the relative advantages and disadvantages of those sites are matters of fact bearing solely upon the main issue of whether the preferred site is reasonably necessary for the

convenience or welfare of the public. Martarano v. Department of Public Utilities, 401 Mass. 257, 265 (1987); New York Central Railroad, 347 Mass. at 591; NSTAR Carver 2008, at 5.

18. Therefore, when making a determination as to whether a petitioner's present or proposed use is reasonably necessary for the public convenience or welfare, the Department examines: (1) the present or proposed use and any alternatives or alternative sites identified; (2) the need for, or public benefits of, the present or proposed use; and (3) the environmental impacts or any other impacts of the present or proposed use. Eversource Woburn at 5; NSTAR Carver 2008, at 5. The Department then balances the interests of the general public against the local interest, and determines whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public. Boston Gas 2001, at 4-6; MECo 2002, at 5-6; Tennessee Gas 2002, at 5-6; Tennessee Gas Company, D.T.E. 98-33, at 4-5 (1998).

**A. There is a Public Benefit and Need for the Project**

19. The primary purpose of the Sudbury-Hudson Transmission Reliability Project is to provide additional transmission capacity within the area designated by ISO-NE as the Marlborough Subarea of Sub-Area D, which encompasses the municipalities of Berlin, Framingham, Grafton, Hudson, Marlborough, Northborough, Shrewsbury, Stow, Southborough and Westborough. As described more fully in the Analysis, certain 69-kV and 115-kV lines serving the Marlborough Subarea would overload under various contingencies at existing peak load levels, which would lead to a voltage collapse



and the consequent loss of service to over 400 MW of load (approximately 80,000 customers). The need for the Project is immediate as the potential for low voltage, voltage collapse and thermal overloads occur at pre-2013 load levels. The Project will address this need by constructing the New Line and connecting it with the Sudbury Substation and the Hudson Light & Power Substation at Forest Avenue in Hudson (“the Hudson Substation”). The New Line will ensure continued compliance with applicable federal and regional transmission reliability standards and criteria, and will maintain reliable electric service to area substations serving the Marlborough Subarea. Comprehensive information regarding the need for the Project is set forth in Section 2 of the Analysis.

20. Given the similarity in statutory standards between G.L. c. 164, § 69J and G.L. c. 40A, § 3, the information provided by the Company demonstrating that the Project will contribute to a reliable supply of energy for the Commonwealth with a minimum impact on the environment at the lowest possible cost, all in accordance with G.L. c. 164, § 69J, also serves to demonstrate that the Project is necessary pursuant to the requirements of G.L. c. 40A, § 3. See, e.g., Lower SEMA, at 97.

21. In addition, the Department’s well-established precedent provides that the public interest analysis required by G.L. c. 164, § 72 is analogous to the Department’s analysis for the “reasonably necessary for the convenience or the welfare of the public” standard under G.L. c. 40A, § 3. Boston Edison 2005, at 163; New England Power Company, D.P.U. 89-163, at 6 (1993); New England Power Company, D.P.U. 91-117/118, at 4 (1991); Massachusetts Electric

Company, D.P.U. 89-135/136/137, at 8 (1990). Accordingly, to the extent that the Company has demonstrated that the Project has satisfied the statutory requirements of G.L. c. 164, § 69J and, consequently, G.L. c. 164, § 72, so too has it demonstrated that the Project has satisfied the “convenience or welfare of the public” standard under G.L. c. 40A, § 3.

**B. Alternatives Considered**

22. The Company has considered alternatives to the Project, and several possible routing and design options, and has determined that the Project meets the identified need for reliability purposes, at the least cost, and with the least environmental impact. The alternative approaches and routing options that were considered are described in Sections 3.0 and 4.0 of the Analysis.

**C. The Impacts of the Project Have Been Minimized**

23. The Company conducted a comprehensive analysis of the environmental impacts of the Project and has appropriately minimized environmental impacts associated with the Project while also balancing safety, design standards, cost and reliability. Comprehensive information regarding the minimization of impacts for the Project is set forth in Section 5 of the Analysis.

**VII. THE PROJECT REQUIRES INDIVIDUAL ZONING EXEMPTIONS**

24. In determining whether an exemption from a particular provision of a zoning bylaw is “required,” the Department looks to whether the exemption is necessary in order to allow construction or operation of the petitioner’s project as proposed. Eversource Woburn at 6; NSTAR Plympton 2012, at 7; NSTAR Carver 2008, at 4; NSTAR Plympton 2007, at 3; Boston Edison 2005, at 148;

Commonwealth Electric 2003, at 4; MECo 2002, at 4-5; Tennessee Gas 2002, at 5; Western Massachusetts Electric Company, D.P.U./D.T.E. 99-35, at 4, 6-8 (1999); Tennessee Gas Company, D.P.U. 92-261, at 20-21 (1993). The petitioner must identify the individual zoning provisions applicable to the Project and establish that an exemption from each of those provisions is required:

The Company is both in a better position to identify its needs, and has the responsibility to fully plead its own case. The Department fully expects that, henceforth, all public service corporations seeking exemptions under c. 40A, § 3 will identify fully and in a timely manner all exemptions that are necessary for the corporation to proceed with its proposed activities, so that the Department is provided ample opportunity to investigate the need for the requested exemptions.

Eversource Woburn at 6; New York Cellular Geographic Service Area, Inc., D.P.U. 94-44, at 18 (1995); Commonwealth Electric 2003, at 4.

25. The Siting Board and the Department encourage zoning exemption applicants to consult with local officials prior to seeking zoning exemptions under G.L. c. 40A, § 3. Eversource Woburn at 38; Eversource Hopkinton at 46.

26. As described in more detail below, the construction and operation of the New Line and the modifications to the Sudbury Substation are or may be construed to be inconsistent with provisions of the Zoning Bylaws. However, as demonstrated in the Siting Board Petition, the Project is needed in the immediate time frame in order to provide reliable transmission service and to increase capacity of the electric system in the area. Thus, Eversource is seeking zoning relief from the Department in order to allow for the timely, efficient and consistent construction of the Project.

## **VIII. SPECIFIC ZONING RELIEF REQUIRED**

After review of the Zoning Bylaws, the following sets forth the municipal zoning relief required, and the exemptions sought, for the modifications of the Sudbury Substation and the construction of the New Line.

### **A. Sudbury**

27. According to the “Zoning Map, Town of Sudbury, last amended April, 1994” (the “Sudbury Zoning Map”), the Sudbury Substation is located in a Residence A (“A-Res”) zoning district. The New Line would traverse the following zoning districts along the MBTA ROW: A-Res, Single Residence C, Wayside Inn Historic Preservation, Business, and Limited Industrial.

28. In 1956, the Department exempted the initial construction of the Sudbury Substation and the continued use and maintenance of the Sudbury Substation on the substation site from the operation of the Sudbury Zoning Bylaw (D.P.U. 11861). Accordingly, the modifications proposed at the Sudbury Substation do not require any local zoning relief with regard to use of the substation site for substation purposes. The only dimensional requirement for which the proposed modifications at Sudbury Substation would require zoning relief is the maximum height requirement in the A-Res district in connection with the installation of an approximately 100-foot high shielding mast. Section 2600 of the Sudbury Zoning Bylaw, Table of Dimensional Requirements, limits structure heights in the A-Res district to 35 feet and, accordingly, a variance from the height limitation would be required to install the proposed shielding mast. To grant a variance, the Sudbury Zoning Board of Appeals would need to find the

following in accordance with G.L. c. 40A, § 10: (a) circumstances exist relating to soil conditions, shape or topography of the particular parcel or structure that do not affect generally the zoning district in which the parcel or structure is located; (b) a literal enforcement of the provisions of the bylaw would involve substantial hardship to the applicant and there is a nexus between the special circumstance and the hardship; and (c) the relief requested may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw. It is difficult, if not impossible, to demonstrate the existence of unique conditions relating to soil conditions, shape or topography of a particular parcel of land or structure. Moreover, variances are a legally disfavored form of relief and, even if granted, can be susceptible to appeal.<sup>3</sup> Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, the Company seeks an exemption from the maximum height limitation in Section 2600 of the Sudbury Zoning Bylaw.

29. In order to minimize long-term disruption to abutters and to meet in-service deadlines for both the New Line and the modifications to the Sudbury Substation, the Company proposes to work Saturdays from 9:00 a.m. to 5:00 p.m. Section 3423 of the Sudbury Zoning Bylaw limits construction hours to

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<sup>3</sup> The Company characterizes variances as “legally disfavored” because the Massachusetts Supreme Judicial Court has ruled that they are to be issued sparingly and only if all of the statutory prerequisites have been met. Norcross v. Board of Appeal of the Building Department of the City of Boston, 255 Mass. 177, 185 (1926) (“[i]t is only in rare instances and under exceptional circumstances that relaxation of the general restrictions established by the statute ought to be permitted. The power granted is only for the relief of specific instances, peculiar in their nature”). This holding has been consistently reiterated in decisions of the courts regarding the issuance of variances. Guiragossian v. Board of Appeals of Watertown, 21 Mass. App. Ct. 111 (1985).

weekdays. To maintain its proposed schedule, the Company would need a variance from the construction hour limitations in Section 3423 to work on Saturdays. Section 3423 also prohibits any use from causing nuisance or hazard to persons or property by reason of excessive noise generated therefrom. Section 3423 incorporates the standard of the Department of Environmental Protection (“DEP”) set forth at 310 CMR 7.10(1), which provides that no one shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, or permit unnecessary emissions of sound that may cause noise. To the extent that construction activities would not meet this standard, a variance would be required from the noise limitations in Section 3423. As described above, variances are a legally disfavored form of relief and, even if granted, can be susceptible to appeal. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, the Company seeks an exemption from the construction hour and noise limitations contained in Section 3423 of the Sudbury Zoning Bylaw.

30. Section 2230 of the Sudbury Zoning Bylaw, the Table of Principal Use Regulations, allows “Essential Services” in all zoning districts by special permit granted by the Zoning Board of Appeals. “Essential Services” include those provided by a public service corporation by the erection, construction, alteration, or maintenance of underground electrical transmission systems through wires, pipes, conduits, cables and other similar equipment in connection

therewith. Given that the New Line will be constructed on a new electric ROW a special permit likely would be required. To grant a special permit, the Zoning Board of Appeals must find that the following conditions are met: (a) the use is in harmony with the general purpose and intent of the bylaw; (b) the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district; (c) adequate and appropriate facilities will be provided for the proper operation of the proposed use; (d) the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; and (f) the proposed use would not cause undue traffic congestion in the immediate area. The grant of a special permit is discretionary, the standards are subjective and a special permit, if granted, would be susceptible to appeal. Because of the legal uncertainty in obtaining a special permit, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, the Company seeks an exemption from the requirement in Section 2230 to obtain a special permit for the New Line.

31. Portions of the New Line are located in the Water Resource Protection Overlay District, which is established by and regulated under Article 4200 of the Sudbury Zoning Bylaw. The Water Resource Protection Overlay District applies to, among other activities, all new construction and new uses and provides that uses not permitted in the underlying zoning district are not permitted in the Water Resource Protection Overlay District. To the extent that construction

of the New Line would not be permitted in the Water Resource Protection Overlay District because it is not an as-of-right use in the underlying zoning district, the Company would need to obtain a use variance to construct the New Line. The Board of Appeals is authorized to grant use variances only in certain circumstances, none of which apply here.<sup>4</sup> Because there is no local relief available that would authorize construction of the New Line in the Water Resource Protection Overlay District, an exemption from the requirements of Article 4200 are *per se* required.<sup>5</sup>

32. The following table summarizes the individual zoning exemptions requested from the Sudbury Zoning Bylaw:

Provision	Local Zoning Relief	Description of Zoning Relief Required
Section 2600	Variance	The provision limits height to 35 feet, therefore a variance is required for the proposed 100-foot shielding mast at the Sudbury Substation.
Section 3423	Variance	The provision limits construction activity to weekdays, therefore a variance would be required for the Company's proposed Saturday hours. The provision also prohibits excessive

<sup>4</sup> The circumstances for which use variances may be granted, as provided in Section 6140 of the Sudbury Zoning Bylaw, include; (1) expiration of the time limit specified for a previously granted use variance; (2) existence prior to January 1, 1978, of uses of the same general classification as the use variance applied for, on lots adjoining the lot in question on both sides, or, if the lot in question is a corner lot, on both sides and the rear; (3) existence on the lot in question of a lawful use of such nuisance characteristics as to render unreasonable any conforming use of the lot in question; and (4) existence on the lot in question of a lawful structure or structures in good repair and of appearance compatible with its vicinity which can reasonably be maintained as a visual and taxable asset only if some nonconformity of use is permitted. None of these circumstances apply to the proposed public utility use along the MBTA ROW.

<sup>5</sup> Section 5.11 of the Analysis describes in detail how the installation of the New Line will not cause any impact to the resources protected by the Water Resource Overlay Protection District.



Provision	Local Zoning Relief	Description of Zoning Relief Required
		noise and to the extent that construction activities would not meet the noise standard, a variance would be required.
Section 2230	Special permit	The provision allows Essential Services by special permit in all zoning districts; a special permit would be required to construct the New Line along the MBTA ROW.
Article 4200	None available	The provision allows only uses in the Water Resource Protection Overlay District that are allowed in the underlying zoning districts. To the extent that this provision applies to uses allowed by special permit (and not just to those allowed as-of-right), a use variance would be required for construction of the New Line along the MBTA ROW in the overlay district. Use variances are allowed in limited circumstances, none of which apply here.

33. The Company anticipates meeting with zoning officials from Sudbury soon and will provide an update regarding the meeting and its expectations for receiving a letter of support.

#### **B. Hudson**

34. According to the “Town of Hudson, Massachusetts Zoning Parcels and Road” dated 2017 (the “Hudson Zoning Map”), the New Line would traverse the Industrial (M-5 and M-6) and Single Residence (SA-8) zoning districts along public roads and the Industrial (M-6) and Single Residence (SA-8) zoning districts along the MBTA ROW.

35. Section 5.2 of the Hudson Zoning Bylaw sets forth the uses allowed in the Residential Districts and no use listed as “permitted” or “allowed by special permit” would appear to allow the New Line in the Single Residence district. Accordingly, the use is impliedly prohibited in the Single Residence district and a use variance would be required to construct the New Line. The Hudson Zoning Bylaw does not authorize the granting of use variances and, accordingly, no local zoning relief is available and a zoning exemption would be *per se* required for the New Line in the Single Residence district.<sup>6</sup>

36. Section 3.3.10 of the Hudson Zoning Bylaw establishes an overlay called the Water Protection District. Uses not permitted in the portions of the districts so overlaid shall not be permitted within the Watershed Protection District. Portions of the Single Residence zoning district through which the New Line would pass are overlain by the Water Protection District. Because the New Line is not allowed in the Single Residence District, it is not allowed in the Watershed Protection District. Accordingly, a use variance would be required to construct the New Line in the Water Protection District. The Hudson Zoning Bylaw does not authorize the granting of use variances and, accordingly, no local zoning relief is available and a zoning exemption would be *per se* required for the New Line in the Water Protection District.<sup>7</sup>

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<sup>6</sup> Sections 5.3 and 5.5 set forth the uses allowed in the Commercial and Industrial Districts. In the Commercial District “... any lawful business, service or public utility” is allowed as-of-right. Any use allowed in the Commercial District is allowed in the Industrial District. Accordingly, zoning relief does not appear to be required for the New Line in the Industrial (M-5 and M-6) districts.

<sup>7</sup> Section 5.11 of the Analysis describes in detail how the installation of the New Line will not cause any impact to the resources protected by the Water Protection District.

37. The following table summarizes the individual zoning exemptions requested from the Sudbury Zoning Bylaw:

Provision	Local Zoning Relief	Description of Zoning Relief Required
Section 5.2	None Available	The Section does not authorize the New Line in the Single Residence District; the granting of use variances is not authorized by the Hudson Zoning Bylaw.
Section 3.3.10	None Available	Uses not allowed in the Single Residence District are not allowed in the Water Protection District; the granting of use variances is not authorized by the Hudson Zoning Bylaw.

38. The Company anticipates meeting with officials from the Town of Hudson soon and will provide an update regarding the meeting and its expectations for receiving a letter of support.

**C. Stow**

39. According to the “Town of Stow Zoning District Map” dated May 1, 1995 and amended May 12, 2015 (the “Stow Zoning Map”), the New Line would traverse the Residential District along the MBTA ROW.

40. Section 3.10 of the Stow Zoning Bylaw, Table of Principal Uses, provides that “Public Service Corporation” use is allowed in the Residential District “in accordance with the provisions of M.G.L. Ch. 40A, Section 3.” To the extent that the intent of the provision is to allow public utility use only by the Department’s grant of exemptions, a use variance would be required unless an exemption by the Department is granted. The Stow Zoning Bylaw does not authorize the granting of use variances. Accordingly, an exemption from the

Department is *per se* required for the New Line to be constructed in the Residential District.

41. Section 3.8.1.3 of the Stow Zoning Bylaw regulates noise and provides that noise generated on any lot, measured at any point beyond the property lines of the lot on which the noise source is located, shall not cause the total sound level to be more than three decibels above the natural ambient sound level. Construction activities could produce sound more than 3 dBA above ambient. To the extent that construction activities would not meet the standard in Section 3.8.1.3, a variance would be required. As described above, variances are a legally disfavored form of relief and, even if granted, can be susceptible to appeal. Because of the legal uncertainty in obtaining variances, and the potential for adverse interpretations, delay, burden and undue expense associated with the permitting process and appeals therefrom, the Company seeks an exemption from the noise limits contained in Section 3.8.1.3 of the Stow Zoning Bylaw.

42. The following table summarizes the individual zoning exemptions requested from the Stow Zoning Bylaw:

Provision	Local Zoning Relief	Description of Zoning Relief Required
Section 3.10	None available	The provision appears to allow the New Line in the Residential District only upon the grant of an exemption; the granting of use variances is not authorized under the bylaw.
Section 3.8.1.3	Variance	The provision limits noise to 3 dBA above ambient and a variance would be required to exceed this limit.

43. The Company anticipates meeting with zoning officials from Stow soon and will provide an update regarding the meeting and its expectations for receiving a letter of support.

#### **IX. THE PROJECT REQUIRES COMPREHENSIVE ZONING EXEMPTIONS TO AVOID SUBSTANTIAL PUBLIC HARM**

44. The Company respectfully request comprehensive exemptions from the operation of the Sudbury, Hudson and Stow Zoning Bylaws. The grant of comprehensive zoning exemptions is based on the specifics of each case. Western Massachusetts Electric Company, D.P.U. 13-187/188, at 53-54 (2015); NSTAR Electric Company, D.P.U. 13-126/127, at 29 (2014); NSTAR Electric Company, D.P.U. 13-64, at 24-25 (2014); NEP Worcester 2011, at 81, GSRP Decision, at 135, NEP Amesbury 2010, at 53; NSTAR Carver 2008, at 50-51 citing Princeton Municipal Light Department, D.T.E./D.P.U. 06-11, at 37 (2007) (“Princeton 2007”); NSTAR Plympton 2007, at 37. The Department will consider a request for comprehensive zoning relief when issuance of a comprehensive exemption is imminently needed to avoid substantial public harm. Western Massachusetts Electric Company, D.P.U. 13-187/188, at 58 (2015); NSTAR Electric Company, D.P.U. 13-177/178, at 38-39 (2015); NSTAR Electric Company, D.P.U. 13-64, at 37 (2014).

45. The Department has cited the following factors as relevant in making a determination to grant a comprehensive exemption: (1) the project is needed for reliability; (2) the project is time sensitive; (3) there are multiple municipalities involved that could have conflicting zoning provisions that might hinder the uniform development of a large project spanning these communities;

(4) the project proponent has actively engaged the communities and responsible officials to discuss the applicability of local zoning provisions and address local concerns; and (5) the communities affected by the project do not oppose the issuance of a comprehensive zoning exemption. New England Power Company d/b/a National Grid, EFSB 13-2/D.P.U. 13-151/13-152, at 99 (2014); NEP/WMECO 2012, at 89-90; NSTAR Electric Company, EFSB 10-2/D.P.U. 10-131/10-132, at 110-11 (2012); Western Massachusetts Electric Company, EFSB 08-2/D.P.U. 08-105/08-106, at 136-37 (2010).

46. The grant of a comprehensive zoning exemption is necessary even where individual zoning exemptions are granted, as the two types of zoning exemptions serve distinct needs. An individual zoning exemption relates to specific provisions in the Zoning Bylaws *currently* in effect that have the potential to conflict or be inconsistent with, prevent, delay or obstruct the construction or operation of the Project. On the other hand, a comprehensive zoning exemption goes beyond the provisions in the current Zoning Bylaws (from which an individual zoning exemption may be granted), to exempt the Project from any *future* zoning enactment that comes into effect that has the potential to jeopardize the Project (in the same manner described above for individual zoning

exemptions).<sup>8</sup> In this manner, the two types of zoning exemptions work in tandem to ensure that meritorious energy facilities like the Project are constructed as approved by the Department without undue delay. The very purpose of a comprehensive zoning exemption is thus to provide a mechanism for relief from local zoning that would not be available if only individual zoning exemptions were able to be secured. A comprehensive zoning exemption would also ensure the timely construction of the Project in the event that a Project design change is required.

47. As described herein, the Project satisfies the Department's standards for the grant of a comprehensive zoning exemption. As described in detail in Sections 2 and 3 of the Analysis, the Project is necessary for system reliability and the timing of the need for the Project is pre-2013 and, thus, the need for the Project is imminent.

48. In sum, comprehensive zoning exemptions from the operation of the Sudbury, Hudson and Stow Zoning Bylaws would ensure the timely construction of this important Project. This benefit redounds directly to customers.

---

<sup>8</sup>

A comprehensive zoning exemption is also necessary with regard to provisions currently in effect because zoning bylaws and ordinances are rarely written with unique energy infrastructure facilities in mind. The lack of clearly defined and specific regulation of electric infrastructure in the Zoning Bylaws, and the vague and subjective terms and provisions of the Zoning Bylaws result in an imprecise, at best, application of the zoning provisions to the Project. The Company interprets the provisions of zoning bylaws conservatively, in the hope that it is requesting individual zoning exemptions for all of the provisions that could conceivably be said to apply to a project. The grant of a comprehensive exemption would remove any reasonable doubt as to the ability of the Project to move forward without violating any terms of the Zoning Bylaws.

## **X. PERMITS REQUIRED**

49. As required by the Department's Checklist for Filing of Zoning Exemption Petitions, Table 6-1 of the Analysis lists the permits that are required to construct and operate the Project.<sup>8</sup>

**WHEREFORE,** NSTAR Electric Company d/b/a Eversource Energy respectfully requests that, pursuant to G.L. c. 40A, § 3, and after due notice and a public hearing, the Department determine that the Project is reasonably necessary for the convenience and welfare of the public, and grant: (1) exemptions from the particular provisions of the Zoning Bylaws described herein; and (2) comprehensive exemptions from the provisions of the Zoning Bylaws, and take such other action as may be necessary and appropriate in connection with the Company's proposal to construct and operate the Project in the Towns.

---

<sup>8</sup>

The Department's Checklist for Filing of Zoning Exemption Petitions is provided here as Exhibit D. A draft hearing notice (including an electronic version in MS Word format) is being provided along with the Section 69J Petition. USGS locus maps, a plan of the New Line Route and substation plans can be found in Section 4 of the Analysis. The Company plans to file the Environmental Notification Form ("ENF") with MEPA shortly. The Company will file with the Department a copy of the Certificate on the ENF once it is issued.



Respectfully Submitted,

**NSTAR ELECTRIC COMPANY**  
**d/b/a EVERSOURCE ENERGY**

By its attorneys,



---

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Boston, MA 02110

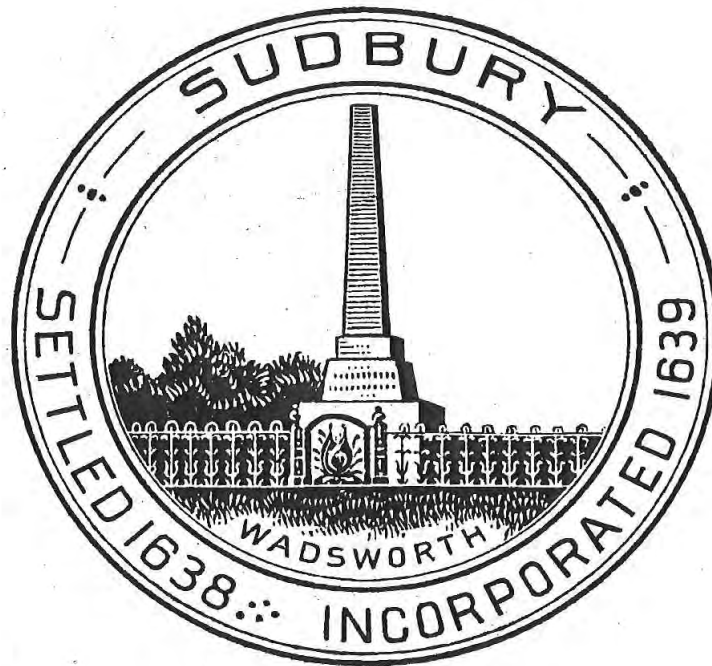
(617) 951-1400

Dated: April 20, 2017

## **EXHIBIT LIST – ZONING EXEMPTION PETITION**

<b>EXHIBIT A</b>	Attested Copy of Town of Sudbury Zoning Bylaw
<b>EXHIBIT B</b>	Attested Copy of Town of Hudson Zoning Bylaw
<b>EXHIBIT C</b>	Attested Copy of Town of Stow Zoning Bylaw
<b>EXHIBIT D</b>	Zoning Exemption Checklist

# **ZONING BYLAW ARTICLE IX JUNE 13, 2016**



**TOWN OF SUDBURY  
MASSACHUSETTS**

TOWN OF SUDBURY  
ZONING BYLAW INDEX

2016

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**SUDBURY ZONING BYLAW**  
**June 13, 2016**

1310 ATM 4/2/2002

**ARTICLE 1000. PURPOSE AND ADMINISTRATION.**

**1100. PURPOSE.** These regulations are enacted to promote the general welfare of the Town of Sudbury, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town, and to reduce the hazard from fire by regulating the location and use of buildings and structures and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1200. APPLICABILITY.**

**1210. Basic Requirements.** No parcel of land in any district shall be used for any purpose other than that for which the district is established by this bylaw and the uses shall be subject to the other restrictions required by this bylaw except for any municipal purposes or exemption from other restrictions when and as authorized by a vote of the Town. The use of land in any district by the Sudbury Housing Authority for housing for elderly persons of low income shall be exempt from all of the provisions of this zoning bylaw when and as authorized by a two-thirds vote of the Town. The use, construction, alteration, height and area of buildings and the use of premises in the aforementioned districts shall be regulated and restricted as hereinafter provided. No lot, nor the building or structure, shall be changed in size, or use so as to violate the provisions of this bylaw.

**1220. Other Laws.** Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

**1230. Conformance.** Construction or operations under a building permit or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as possible.

**1300. ADMINISTRATION.**

**1310. Permits.** This Bylaw shall be administered and enforced by the Inspector of Buildings. The Inspector of Buildings may require such plans and specifications as may

be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, structurally altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. All building permits shall be posted conspicuously on the premises to which it applies during the time of construction. A certificate of occupancy shall not be issued for any dwelling until the street number, readable from the street, has been attached to said dwelling. In cases where the dwelling set-back from the street makes this requirement impractical, the street number shall be placed at or near the driveway entrance.

**1320. Enforcement.** The Inspector of Buildings shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Bylaw and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

**1330. Appeals.** Any person aggrieved by the refusal of the Inspector of Buildings to grant a building permit or by any order or ruling made by him, notice of which shall have been given to the applicant or permittee, may appeal in writing to the Board of Appeals as is provided in M.G.L. Chapter 40A, s.15.

**1340. Penalties.** The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

## **ARTICLE 2000. USE, DIMENSIONAL AND TIMING REGULATIONS.**

### **2100. DISTRICTS.**

**2110. Establishment.** For the purposes of this Bylaw, the Town of Sudbury is hereby divided into the following districts:

- Single Residence "A" (A-Res.)
- Single Residence "C" (C-Res.)
- Wayside Inn Historic Preservation (WI)
- Business (BD)
- Limited Business (LBD)
- Village Business (VBD)
- Industrial (ID)
- Limited Industrial (LID)
- Research (RD)

Industrial Park (IP)  
Open Space (OS)

Except as otherwise provided herein, the boundaries of these districts are defined and set forth on the map entitled, "Zoning Map, Town of Sudbury, last amended April, 1994," as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. The zoning map, with all explanatory matter thereon, is hereby made a part of this Bylaw.

The location of Districts is further described in narrative form with accompanying maps in Appendix C.

"Overlay" districts are also hereby created: Flood Plain Overlay District (reference section 4100), Historic Districts (Old Sudbury and Hudson Road Historic District, Wayside Inn Historic Districts 1 and 2, King Phillip Historic District (reference Appendix C), Water Resource Protection Overlay District (reference section 4200), Wireless Services Overlay District (reference section 4300) and Wastewater Treatment Facility Restricted Zones (reference section 4500).

**2120. Boundary Definition.** Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the zoning map.

**2130. Exempt Uses.**

In order to maintain uniformity and consistency throughout residential districts in the Town of Sudbury, the following regulations shall apply to the use of land and/or buildings on residentially zoned property for religious, non-profit educational, or child care facilities, or other exempt uses provided for in M.G.L. Chapter 40A, Section 3:

- 2131. All buildings and structures constructed on the subject property shall be subject to the Dimensional Requirements of Section 2600 of this bylaw for the district in which the exempt use is located.
- 2132. Exempt uses shall be regulated as set forth in section 2200, Principal Use Regulations.
- 2133. Parking for any exempt use shall comply with Section 3100 of this bylaw.
- 2134. The Performance Standards in Section 3400 shall apply to all new construction of any exempt use.
- 2135. The Screening and Landscaping standards of Section 3500 shall apply to all new construction of any exempt use.

2210: ATM 4/6/2010

2136. The proposal shall be subject to the Site Plan Review process set forth in Section 6300 of this bylaw in order to provide information to town boards and departments as to how the project complies with the requirements of the Zoning Bylaw with respect to bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

**2140. Certain nonexempt educational and child care uses.**

*The use of land and buildings thereon for non-exempt educational uses shall be allowed in those zones specified in the Table of Principal Use Regulations, subject to the issuance of a special permit by the Board of Appeals (if applicable), Site Plan review pursuant to section 6300 of the bylaw, and all the requirements contained in this Zoning Bylaw. The provisions of this section shall not apply to the use of land by the Town for municipal purposes.*

**2200. PRINCIPAL USE REGULATIONS.**

**2210. General.** No structure shall be erected or used or land used except as set forth herein, unless exempted by this bylaw or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a residential lot, except in accordance with Sections 2300 (Accessory Uses and Structures), 5300 (SRC) and 5400 (ISD). Except as provided in sections 5300 and 5400, no lot within a subdivision or within the Town shall have more than one building to be used for dwelling purposes.

Symbols employed below shall mean the following:

- |     |   |   |
|-----|---|---|
| Y   | - | A permitted use.  |
| N   | - | An excluded or prohibited use.  |
| ZBA | - | A use authorized under special permit from the Zoning Board of Appeals. |
| PB  | - | A use authorized under special permit from the Planning Board.          |
| BOS | - | A use authorized under special permit from the Board of Selectmen.      |

**2220. Applicability.** When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

**2230. Table of Principal Use Regulations.** [See Appendix A.]

**2240. Enclosure of Uses.** All business and service, including incidental storage and light manufacturing, shall be conducted wholly within a completely enclosed building except for:

2241. The growing of plants in the soil.

2242. Open-air dining areas where patrons are seated at tables.

2243. Parking areas for customer and employee automobiles.

2244. Exterior signs as permitted herein.

2245. Open-air displays of sample merchandise on the same premises as a completely enclosed building in which such merchandise is regularly sold, provided that the portion of the lot used for such displays has a ground area of less than ten percent of the area covered by said building.

2246. The dispensing of fuels, lubricants or fluids at filling stations, and the dispensing of merchandise from a completely enclosed building to persons outside at drive-in establishments.

2247. In Industrial Districts, Limited Industrial Districts, and Industrial Park Districts, auxiliary outside storage or use shall be permitted provided that such outside storage or use shall not exceed in ground area a space equal to the number of square feet occupied by the building. Outside parking areas may be allowed at the sides of a building provided they are adequately screened and set back from the front of the building. [See section 3530, Landscaping Requirements for Property Lines]

2248. In Limited Industrial Districts and Industrial Park Districts, the regular parking of commercial motor vehicles within 1,000 feet of a residential district except wholly within a completely enclosed building is prohibited.

2249. In Research Districts only, such non-nuisance research, development or engineering work as must necessarily, or may more conveniently, be conducted outside.

**2300. ACCESSORY USES AND STRUCTURES.**

**2310. Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is



customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use.

Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 6300, shall also require site plan review and approval.

2311. Family Day Care and Adult Day Care. Family Day Care is a permitted accessory use. Adult Day Care may be permitted as a principal or an accessory use upon the issuance of a special permit by the Board of Appeals. Providers shall comply with all applicable federal, state, and local laws.

2312. Boarders in Single-family Dwelling. The renting of rooms and/or furnishing of board to not more than five (5) persons in a single-family dwelling by the owner thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to more than two persons shall cause the use to be classified as a boarding house subject to the provisions of Section 2230 (Table of Principal Use Regulations), herein.

2313. The Board of Appeals may grant a special permit for the nonexempt raising of swine, poultry, furbearing animals, and the operation of kennels in any district; in accordance with Section 6200, such Board may impose such restrictions with respect to the conduct thereof as in its judgment may seem necessary for the general welfare of the Town.

2314. Any use accessory to an allowed principal nonresidential use where such accessory use is an entry in the Table of Principal Use Regulations shall be allowed only upon the issuance of a special permit from the Board of Appeals.

2315. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted in Limited Industrial Districts, Industrial Districts, Industrial Park Districts, and Research Districts upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

**2320. Accessory Structures.**

2321. Unregistered motor vehicles. Unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative, shall not be stored, parked or placed upon any land in the town



2324 ATM 4/6/2010  
2325 ATM 4/11/2005

unless the same shall be within a building or in an area unexposed to the view of the public and abutters or in an area properly approved for the keeping of the same by licensed junk dealers (and automobile dealers).

2322. Trailers. Trailers, commonly known as mobile homes or house trailers, shall not be used for dwelling purposes in any part of the Town except in a trailer camp or park for which a permit has been granted by the Board of Appeals, as required by this bylaw and a license granted by the Board of Health under the provisions of G.L. c. 140; nor shall such trailers be stored or parked on any premises in a residence district except that the Board of Selectmen may upon written application grant to an owner of premises in any residence district, a special permit for the storing or parking of automobile trailers of the non-resident guests of such owner on such premises upon such conditions as the said board may prescribe and for a period not to exceed thirty days in any one calendar year, and except, the Board of Selectmen may upon written application grant to an owner of a residence lot or site, a special permit for dwelling purpose use of an automobile trailer; provided such owner has secured a building permit for the construction of a dwelling on such a lot or site, upon such conditions as the Board of Selectmen may prescribe and for a period not to exceed one year.

2323. A single camping trailer, utility trailer, horse trailer, boat or pick-up camper, not exceeding 24 feet in length, used by the resident for his own use, may be stored on a residential lot. No such trailer, camper or boat may be used for a dwelling on a residential lot.

2324. The temporary use of trailers or other structures for storage or office purposes is allowed where they conform to the procedural regulations adopted by the Board of Selectmen.

2325. In residential zoning districts, private or public swimming pools shall be permitted, provided that a building permit therefore be granted by the Building Inspector under the provision of the Commonwealth of Massachusetts State Building Code. Requirements for set back, side yard, front and rear yard clear distances shall be the same as for a principal building. Pools built for public or semi-public use (including private "clubs" or organizations) require Site Plan approval per Section 6300 of this bylaw and a special permit from the Board of Appeals. Enclosures for swimming pools shall meet the Massachusetts State Building Code requirements.

2326 ATM 4/2/02

2326. In residential zoning districts, a one-story, non-commercial accessory building which is detached and not part of the main building and 16 feet in length on any side, or with a maximum gross floor area of two hundred (200) square feet, whichever is less, may be built in the rear yard area. Such accessory building shall not be located nearer than five (5) feet to the rear or side lot line, nor nearer to the front street line than the prescribed minimum set-back distance of the respective districts. See Appendix B, Table of Dimensional Regulations.

2327. An accessory building shall not exceed 35 feet in height above the average grade level around the structure. See Appendix B, Table of Dimensional Regulations.

**2330. Home Business - As of Right.** A registered home business may be allowed as of right in all residential zoning districts, provided that it:

2331. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

2332. is clearly incidental and secondary to the use of the premises for residential purposes;

2333. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

2334. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);

2335. does not exhibit any exterior indication of its presence or any variation from residential appearance;

2336. does not produce more than one customer round trip per day to the occupation site;

2337. is registered with the Zoning Enforcement Agent.

**2340. Home Business - By Special Permit.** A registered home business may be allowed in all residential zoning districts by special permit issued by the Board of Appeals, provided that it:

2341. fully complies with Sections 2332, 2333 and 2334 above.

2342. is conducted within a dwelling, or within a building accessory to a dwelling, solely by the person(s) occupying the dwelling as a primary residence

and, in addition to the residents of the premises, by not more than one additional employee;

2343. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate compliant with Section 3200;

2344. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips.

#### **2400. NON-CONFORMING USES AND STRUCTURES.**

**2410. Applicability.** This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this Zoning Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing non-conforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

#### **2420. Extension and Enlargement.**

The Board of Appeals by special permit may authorize a non-conforming use to be extended or a non-conforming building to be structurally altered or enlarged; provided that such extension, alteration or enlargement meets all the following requirements:

2421. All the special permit guidelines of section 6220; and

2422. That it will not be substantially more detrimental or objectionable to the neighborhood than the existing non-conforming use.

**2430. Variance Required.** The reconstruction, extension or structural change of a non-conforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same non-conforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to non-conforming single and two family residential structures, which shall be governed by Section 2440, below.

**2440. Non-conforming Single and Two Family Residential Structures.** Non-conforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings that such proposed reconstruction, extension, alteration, or change does not

increase the non-conforming nature of said structure, and the issuance of a building permit, where applicable. The following circumstances shall not be deemed to increase the non-conforming nature of said structure:

2441. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

2442. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

2443. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

2444. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

2445. alteration to a non-conforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Inspector of Buildings determines that the non-conforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where the proposed modification will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

**2450. Abandonment or Non-Use.** A non-conforming use that has been inactive for a period of two years shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw. A non-conforming structure that has been abandoned or not used for a period of two years shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw.

2460A/B ATM 4/2/02

**2460A. Reconstruction after Catastrophe.** A non-conforming structure may be reconstructed after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within two years after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in area as the original non-conforming structure. Nothing in this bylaw shall be construed to permit the reconstruction or resumption of use of a building or structure destroyed or damaged by catastrophe except substantially as it existed prior to said destruction or damage, and in compliance with any existing laws. In the event that the proposed reconstruction would result in the structure exceeding the total floor area of the original non-conforming structure, a special permit shall be required from the Board of Appeals.

**2460B. Construction after Demolition.** A non-conforming structure, or a structure on a non-conforming lot, may be reconstructed in its current location, or constructed in a different location, after demolition provided that it is no greater in total floor area as the original structure; and further provided that the owner shall apply for a building permit and start operations for construction on said premises within two years after such demolition. In the event that the proposed construction would result in the structure exceeding the total floor area of the original non-conforming structure, a special permit shall be required from the Board of Appeals.

**2470. Reversion to Non-conformity.** No non-conforming use shall, if changed to a conforming use, revert to a non-conforming use.

**2500. [RESERVED]**

**2600. DIMENSIONAL REQUIREMENTS.**

**2610. Applicability.** Except as hereinafter provided, no dwelling house, no principal building or structure, nor any accessory building shall be erected on a lot in any district unless the lot and building or structure shall conform to the requirements in the Table of Dimensional Requirements, Appendix B.

2611. Where two or more of the requirements in this bylaw are applicable to the same open space, that which imposes the greatest restriction on the placement of the building will control.

**2620. Table of Dimensional Requirements.** See Appendix B.

**2630. Exceptions.**

2641B ATM 4/9/03

2631. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen inches in width or of steps, unroofed porches or windowsills into any required yard or other open space.

2632. Height Limitations. The limit of height of buildings in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, church spires and other accessory and structural parts of such buildings, if they are not used for living purposes; except towers, whether or not they are to be attached to any building, may be erected for the sole purpose of amateur radio operation in any district in the Town if a permit is granted by the Board of Appeals subject to such conditions and regulations as may be imposed by such board.

2633. In A-RES, C-RES, Village Business Districts and Limited Business Districts, schools and municipal buildings may contain three full stories not to exceed forty-five (45) feet in height.

**2640. Other Requirements.**

2641A. Lot Perimeter. In all residential districts any lot created after the adoption of this bylaw shall have no more than one foot of perimeter for every 40 square feet of lot area and shall not be less than 50 feet in width in any location within the lot except in a portion of the lot where two lot lines meet at a point. Any lot created before adoption of this bylaw and conforming to then applicable requirements shall be considered a conforming lot for purposes of this Zoning Bylaw.

2641B. Minimum Front Yard. In all residential districts, any conforming front yard setback in existence at the time of the adoption of this bylaw amendment shall continue to be considered a conforming setback for the purpose of this Zoning Bylaw. For the purposes of zoning, a corner lot shall be considered to have two front yard setbacks.

2642. In Business Districts, Village Business Districts and Limited Business Districts, buildings and structures may not cover more than seventy-five percent (75%) of any corner lot.

2643. The open space required by the Table of Dimensional Requirements, Appendix B shall be so located as to properly light and ventilate building(s) and give access in case of fire.



2644. In Industrial Districts, the required front yard along the Post Road, so-called, shall be fifty (50) feet. In Limited Industrial Districts, the required front yard along the Post Road, so-called, shall be one hundred (100) feet.

2645. In Limited Business Districts and Business Districts, the five (5) foot required side yard shall not apply to non-residential buildings having a party wall on the side lot line.

2646. Any dwelling in a Limited Business District or Business District shall have required side and rear yards of twenty (20) feet.

2647. In A-RES, C-RES or Wayside Inn Historic Preservation Districts, a lot having frontage on two or more streets must have the minimum frontage required by the district on only one street and a minimum of one half the required frontage on the other street or streets.

2648. In all non-residential districts the set-back required from a Single Residence District boundary line need not apply whenever said boundary line is also a street line.

2649. In all Research Districts the set-back from the street center line need only be fifty (50) feet for a gate house, bus stop shelter or security office which is not more than one story in height.

2650. In Limited Business Districts, Business Districts, Limited Industrial Districts and Industrial Districts, no open display, no gasoline pump, and no structure having a height in excess of three feet, except a utility or light pole, shall be nearer to the center or exterior line of any street or way than seventy-five percent of the required set-back and front yard distance, respectively, specified herein for a building in the district in which located.

2651. Location of automobile services. No driveway opening serving a garage for motor vehicle repairs, an automobile filling station, a drive-in business establishment, or an automobile parking area with more than ten (10) spaces, shall be located in any district on either side of the same street between two intersecting streets as, and within 300 feet from, any entrance to or exit from a public or private school, public library, church, public park or playground, or public or private institution for the sick or dependent, or for children under sixteen years of age.

#### **ARTICLE 3000. GENERAL REGULATIONS.**

##### **3100. PARKING STANDARDS.**

3113 ATM 5/6/2015

**3110. General.** No building or structure shall be located upon any lot and no activity shall be conducted upon any lot unless the required parking facilities are provided in accordance with this section.

3111. Change of Use. The use of any land or structure shall not be changed from a use described in one section of the Table of Parking Requirements to a use in another section of the table nor shall any floor area of a building be increased in any manner unless the number of parking spaces required for the new uses are provided.

3112. Undetermined Uses. In the case where the use of a building or buildings has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the zoning district where such undetermined use is to be located shall apply.

3113. Reserve parking spaces. Upon the issuance of a special permit, the Planning Board may authorize a reduction in the number of parking spaces required hereunder, in accordance with the following:

- a. The decrease in the number of parking spaces is no more than 30% of the total number of spaces otherwise required hereunder.
- b. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.
- c. Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of the use or building.
- d. The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, parking setback or open space.
- e. The reduction in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this bylaw.



3113(f) ATM 5/6/2015

f. If, at any time after the Certificate of Occupancy is issued for the building or use, the Building Inspector determines that additional parking spaces are needed the Inspector shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed within a reasonable period.

3114. Handicapped Parking. Parking facilities shall provide specifically designated parking spaces for the physically handicapped in accordance with the latest edition of 521 CMR 1.00, et seq., the Rules and Regulations of the Architectural Access Board.

**3120. Number of Parking Spaces.** Uses listed in the following table shall have parking as set forth therein.

3121. Comparable Use Requirement. Where a use is not specifically included in the Table of Parking Requirements, it is intended that the regulations for the most nearly comparable use specified shall apply.

3122. Mixed Use Requirement. In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each area of use, so that adequate space shall be provided to accommodate the cars of all persons on the premises at any one time. Parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times and will continue to do so in the future.

TABLE OF PARKING REQUIREMENTS (Next page)

TABLE OF PARKING REQUIREMENTS

USE	REQUIRED PARKING
Dwelling	Two spaces for each dwelling unit
Registered Home Business	Two spaces
Hotel, Motel, Inn, Boarding House, Bed & Breakfast	One space for each bedroom plus one space for each employee on the largest shift; except in VBD, one space per bedroom
Educational Purposes, exempt or nonexempt	One space for each staff position plus one space for each five persons of rated capacity of the largest auditorium plus one space for each student vehicle which can be expected at maximum use time on the premises; except in VBD, one space for each two persons of student and staff population
Nursing Home	One space for each two beds plus one space for each employee on the largest shift
Retail Store; Personal Service Establishment; Bank or Financial Agency; Building Trade; or Restaurant with no seating	One space for each 180 square feet of gross floor area; except in VBD, one space for each 300 square feet of gross floor area
Business or Professional Office	One space for each 200 square feet of gross floor area; except in the Research District , one space for each 300 square feet of gross floor area; and in VBD, one space for each 350 square feet of gross floor area
Restaurant; Religious Use; Funeral Home; Private Club or Lodge; or other Place of Assembly as defined in the State Building Code	One space for each three seats plus one space for each employee on the shift, except in VBD: one space for each three seats
Motor Vehicle Light Service, General and Body Repair	Three spaces for each service bay plus one space for each employee on the largest shift
Industrial Uses at set forth in Section D of Appendix A.	One space for each 2,000 square feet of gross floor area for the first 20,000 square feet plus one space for each additional 10,000 square feet of gross floor area and one space per employee on the largest shift

**3130. Standard Parking Dimensional Regulations.** Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking (in degrees)	Width of Parking Stall (ft.)	Parking Stall Length of Line (ft.)	Width of Maneuvering Aisle (ft.)
90 (two-way)	9	18.5	24
60 (one way)	10.4	22	18
45 (one way)	12.7	25	14
Parallel (one-way)	8	22	14
Parallel (two-way)	8	22	18

3131. Small Car Stalls. In parking facilities containing more than 40 parking stalls or in any Village Business District site, 15 percent of such parking stalls may be for small car use, except for retail store, retail service business or restaurant uses. Such small car parking facilities shall be grouped in one or more contiguous areas and shall be identified by a sign(s).

3132. Small Car Parking Dimensional Regulations. Off-street small car parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking (in degrees)	Width of Parking Stall (ft.)	Parking Stall Length of Line (ft.)	Width of Maneuvering Aisle (ft.)
90 (two-way)	8.5	15	24
60 (one way)	9.8	18.5	18
45 (one way)	12	21.5	14
Parallel (one-way)	8	18	14
Parallel (two-way)	8	18	18

#### 3140. Design Requirements for Parking Facilities.

3141. Residential Uses. One parking stall may be provided directly behind another for each dwelling unit, provided that each stall shall meet the width and depth requirement and in no case shall such stalls which are more than two deep be considered in computing the required parking.

3144 ATM 5/6/2015

3142. Business or Industrial Uses. Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage. No parking space or other paved surface, other than access driveway(s) or walkways, shall be located within 10 feet of any lot line, and notwithstanding the foregoing, no parking space or other paved surface, other than access driveway(s) or walkways, shall be located within the limits of a landscape buffer area required in section 3543 herein.

3143. Business or Industrial Uses. Each lot may have one access driveway which shall be at least 24 feet wide at its narrowest point but not more than 40 feet wide at its widest point. Each lot may have one additional access driveway for each 200 feet of frontage provided all such access driveway(s) shall be at least 200 feet apart on the lot measured from the centerline of each access driveway. In the case of an access driveway which shall be used for one-way traffic only, the minimum width may be reduced to 14 feet at its narrowest point.

3144. Non-residential Uses. All parking shall be located to the side or the rear of buildings, except in the Research District where parking may be located elsewhere so long as appropriate reasonable landscaping is placed around those parking areas not located behind a building and which can be seen from public ways, all as shown on a site plan accepted by the Planning Board submitted pursuant to Section 6300.

3145. Interior driveways may be reduced to no less than 20 feet for two-way traffic and 14 feet for one-way traffic.

3146. Village Business Districts. Parking shall be to the side or rear of the building. The number of parking spaces required for a given site may be on another site within the district. Such off-site parking must be established by legal documentation satisfactory to Town Counsel, and a copy filed in the office of the Town Clerk.

3147. In the Village Business District, the requirement of off-street parking may, at the applicant's option, be satisfied through payment of an annual Access Fee in lieu of providing up to 50% of the required spaces. The Access Fee per space shall equal \$800, indexed to change subsequent to 1994, in the Consumer Price Index for all Urban Consumers, as published by the U.S. Bureau of Labor Statistics. Access Fees shall be held in an Enterprise Fund, or other account, restricting the use of those monies to the provision of off-street parking and non-automotive means of access serving the Village Business District.

3200 ATM 4/14/2004

3148. For parking areas of 10 or more spaces, bicycle racks facilitating locking, shall be provided to accommodate one bicycle per 10 parking spaces.

**3150. Loading Areas.** One or more off-street loading areas shall be provided for any business that may be regularly serviced by tractor-trailer trucks or other similar delivery vehicles, so that adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each building and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

**3200. SIGNS AND ADVERTISING DEVICES.**

**3210. Purpose.** The following sign regulations are intended to serve these objectives: (a) to facilitate efficient communication; (b) to avoid conflict between signs and the visual qualities of their environs; and (c) to support business vitality within non-residential districts by accomplishing the above objectives without burdensome procedures and restrictions.

**3220. General Regulations.** The following regulations shall apply in all districts:

3221. No exterior sign or advertising device shall be erected except as provided by this Bylaw.

3222. No sign which requires a sign permit under this Bylaw shall be erected except in the exact location and manner described in the permit.

3223. No sign shall be erected that in any way creates a traffic hazard or obstructs traffic.

3224. No sign shall be painted or posted directly on the exterior surface of any wall. All exterior attached signs shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior of a building, provided that such letters or devices have a minimum depth of projection of one fourth (1/4) of an inch. The construction of the sign shall comply with the State Building Code.

3225. No sign shall be illuminated between the hours of 11:00 P.M. and 6:00 A.M. except signs on premises open for business.

3226. Only white lights shall be used for direct illumination of a sign. The illumination of any sign shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.

3227. Any sign which advertises or identifies products, businesses, services or activities which are no longer sold, located or carried on at the premises shall be removed within 60 days.

**3230. Sign Permits.** All signs shall require a sign permit except as provided in Section 3250, herein. No sign which requires a sign permit shall hereafter be constructed except in conformity with a sign permit from the Building Inspector. Applications for building or sign permits shall be obtained from the Building Department and shall contain the following information:

- a. the location by street number, of the proposed sign;
- b. the name and address of the sign owner and the owner of the premises where the sign is to be located, if other than the sign owner;
- c. a scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the sign on the site, and method of illumination;
- d. such other pertinent information as the Building Inspector may require to ensure compliance with the bylaw and any other applicable law; and
- e. the application must be signed by the owner of the sign and the owner of the premises where the sign is to be located.

3231. The Building Inspector shall refer all applications to the Design Review Board for recommendations in conformance with Section 6540 of this bylaw. The Design Review Board shall have the authority to reject any sign permit application which is not complete when submitted

3232. Time Limitations. The Design Review Board shall approve or disapprove any application for a sign permit within 30 days of receipt of the application. If the Building Inspector should fail to act on an application for a sign permit within such 30 day period, the application shall be deemed to be denied.

3233. Fees. The Board of Selectmen shall establish and from time to time review a sign permit fee which shall be published as part of the sign permit application.

**3240. Signs Prohibited in All Districts.**

3241. Lightboxes

3241A. Neon signs

3242. Billboards, except non-commercial third party signs on municipally owned property.

3243. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration; signs consisting of strings of banners, posters, pennants, ribbons, streamers, and spinners or similar devices.

3244. Flashing or oscillating signs or signs with moving lights or rotating beacons; animated signs; rotating signs; signs which move by design or have a major moving part.

3245. Signs emitting audible sound, odor or visible matter.

3246. Permanent paper, cardboard, cloth, canvas, plastic or similar non-rigid material signs, tacked, posted, or otherwise affixed to the walls of any structure, tree, pole, hydrant, bridge, fence or any other surface.

3247. Portable signs and changeable copy signs, except as permitted in section 3259A.

3248. Signs having the shape and color of a traffic control device; signs which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic or street sign or signal; signs which contain or are an imitation of an official traffic sign or signal or contain the words "stop", "slow", "caution", "danger", "warning" or similar words.

3249. Signs creating a potential hazard to the safe, efficient movement of vehicular or pedestrian traffic or which contain statements, words, or pictures of an obscene, indecent, or immoral character, that will offend public morals or decency.

3249A. Integral roof signs.

**3250. Signs Which Do Not Require a Sign Permit.**



3251. Resident Identification Sign. One sign, which shall not exceed two (2) square feet in area and, if lighted, shall use direct illumination with white light only.

3251A. Property Owner's. "No Trespassing" signs or the like.

3252A. Governmental, Utility or Public safety signs: None of the provisions of this bylaw shall be construed as preventing or limiting any traffic, directional, informational, educational or identification sign owned and installed by a governmental agency.

3252B. Religious institution signs.

3253. Real Estate Signs. One real estate sign, not over six (6) square feet in area advertising the sale or rental of the premises on which it is located is permitted. Such signs shall be removed within 30 days of the completion of the sale, rental or lease.

3254. Construction Signs. One temporary construction sign which shall not exceed twenty (20) square feet in area, in all districts, shall be confined to the site of the construction, including subdivisions of land as defined in G.L. c. 41, s. 81L, shall not be erected prior to the issuance of building permit and shall be removed within seven days of completion of construction, issuance of the occupancy permit, or after the intended use of the project has begun, whichever comes first.

3255. Window Signs. One or multiple signs that in aggregate shall not exceed 25% of the window area. Such signs shall not be illuminated other than by standard lighting fixtures on the building. Window signs promoting a public service or charitable event shall not be calculated in the allowable 25%.

3256. Fuel Pump Signs.

3257. Vehicle Signs. Except where the signs are mounted on parked vehicles for the purposes of advertising goods or services sold or provided on the property where the motor vehicle is parked or elsewhere either by direct sale or by order, signs normally painted on or attached to a motor vehicle identifying the owner and his or her trade and signs advertising the sale of the motor vehicle itself shall be allowed.

3258. Signs on Product Dispensing Devices. Signs integral to automated devices, not to include vehicles or gas pumps, which dispense one or more products, when the sign identifies the product(s) contained therein, provided the sign does



3259A ATM 4/09/07

not project beyond the device. Signs, which are affixed but not integral to the device, are not allowed.

3259. Flags, and banners conforming to section 3271 of this bylaw.

3259A. Portable Signs. One portable sign is allowed per business provided:

- a. The sign does not exceed six (6) square feet per side and is no more than thirty (30) inches wide.
- b. The top of any portable sign must be less than four (4) feet above grade.
- c. All lettering shall be done in a professional workmanlike manner.
- d. Portable signs shall not be permitted on properties containing a single business which has a freestanding sign.
- e. For properties containing multiple businesses, no more than two (2) portable signs shall be displayed at a time on any lot.
- f. Portable signs may only be displayed during the hours that the business is open or operating, but shall be removed at sunset.
- g. Portable signs shall not be illuminated, have flashing lights, emit sound or simulate motion, nor have any attachments adding to their height or width.
- h. Portable signs must not create a potential hazard to vehicular or pedestrian traffic.
- i. Signs which do not comply with any provision of this bylaw may be removed immediately and without notice by the Town.
- j. A permit for a Portable Sign shall be issued at the discretion of the Building Inspector for a period not to exceed one year and at a fee of \$250 annually.

**3260. Signs Requiring a Sign Permit in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts.** Any principal use permitted in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts may erect a sign or signs subject to the following:

3261. Exterior Wall Signs.

- a) **First Floor Businesses.** Except as may otherwise be provided, one primary and two secondary exterior wall-mounted, projecting or roof signs shall be permitted for each first floor business, not including directional signs, on the building in which the business is located. The total allowed sign face area of all exterior signs is calculated by taking 100% of the primary building frontage plus 40% of each secondary building frontage, up to a maximum of three total building frontages. The total size of the business signage is shown in

Chart A. The primary sign shall represent no more than 75% of the total allowed sign face area. Secondary signage must be affixed to that portion of a building which is occupied by the business affixing such sign. If the sign is a series of awning valances it is considered one secondary sign. The square footage allowance is for direct-illuminated signs. Those primary or secondary signs which are self-illuminated silhouette or face-lit channel letters shall have their square footage allowance reduced by one-third (1/3).

CHART A

Building Frontage (In linear feet)	Maximum Area of Total Sign Face (In square feet)
0.1 to 19.9	30
20 to 39.9	33
40 to 59.9	36
60 to 79.9	39
80 to 99.9	42
100 to 119.9	45
120 to 139.9	48
140 to 159.9	51
160 to 179.9	54
180 to 199.9	57
200 to 219.9	60
220 to 239.9	63
240 and above	65

b) Second Floor Businesses. One primary exterior wall mounted sign shall be permitted for each second floor business, not to exceed ten (10) square feet. No such sign shall obscure windows or other architectural elements on a building.

3262. Projecting signs. A projecting sign may be erected in lieu of an exterior sign only when such exterior sign is permitted under Section 3261, providing it does not exceed sixteen (16) square feet per side. The projecting sign shall not extend beyond the top of the roof or ridge line of the building.

3263. Directory Sign/General Directory Sign: One directory wall sign on which the sign face shall not exceed one square foot for each occupant identified in the directory. A similarly sized freestanding sign may be erected provided it is substantially out of view of the public way. If there is a panel supporting a

3265, 3265A ATM 4/14/2004

group of individual tenant names, that panel shall not exceed 110% of the aggregate area of the individual names.

3264. Directional Signs. Directional signs may be erected near a street, driveway or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. The sign face of each directional sign shall not exceed two (2) square feet and no directional sign shall be located more than six (6) feet above ground level if mounted on a wall of a building or more than three and one-half (3½) feet above the ground if freestanding. Directional signs shall be placed so as to not impair vehicular sight lines.

3265. Freestanding Signs. One freestanding sign (business center identification or business sign) may be erected on a lot zoned business, industrial, or research, or on a lot containing a primary commercial use that has been permitted by the Town of Sudbury, subject to sections 3265A, 3265B and 3266 of the bylaw.

3265A. Freestanding Business Center Identification Sign. One freestanding business center identification sign may be erected on a lot. The size of the sign face and the setbacks shall not exceed the allowances in Charts B and C (starting with Chart B and proceeding to Chart C).

CHART B

Street Frontage (In linear feet)	Maximum Area of each Sign Face (In square feet)
0.1 to 74.9	12
75 to 149.9	16
150 to 249.9	20
250 to 349.9	24
350 and above	30

CHART C

If the Area Of the Sign Face In Chart B does not Exceed (In square feet)	The Minimum setback From the Front property line shall be (In linear feet)	Minimum setback From Side property line shall be (In linear feet)
30	20	5
24	16	5
20	12	5
16	8	5
12	4	5

3265B ATM 4/14/2004

3265B. Freestanding Business Sign. One freestanding business sign may be erected on a lot subject to the following requirements:

- a. The lot has a minimum of two hundred and fifty (250) feet of street frontage.
- b. Building setback must be twenty (20) feet or greater.
- c. If the lot contains multiple businesses, individual businesses may be represented by separate, removable panels, which shall not exceed eighteen inches (18") in height nor be less than eight inches (8") in height.
- d. All freestanding directory signs shall be wood carved and shall not be internally illuminated.
- e. The size of the sign face and the setbacks shall not exceed the allowances in Charts B and C (starting with Chart B and proceeding to Chart C). The property address shall be included as a sign cap centered on top of the sign, but will not be counted in maximum sign size (not to exceed 4 square feet).
- f. Typeface on individual panels shall be of a uniform nature.
- g. The freestanding sign shall be incorporated into the landscaping and streetscape of the property, and its location shall be approved by the Design Review Board.
- h. Individual business panels shall be considered secondary signs for the purposes of calculating total sign allowance in section 3261a).
- i. No other freestanding signs shall be permitted on the street frontage.
- j. All existing non-conforming signs must be brought into conformance with the bylaw before approval of the freestanding business sign.

3266. The overall maximum height of any freestanding sign shall not exceed ten (10) feet, and the distance from the ground to the bottom of the sign shall not exceed 40% of the total height of the sign.

#### **3270. Special Provisions.**

3271. Banners. Any business may have a maximum of one banner mounted on the building facade. Banners may also be erected on light or utility poles on private property displaying common or season themes, up to a maximum of one banner per fifty (50) parking spaces constructed on the premise. Banners erected on public property shall require the approval of the Board of Selectmen. Banners may pictorially represent the nature of the business and may only include verbiage to the extent that the block of verbiage does not exceed 15% of the total area of the banner. A banner shall not exceed 15 square feet.

**3280. Signs Requiring a Sign Permit in the Residential Districts.** One sign either attached or freestanding, pertaining to a multi-unit development or a permitted

non-residential principal use such as farms, farm stands, nurseries, greenhouses, child care centers and similar uses may be erected upon a lot provided no other sign(s) permitted by this bylaw shall be on the same lot. The sign face shall not exceed ten (10) square feet and, if freestanding, the height shall not exceed ten (10) feet and the distance from the ground to the bottom of the sign shall not exceed 40% of the height of the sign. The freestanding sign shall not be located within ten feet (10') of any street or property line.

**3290. Special Permits.** The Board of Appeals may issue Special Permits for signs other than as provided herein if it is determined that: (a) the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest; (b) the sign will not cause visual confusion, glare, offensive lighting in the neighborhood; (c) the sign will not be a detriment to the surrounding area; (d) the sign will not significantly alter the character of the zoning district; (e) the sign will not interfere with traffic safety in the area; and (f) the sign will be consistent with the architecture of the building on the lot upon which the sign is to be located and of the surrounding area. In granting such permission, the Board of Appeals shall specify the size and location of the sign or signs and shall impose such other terms and restrictions as it may deem to be in the public interest. All applications under this provision shall provide the information required in Section 3230 above and specific information in the form of perspectives, renderings, photographs or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings and the reasons for allowing it.

**3290A. Design Guidelines.** The following are further means by which the objectives for signs stated at the beginning of Section 3200 can be served. These guidelines are not mandatory, but degree of compliance with them may be considered by the Design Review Board and by the Special Permit Granting Authority in acting upon permits authorized under this section, as may consistency with the basic sign objectives cited above.

**3291A. Efficient Communication.**

- a. Signs should not contain selling slogans or other advertising which is not an integral part of the name or other identification of the enterprise.
- b. Signs should be simple, neat and avoid distracting elements, so that content can be quickly and easily read.

**3292A. Environmental Relationship.**

- a. Sign design should take into consideration the size, brightness, style, height and colors of other signs in the vicinity.

b. Sign brightness should not be excessive in relation to background lighting levels, e.g. averaging not in excess of 100 foot-lamberts in the commercial area of similarly bright areas and not in excess of 20 foot-lamberts in unlighted outlying areas and in areas bordering on or visible from residential zones.

**3293A. Building Relationship.**

- a. Signs should be sized and located so as not to interrupt, obscure, or hide the continuity of columns, cornices, roof eaves, sill lines, or other elements of building structure, and where possible, should reflect and emphasize building structural form.
- b. Sign materials, colors, and lettering should be reflective of the character of the building to which the sign relates.
- c. Clutter should be avoided by not using support brackets extending above the sign or guy wire and turn buckles.

**3290B. Non-conformance.** Any non-conforming sign legally erected prior to the adoption of this bylaw may be continued and maintained but shall not be enlarged or altered unless it conforms with the provisions contained herein. The exemption herein granted shall terminate with respect to any sign which:

3291B. Shall have been abandoned;

3292B. Advertises or calls attention to any products, business or activities which are no longer carried on or sold, whether generally or at the particular premises;

3293B. Shall not have been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the Building Inspector;

3294B. Which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as of the date of destruction.

**3300. COMMON DRIVEWAYS.**

**3310. In Residence Districts.** In all Residence Districts, no driveway or other access to a way shall serve more than two dwellings or other principal, permitted structures, except as provided by special permit issued pursuant to Sections 5300 and 5400.



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**3320. In Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts.** A common driveway may serve two or more lots used for business, research or industrial use and located in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park or Research Districts provided that the common driveway is no wider than 40 feet at any point where it crosses required open space or any parking setback area required. The Planning Board shall ensure that the common driveway shall not be located or designed to derogate from the intent of the bylaw to provide suitable open space on each site.

**3400. PERFORMANCE STANDARDS.**

**3410. General.** No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection and development included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at the applicant's expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert shall be made, or guaranteed by bond or other legally binding device, before further consideration of the application shall continue. After a permit is issued in accordance with this section, continuing compliance is required. When the Building Inspector suspects a subsequent violation he may, as necessary obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the town.

**3420. Standards.** The following standards are hereby established.

**3421. Water quality.** No discharge at any point into any public sewer, private sewerage disposal system, stream, water body, or into the ground, of any materials of such nature or temperature as can contaminate such water body or water supply, or cause emission of dangerous or offensive elements in reaction thereto, shall be permitted except in accordance with applicable federal, state, and local health and water pollution control laws and regulations.

**3422. Air quality.** No building or occupancy permit shall be issued for any facility regulated by the Commonwealth of Massachusetts, until written approval for the facility has been obtained from the Department of Public Health. The provisions of said regulations shall apply to dust, flash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof in the ambient air space.

3423. Noise. No use shall be permitted within the Town of Sudbury which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property. The standards of the Department of Environmental Protection set forth at 310 CMR 7.10(1), which prohibit willful or negligent emissions of sound which may cause noise are hereby adopted by this bylaw. Exempt from the provisions of this section are (a) vehicles not controlled by an owner or occupant of a lot within the town, (b) temporary construction activities occurring during the hours of 7 a.m. to 6 p.m. on weekdays, (c) occasionally used safety signals, warning devices, emergency pressure relief valves, or other such temporary activity, (d) use of power tools and equipment such as lawn mowers, snow-blowers, chain saws, tractors, and similar equipment for the maintenance of property.

3424. Solid waste storage. Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure or residential property line, and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with section 2240 of this bylaw. Screening materials will not be attached to any structure. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

3425. No vibration, odor, glare, or flashing shall be detectable without instruments at any lot line of a residential or institutional use. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

3426. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

3427. Site Development Criteria.

- a. Natural Features Conservation - Disruption of existing site features, including particularly the changing of natural topography shall be kept to an absolute practical minimum. Where tree coverage does not exist or has



been removed, new planting may be required. Finished site contours shall approximate the character of the site and surrounding properties.

b. Vehicular and Pedestrian Circulation - Pedestrian walkways, streets, driveways, and parking areas shall be carefully designed with respect to topography, proper relation to surrounding streets and pedestrian ways, number of access points to public streets, provision of a clear and efficient street system on the site, adequate widths of drives, separation and attractive parking areas, and proper relation of circulation elements to structures and other site features.

c. Siting of Structures - All buildings and other structures shall be sited to minimize disruption of the topography, to facilitate natural surface drainage and shall be properly designed for the particular site conditions. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscape elements, and paved areas.

d. Runoff - Stormwater Management for all proposals shall meet or exceed the requirements of the Massachusetts Department of Environmental Protection Stormwater Management Policy. No stormwater runoff in excess of rates existing prior to new construction shall be allowed and no stormwater runoff in excess of rates existing prior to new construction shall be discharged onto a public way or into a public drainage system, unless the Town Engineer assures the Board of Selectmen there is sufficient capacity to handle the additional runoff. Permits will not be granted for the construction or alteration of any structure that will cause a change in existing grades and contours which interfere with drainage of water from any public street unless provision is made at the owner's expense for the proper disposal of such water by gutters, ditches, pipes or other necessary drainage structures. The owner will be required to grant the Town any necessary drainage easements.

e. Utilities - All electrical utility lines, including but not limited to telephone, power and cable TV, shall be placed underground in new developments. The placement of electrical lines and other underground utility lines such as water, sewerage and gas shall be coordinated whenever possible and desirable among responsible parties. Placement of utilities including sanitary disposal facilities shall be done so as to minimize disruption of topography and cutting of trees or undergrowth.

f. Outdoor Lighting - Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to avoid glare and light spilling over to neighboring properties. Except for low-level

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pedestrian lighting with a height of less than eight feet, all outdoor lighting shall be designed and located so that 1) the luminaire has an angle of cutoff less than 76 degrees, 2) a line drawn from the height of the luminaire, along the angle of cutoff, intersects the ground at a point within the development site and 3) the bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets. In Village Business Districts, general site lighting fixtures shall be placed no higher than 16 feet above grade.

g. Other Site Features - All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other service or utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances.

**3430. Erosion Control.** Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

3431. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board where such use requires site plan review, or the Planning Board in all other cases, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

3432. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

3433. No area or areas totaling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will

be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

3434. The Building Inspector may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.

3435. In granting a special permit hereunder, the Board of Selectmen or the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section.

3436. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

**3440. Excavations abutting roads.** No excavation lower than the grade of any road upon which such excavation abuts shall be made nearer than 50 feet from such road boundary, and that the slope of any side of the excavation abutting on a road or on adjoining property shall not be steeper than the angle of repose of that particular soil except as may be authorized by the Board of Appeals.

#### **3500. SCREENING AND LANDSCAPING.**

**3510. Purpose.** This section is designed to accomplish the following objectives:

3511. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;

3512. To define the street edge and provide visual connection between nonresidential uses of different architectural styles;

3513. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of unsightly buildings or parking lots;

3514. To provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas;

3515. To preserve or improve the visual and environmental character of Sudbury, as generally viewed from residential or publicly accessible locations; and

3516. To offer property owners protection against diminution of property values due to adjacent non-residential use.

**3520. Applicability.**

The requirements of this section shall apply to any non-residential use.

**3520A. General Requirements.**

3521A. Plant materials utilized for screening shall be with species native to Massachusetts to the extent practicable.

3522A. Where appropriate, existing vegetation may be retained and used to satisfy these requirements.

3523A. The buffer area required herein may contain walks, sewerage, and wells, but no part of any building structure, or paved space intended for or used as a parking area may be located within the buffer area.

**3530. Landscaping Requirements for Property Lines.**

3531. Non-residential uses shall be screened from residential uses by means of plantings or maintenance of trees of a species appropriate for screening, spaced to minimize visual intrusion, and providing a year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for non-residential purposes. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district:

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DISTRICT	BD	LBD	VBD	ID	LID	IP	RD
Buffer size (feet)	20	20	15	30	30	30	30

3532. In addition to the buffer requirements above, at least 30% of a lot shall be designated open space, except up to 10% of the open space required may include walkways, patios and terraces.

3533. The requirements set forth in Section 3531 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section 3500.

#### **3540. Landscaping Requirements for Parking Areas.**

3541. Parking areas with more than 10 spaces shall contain 150 square feet of planted areas for every 1000 square feet of parking proposed, including aisles, appropriately situated within the parking area. Such planted area shall contain an appropriate mix of trees and other plants.

3542. Parking lots, loading areas, storage areas, refuse storage and disposal areas, and service areas shall be screened from view, to the extent feasible, from all public ways, and from adjacent properties, by the use of planted areas, berms, natural contours, fences or a combination of the above.

3543. Buffer strips between parking lots and rear or side lot lines shall meet the following specifications:

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10 feet
11-24	10 feet plus one foot for each space in excess of 10 spaces
25 or more	25 feet

3544. The requirements set forth in Section 3543 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section 3500.

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**3550. Landscaping Requirements for Street Frontage of Non-residential Uses.** A landscaped buffer area, except for approved access ways and walkways, at least twenty feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium height shrubs, and trees. Where appropriate, street trees shall be planted at least every 40 feet along the frontage.

**3560. Provisions in Village Business Districts.**

3561. In Village Business Districts, sidewalks shall be constructed of brick, stone, or concrete, and be maintained by the owner.

3562. Each lot shall have a minimum of 10% pervious surface.

3563. In Village Business Districts, open space may include parking areas.

**3570. Planted Area Requirements.** Planted Areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to the proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the applicant may substitute shrubbery for trees. Plant species native to Massachusetts are favored.

3571. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

3572. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

3573. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

**3580. Screening of Open Uses.**

In all non-residential districts, parking lots and any open storage or display of junk, (including wrecked automobiles, scrap iron, used paper or rags) or of other material whose open storage or display is deemed by the Planning Board as creating a substantial visual nuisance, shall be completely screened from view at normal eye level from any public or private street or any premises, other than that on which located. Any other business or industrial use conducted outside a completely enclosed building (including open displays, signs, service operations, storage, parking and manufacturing) shall, if normally visible at eye level from any point within a Single Residence District and less than 150 feet distant,



4130 ATM 4/6/2010, 5/7/2014

be completely screened from such view, except where the business or industrial use is separated from the single Residence District by a public street having a width of 40 feet or more. Screening required under this paragraph shall be by an evergreen planting fence or other suitable, visual barrier. In Industrial Park Districts screening required under this paragraph shall be such that the use being screened is not visible at any time at normal eye level from any point within a Single Residence District and less than 150 feet distant from the boundary of the Industrial Park District.

**3590. Coordination with Site Plan Approval.** The Planning Board may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section 3500.

**3590A. Maintenance of Landscaped Areas.** The owner of the property used for non-residential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

#### **ARTICLE 4000. SPECIAL REGULATIONS.**

##### **4100. FLOOD PLAIN OVERLAY DISTRICT.**

**4110. Purpose.** The purposes of the Flood Plain Overlay Districts are to preserve and protect the streams and other watercourses in the Town and their adjoining lands; to protect the health and safety of persons and property against the hazards of flooding; to preserve and maintain the ground water table for water supply purposes; to protect the community against the detrimental use and development of lands adjoining such water courses and to conserve the watershed areas of the Town for the health, safety and welfare of the public.

**4120. Overlay District.** The Flood Plain Overlay District shall be an overlay district; therefore, the requirements of the Flood Plain Overlay District shall apply in addition to all other requirements of other districts into which the town is divided. In all questions of construction, the more limiting requirements in the applicable district shall apply.

**4130. Location.** The Flood Plain Overlay District shall consist of the several areas shown as flood plains on the following described maps or as otherwise described:

#### Flood Plain Boundaries

The Flood Plain District is herein established as an overlay district. The District includes all "special flood hazard areas inundated by 100-year flood" within the Town of Sudbury designated as Zones A and AE and "floodway areas in Zone AE" on the Middlesex County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Sudbury are panel numbers 25017C0362F, 25017C0363F, 25017C0364F, 25017C0366F, 25017C0367F, 25017C0368F, 25017C0369F, 25017C0386F, 25017C0388F, 25017C0501F, 25017C0502F, 25017C0506F, 25017C0507F, 25017C0508F and 25017C0509F dated July 7, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated July 7, 2014. The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department.

#### Floodway Data

In Zones A and AE along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

The areas in the Flood Plain Overlay District are hereby deemed to be subject to seasonal or periodic flooding, and the use of land in any such area is hereby declared to be dangerous to the health and safety of occupancy thereof, and each said area shall be known as a Flood Plan.

**4140. Prohibited Uses or Activities.** Except as otherwise provided herein, the following uses or activities are prohibited in the Flood Plain Overlay District:

4141. No building, wall, dam or other structure shall be erected, constructed, altered, enlarged or otherwise created or moved for any living or other purpose, provided that tents, fences, wildlife management shelters, foot paths, bicycle paths, horse paths, and foot bridges are permitted if (i) they are accessory to lawful primary uses in a single residence district and (ii) they do not affect the natural flow patterns of any watercourse.



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4142. Dumping, filling, excavating or transferring of any material which will reduce the natural floodwater storage capacity or interfere with the natural flow patterns of any watercourse within this district is prohibited.

4143. Encroachments, including fill, new construction, substantial improvements and other development within any floodway shown on the Middlesex County Flood Insurance Rate Map for the Town of Sudbury Community No. 250217, dated July 7, 2014, prepared by the Federal Emergency Management Agency under the National Flood Insurance Program (on file with the Town Clerk and incorporated herein by reference), which would result in any increase in the 100- year flood level are prohibited, and no special permit shall be issued to allow such encroachments.

**4150. Permitted Uses in Flood Plain Overlay District.** The following uses, insofar as permitted in Single Residence Districts are permitted as a matter of right, subject to the following provisions:

4151. Conservation of soil, water, plants and wildlife;

4152. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting where otherwise legally permitted;

4153. Proper operation and maintenance of dams and other water control devices, including temporary alteration of the water level for emergency or maintenance purposes, and including removal of any and all flashboards of a privately owned dam in order to lower the water level so as to exclude from being covered by water any land which was not flooded or saturated prior to the erection of the dam;

4154. Grazing, farming, nurseries, truck gardening and harvesting of crops;

4155. Forestry;

4156. Any religious use or any educational use which is religious, sectarian, denominational or public as provided for by G.L. c. 40A, s.3;

4157. Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.

**4160. Uses Available by Special Permit in Flood Plain Overlay District.** Upon the issuance of a special permit by the Board of Appeals, and subject to the conditions hereinafter specified and such other special conditions and safeguards as the Board of

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Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions, as permitted in Single Residence Districts, may be permitted:

4161. Duck-walks and boat landings

4162. Appropriate municipal uses such as waterworks, pumping stations and parks;

4163. Temporary storage of materials or equipment, but in no event to exceed three months;

4164. Dams, excavations or grading, consistent with the purposes of this section, to create ponds, pools or other changes in watercourses for swimming, fishing or other recreational uses, agricultural uses, scenic features, or drainage improvements;

4165. Driveways and roads, if alternate means of access are impractical and if the Town Engineer has certified the said driveways and roads if constructed shall not endanger the health, safety and welfare of the public;

4166. Any other filling, excavating or transferring of any material, or erection, construction, alteration, enlargement, removal or demolition of any structure, upon the condition that with respect to each such action and structure the Board of Appeals determines that granting a special permit therefore would not result in any risk of pollution or contamination of any waterway or pond, reduction of seasonal high water storage areas, reduction of ground water absorption areas which serve the public water supply or other derogation from the intent and purpose of this Section.

**4170. Special Permit Procedures.** Prior to issuing a special permit the applicant shall satisfy the Board of Appeals that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.

**4180. Other Requirements.** All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with G.L. c. 131, s.40 and with the following:

4181. Massachusetts State Building Code as to floodplain and coastal high hazard areas (currently 780 CMR);

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4182. Wetlands Protection Regulations, Department of Environmental Protection, DEP (currently 310 CMR 10.00);

4183. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

4184. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.000, Title 5);

4185. The Sudbury Wetlands Administration Bylaw;

Any variances from the provisions and requirements of the above referenced State regulations may only be granted in accordance with the required variance procedures of these local and State regulations.

#### **4200. WATER RESOURCE PROTECTION OVERLAY DISTRICTS.**

**4210. Purpose.** The purposes of the Water Resource Protection Overlay District (WRPOD) are (a) to promote the health, safety, and general welfare of the community; (b) to protect, preserve and maintain the existing and potential water supply and ground water recharge areas within the Town; (c) to preserve and protect present and potential sources of water supply for the public health and safety; (d) to conserve the natural resources of the Town; (e) to prevent the pollution of the environment; and (f) to provide for monitoring of ground and surface water quality in areas of present and potential water supply sources to accomplish detection of potential contamination at an early stage, thereby minimizing damage to such sources. Review of proposed development by the Town will be performed with the goal of satisfying these purposes and preserving or improving groundwater quality wherever possible.

Water Resource Protection Overlay Districts are delineated on the basis of the location of aquifers, aquifer contribution zones and aquifer recharge zones, as defined herein, within the Town. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw.

**4220. Overlay District.** The Water Resource Protection Overlay District shall be considered as overlaying other zoning districts. These overlay districts shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Water Resource Protection Overlay District must comply with the requirements of these districts as well as those of the underlying zoning district. Uses not permitted in the portions of the

4221 moved to 7000 ATM 4/11/2005

districts so overlaid shall not be permitted in the Water Resource Protection Overlay District.

**4230. Location.** The Water Resource Protection Overlay District consists of well head areas (Zone I), aquifer contribution zones (Zone II) and aquifer recharge zones (Zone III) as defined in Section 4221 of this bylaw. The Water Resource Protection Overlay Districts are delineated on a map at a scale of 1 inch to 1,000 feet entitled: "Map of Water Resource Protection Districts, Town of Sudbury, Massachusetts, February 15, 2001", as amended by Town Meeting. This map is hereby made a part of the Sudbury Zoning Bylaw and is on file in the office of the Town Clerk.

**4231.** If the location of any District boundary in relation to a particular parcel(s) is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a Special Permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. The Town may hire a qualified professional to review any technical analyses or documentation provided by the applicant at the applicant's expense. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

For disputes which may arise related to a Zone II boundary, the determination of the location and extent of Zone II shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's *Guidelines and Policies for Public Water Systems*. In the case of disputing a Zone II boundary, the Special Permit Granting Authority shall not issue approval until DEP issues an official approval of the revised delineation.

**4240. Use Regulations - Zone II.** Within the Water Resource Protection Overlay District - Zone II, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4241. The following uses are permitted within Water Resource Protection Districts, Zone II, subject to Section 4242:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;

- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Maintenance, repair and enlargement of any existing structure provided no more than fifteen percent (15%) of the lot in total is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- f. Residential development, if permitted in the underlying district, provided that no more than fifteen percent (15%) of a building lot is rendered impervious. Exceeding this threshold for impervious cover may be allowed by Special Permit pursuant to Section 4243 (b);
- g. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;
- h. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, but excluding underground storage tanks related to such facilities which are categorically not permitted;
- i. Stockpiling of snow containing road salt or other deicing chemicals in accordance with current DEP Snow Removal Guidelines.

4242. The following uses are specifically prohibited within Water Resource Districts, Zone II:

- a. Solid waste disposal facilities, including, without limitation, authorized or unauthorized landfills as defined in Section 4221 of this bylaw, or those that require a site assignment from the Board of Health under G.L. c. 111, 150A, (the landfill assignment law);
- b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4243(j);

- c. Stockpiling of snow containing road salt or other deicing chemicals that are brought into any particular Zone II from outside that particular aquifer district;
- d. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to section 4243(h);
- e. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquified petroleum gas;
- f. Underground storage tanks;
- g. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to section 4243(k);
- h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;

Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) shall be prohibited in accordance with the following provisions:

Area	Prohibition
Zone II of Well #5 (Route 117 Well)	Single or Multi-Family Residences discharging greater than 550 gpd per 40,000 square feet of lot area <sup>1,2,3</sup>
All Zone II Areas	Business, Industrial, Research or Institutional Uses discharging more than 1,000 gpd per 40,000 square feet of lot area <sup>3</sup>

<sup>1</sup> On residentially zoned lots legally in existence as of the original effective date of this bylaw, which contain less than 40,000 square feet of area, the discharge rate of any individual sewage disposal system shall be permitted up to a maximum limit of 550 gallons per day.

<sup>2</sup> In cluster subdivisions, the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel.

<sup>3</sup> Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant district were to increase their capacities to the proposed volume.



j. Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using the current Title V criteria; or 2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this bylaw;

k. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;

l. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

m. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under Section 4243(l);

n. Industrial and commercial uses which discharge process wastewater on-site;

o. The use of septic system cleaners which contain toxic or hazardous materials;

p. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

- q. Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a Special Permit pursuant to Section 4243(b) has been granted.

4243. The following uses and activities may be allowed by special permit within the Water Resource Protection Overlay Districts - Zone II, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4242:

- a. Enlargement or alteration of pre-existing uses prohibited by Section 4242 of this Bylaw;
- b. Uses that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, provided it is demonstrated that a net improvement to existing conditions is made with respect to water quality and groundwater recharge. All such uses shall be subject to the Stormwater Management standards in Section 4280 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts;
- c. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
- d. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- e. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- f. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;



g. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

h. Storage of road salt or de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

i. Printing or photo processing operations which demonstrate that no hazardous materials or wastes shall in any way be stored or disposed of in a manner that may be dangerous to groundwater resources;

j. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than normal household use, where storage is for or incidental to:

- (1) waste oil retention facilities required by statute, rule or regulation;
- (2) emergency generators required by statute, rule or regulation;
- (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
- (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

- (1) above ground level;
- (2) on an impervious surface; and
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;

k. Facilities that generate and store hazardous waste for off-site disposal, by the following:

- (1) very small quantity generators as defined under 310 CMR 30.00;

- (2) household hazardous waste collection centers and events under 310 CMR 30.390;
  - (3) waste oil retention facilities required by G.L. c. 21, s.52A;
  - (4) water remediation treatment works approved under 314 CMR 5.00;
- l. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

m. The following treatment works that are subject to 314 CMR 5.00:

- (1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
- (2) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);
- (3) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water;
- (4) Publicly Owned Treatment Works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's *Interim Guidelines on Reclaimed Water (Revised)*.

**4250. Use Regulations - Zone III.** Within the Water Resource Protection Overlay Districts - Zone III, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

4251. The following uses are permitted within Water Resource Protection Districts, Zone III, subject to section 4252,

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;

d. Normal operation and maintenance of existing, water bodies and dams, splash boards, and other water control, supply and conservation devices;

e. Residential development, as permitted in the underlying district;

f. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection District and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;

g. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels provided that all activity is in compliance with state and federal regulations.

4252. The following uses are specifically prohibited within Water Resource Protection Overlay Districts - Zone III:

a. Solid waste disposal facilities including, without limitation, authorized or unauthorized landfills as defined in 310 CMR 19.006, or those that require a site assignment from the Board of Health under G.L. c. 111, s.150A (The Landfill Assignment Law);

b. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, in quantities greater than household use except pursuant to Section 4253(h);

c. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a Special Permit has been granted pursuant to Section 4253(g);

d. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas;

e. Manufacturing of hazardous or toxic materials;

- f. Facilities that generate, treat, store, or dispose of hazardous waste, except where a Special Permit is granted pursuant to Section 4253 (i);
  - g. Industrial uses which discharge process liquids on-site;
  - h. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;
  - i. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving single or multi-family residences or serving business, industrial or institutional uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area in compliance with Title V of the State Environmental Code.
- Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant districts were to increase their capacities to the proposed volume;
- j. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, and establishments conducting dry cleaning activities on the premises;
  - k. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;
  - l. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a Special Permit under section 4253(j);
  - m. The use of septic system cleaners which contain toxic or hazardous materials;
  - n. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state

plumbing code, 248 CMR 2.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

o. Permanent removal, or regrading of the existing soil cover, except for excavations for:

1) building foundations; 2) roads or utility works; or 3) the installation of Stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five (5) feet above the historical high groundwater.

The high groundwater elevation may be determined by:

1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title V criteria; or  
2) calculating the average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered Professional Engineer.

Earth removal or earth moving shall be subject to the provisions set forth in Section 4260 of this Bylaw.

4253. The following uses are permitted by special permit within Water Resource Protection Overlay Districts - Zone III, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to section 4252.

a. Enlargement or alteration of pre-existing uses prohibited by Section 4252 of this bylaw;

b. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

c. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

d. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;

e. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resource Conservation Service plan;

f. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, provided such storage is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

g. Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

h. Storage of hazardous or toxic materials, as defined in Section 4221 of this bylaw, where storage is for or incidental to:

- (1) waste oil retention facilities required by statute, rule or regulation;
- (2) emergency generators required by statute, rule or regulation;
- (3) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
- (4) replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;

And provided that storage is:

- (1) above ground level;
- (2) on an impervious surface; and
- (3) either in container(s) or above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;

- i. Facilities that generate and store hazardous waste for off-site disposal, by the following:
  - (1) very small quantity generators as defined under 310 CMR 30.00;
  - (2) household hazardous waste collection centers and events under 310 CMR 30.390;
  - (3) waste oil retention facilities required by G.L. c. 21, s.52A;
  - (4) water remediation treatment works approved under 314 CMR 5.00;
- j. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

**4260. Earth Removal or Earth Moving in Earth Removal or Earth Moving in the Water Resource Protection Overlay District - Procedures and Conditions.** No Special Permit involving excavation shall be issued or renewed under this Section 4200 until the applicant has submitted to the Special Permit Granting Authority a plan showing existing grades in the area from which material is to be removed, together with a plan showing the grades as they will be at the conclusion of the operation. The grading plans must indicate maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts Registered Professional Engineer at the expense of the applicant and shall be observed by a representative of the Special Permit Granting Authority or its designee. Test results shall be submitted to the Special Permit Granting Authority. The plan showing the grades at the conclusion of the operation shall show no grades in excess of one foot of vertical rise in two feet of horizontal distance; 4:1 slopes are preferred.

4261. Conditions. Special permits granted under this Section 4200 involving excavation must be made subject to the following conditions, said conditions to be written in the permit and made a part thereof:

- a. That proper and reasonable surface drainage of the land shall be provided during and after construction and that all drainage provisions shall comply with the requirements of the Rules and Regulations for Special Permits in Water Resource Protection Overlay Districts;
- b. That areas that have been compacted by heavy machinery shall be scarified to a depth of at least twelve (12) inches before topsoil is replaced;
- c. That at the conclusion of the excavation operations, or of any substantial portion thereof, the whole area where excavation has taken



place be covered with not less than six (6) inches of top soil and seeded with a suitable cover crop, except where ledge rock is exposed, and that all large stones and boulders which protrude above the finished grade are to be removed or buried, if required by the Special Permit Granting Authority;

d. That activities ancillary to the excavation, including, but not limited to, equipment and vehicle maintenance and storage of lubricants, fuels, solvents and other chemicals associated with earth removal operations will be prohibited in Zone II;

e. That the applicant post a bond with the Treasurer of the Town in an amount determined by the Special Permit Granting Authority as sufficient to guarantee conformity with the provisions or conditions of the permit, the amount of the bond to be not less than \$5,000 per acre of land from which earth is to be removed, if required by the Special Permit Granting Authority;

f. Any fill material used in the Water Resource Protection Overlay District shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the Special Permit Granting Authority to guarantee the chemical quality of the fill. The Special Permit Granting Authority may require testing by a certified laboratory at the applicant's expense.

**4270. Special Permit Procedures.** The Special Permit Granting Authority under this bylaw shall be the Planning Board. Such Special Permit shall only be granted if the Special Permit Granting Authority determines that the intent of this bylaw as well as each of its specific criteria are fully met. In making such determination, the Special Permit Granting Authority shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency. The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.

**4271. Technical Assistance.** To assist its review of applications for Special Permits, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to review the application for



completeness and accuracy and shall charge the applicant for the cost of such review.

4272. [Reserved]

4273. Application Contents. All applications shall comply in full with the requirements of G.L. c. 40A, s. 9 and the Rules and Regulations for Special Permits in the Water Resource Protection Overlay District unless the said authority exercises its right to waive any of the requirements therein.

4274. Review by Other Town Boards or Agencies. Upon receipt of the Special Permit application, the Special Permit Granting Authority shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments or committees as it may deem necessary or appropriate, for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant within thirty-five (35) days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report with thirty-five (35) days of receipt of the application shall be deemed a lack of opposition.

4275. Special Permit Criteria. After notice and public hearing, and after due consideration of the reports and recommendations of the other Town boards or agencies, the Special Permit Granting authority may grant such a Special Permit provided that it finds that the proposed use:

- a. Will in no way during construction or any time thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection Overlay District;
- b. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or for parameters where no standards exist, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;
- c. Is in harmony with the purpose and intent of the bylaw and will promote the purposes of the Water Resource Protection Overlay District;
- d. Is appropriate to the natural topography, soils and other characteristics of the site to be developed, and is designed to avoid substantial

disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed;

e. Will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district; and

f. Will not adversely affect an existing or potential water supply.

**4280. Stormwater Management.** All runoff generated on the site shall be managed on-site in a manner demonstrated to assure full protection of the water quality in the Water Resource Protection Overlay District and the health, safety and welfare of residents of Sudbury. The Special Permit Granting Authority may permit off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge. All runoff generated on-site shall be treated prior to recharge or discharge in accordance with the guidelines set forth in the Rules and Regulations for Special Permits in the Water Resource Protection Overlay Districts and in accordance with the NPDES Phase II General Permit if the runoff is piped into a municipal system. Applicants shall integrate stormwater management practices into landscaping plans to the greatest extent practicable to provide surface pre-treatment of stormwater through swales and bio-retention facilities.

**4290. Other Matters.**

**4291. Violations and Enforcement.** Written notice of any violation of this section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violation and preventive measures for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, Town Engineer and Sudbury Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. The owner and operator of any property for which a Special Permit has been issued hereunder shall notify the Building Inspector and the Board of Health of any known violation of the terms and conditions of such Special Permit. Such notification shall be given immediately (within 48 hours) after knowledge thereof, in person or by telephone, and shall be followed within two (2) weeks by written notice specifying the details of the violation. The owner and operator shall take all

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appropriate remedial action to cure such violation. Failure of the owner and operator to report a violation in a timely manner, or failure to take appropriate remedial action, or failure to otherwise comply with the terms and conditions of a Special Permit, or the requirements of the Board of Health or the Building Inspector, shall be sufficient grounds for revocation of the Special Permit.

4292. Rules and Regulations. The Special Permit Granting Authority may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

4293. Severability. The invalidity of any portion or provision of this section regarding Water Resource Protection Overlay Districts, shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

#### **4300. WIRELESS SERVICES OVERLAY DISTRICT.**

**4310. Purpose.** The purpose of this Bylaw is to establish districts within Sudbury in which wireless services may be provided with minimal harm to the public health, safety and general welfare of the inhabitants of Sudbury; and to regulate the installation of such facilities by 1) minimizing visual impact, 2) avoiding potential damage to adjacent properties, 3) by maximizing the use of existing towers and buildings, 4) by concealing new equipment to accommodate the needs of wireless communication in order to reduce the number of towers needed to serve the community and 5) promoting shared use of existing facilities.

**4320. Overlay District.** Wireless services (including antennas, transceivers, towers, equipment buildings and accessory structures, if any) may be erected in a Wireless Services Overlay District subject to Site Plan approval pursuant to Section 6300 of the Zoning Bylaw, as may be amended, and upon the issuance of a special permit by the Board of Appeals pursuant to Section 6200 of the Zoning Bylaw. The Wireless Services District shall be constructed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

#### **4330. Location.**

The Wireless Services Overlay District shall consist of the following parcels of land:

- 4331. Sudbury Landfill property, Assessor's Map No. K12, Parcel 002
- 4332. Former Melone property, Assessor's Map No. C12, parcel 100

- 4333. Sudbury Water District Borrow Pit, North Road, Assessor's Map No. C12, Parcel 004
- 4334. Raymond Road well field area, including Feeley Park and surrounding Town and Water District land, Assessor's Map Nos. L08, Parcels 001, 002, 008, 009, 010, 012 and M08, Parcel 021
- 4335. Highway Department property, Old Lancaster Road, Assessor's Map No. H08, Parcel 049
- 4336. All property and buildings owned by the Town of Sudbury, exclusive of school buildings, school properties and cemeteries.

Also included in the overlay district are all properties within Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research districts.

**4340. Uses Available As of Right.** The following are allowed as-of-right in the overlay district, or elsewhere as specified, subject to section 4360 and Site Plan Review under section 6300 of the Zoning Bylaw.

4341. All interior mounted wireless communications equipment is allowed in any zoning district in the Town. In residential districts, interior-mounted wireless communication equipment shall be permitted only in steeples, bell towers, cupolas and spires of non-residential buildings or structures, or in agricultural buildings.

4342. Roof-mounted wireless communications equipment is allowed in the overlay district if it meets the following conditions:

HEIGHT OF BUILDING	MAX. HEIGHT OF EQUIPMENT ABOVE THE HIGHEST POINT OF THE ROOF	REQUIRED SETBACK FROM EDGE OF ROOF OR BUILDING
More than 36 feet	12 feet above roof	1/2 foot for every foot of equipment height, including antenna
10-36 feet	10 feet above roof	1 foot for every foot of equipment height, including antenna

If there is a parapet on any building or structure which does not exceed 36 feet in height and if the roof-mounted wireless communication equipment will be transmitting or receiving in the direction of that parapet, the required setback from the edge or edges of the roof of the building at or beyond the parapet shall be reduced by the height of such parapet. The height of a parapet shall not be

4345 ATM 5/4/16

used to calculate the permissible maximum height of roof-mounted wireless communication equipment. For the purposes of this section, a parapet is that part of any wall entirely above the roof line.

4343. Facade-mounted equipment within the overlay district which a) does not extend above the face of any wall or exterior surface in the case of structures that do not have walls, b) does not extend by more than 18 inches out from the face of the building or structure to which it is attached, and c) does not obscure any window or other architectural feature.

4344. Small transceiver sites which utilize technology that does not require the construction of an equipment building, shelter, cabinet or tower (micro-cells), and have a total power input to the antenna of twenty (20) watts or less, in any zoning district.

4345. Changes in the capacity or operation of a wireless service facility which has previously received a special permit under this Bylaw, limited to an increase or decrease in the number of antennae, cells, panels, equipment buildings or cabinets or the number of service providers (co-locators), shall be permitted, subject to Minor Site Plan review under section 6370 of the Zoning Bylaw and authorization from the lessor of the property.

**4350. Uses Available by Special Permit.** Free-standing monopoles meeting the following criteria may be authorized by Special Permit. Any special permit granted under this section shall expire in five (5) years from the date of issuance. Continued operation of such facility shall be subject to application for and renewal of the special permit by the Zoning Board of Appeals.

4351. Free-standing monopoles shall be allowed only on those parcels in the overlay district which are listed in sections 4331-4336 herein.

4352. Free-standing monopoles shall be no higher than 100 feet.

4353. The setback for a free-standing monopole shall be at least 125 feet from the property line.

4354. Co-location of wireless communication equipment on existing towers and buildings is encouraged. The applicant for a monopole shall demonstrate that the communication equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure or building within a one-half mile search radius of a proposed monopole for one or more structural, technical, economic or other reasons as documented by a qualified engineer or other qualified professional including, but not limited to the following.

4363 deleted ATM 5/5/2011

- a. no such tower or building exists.
- b. the structural capacity of the existing tower or structure is inadequate and cannot be modified at a reasonable cost or the proposed equipment will interfere with the usability of existing equipment.
- c. the owner of an appropriate building or structure has effectively denied permission to co-locate by unreasonable delay or commercially unreasonable terms or conditions.
- d. the height of existing tower or structure is not adequate to permit the proposed equipment to function.

4355. Every new monopole or tower shall be automatically subject to the condition that the permit holder must allow co-location upon the structure by other wireless communication providers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by a permit holder which requires the payment of rent in excess of industry standards or which allows the co-location only if the requesting party provides comparable space on one of its structures to the permit holder shall be deemed commercially unreasonable.

**4360. Facility and Site Design Criteria.**

4361. All wireless communication equipment shall be sited, screened and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted or in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached. In certain circumstances, additional architectural features or changes to the façade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted wireless communication equipment.

4362. Equipment boxes or shelters for wireless communication equipment must either be interior to the building on which it is located, completely camouflaged, and/or completely screened from view from the public way.

4364. Existing on-site vegetation shall be preserved to the maximum extent practicable. Major topographical changes shall be avoided.



4365. Traffic associated with the facilities and structures shall not adversely affect abutting ways. No part of any building-mounted wireless communication equipment shall be located over a public way. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.

4366. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis.

4367. Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

4368. Applicants proposing to erect wireless communications facilities and structures on municipal properties shall provide evidence of contractual authorization from the Town of Sudbury or the Sudbury Water District to conduct wireless communications services on said property.

4369. All unused facilities or parts thereof or accessory facilities and structures which have not been used for two (2) years shall be dismantled and removed at the owner's expense. A bond in an amount which shall not be less than the estimated cost to dismantle and remove the wireless communication facility plus twenty-five percent (25%), shall be required to be furnished to the Town prior to construction of the facility.

**4370. Submittal Requirements.** As part of any application for a special permit under this Section, applicants shall submit, at a minimum, the applicable information required for site plan approval, as set forth herein at Section 6300, as may be amended, and the following additional information:

4371. A color rendition of the proposed facility with its antenna and/or panels at the proposed location is required. One or more renditions shall also be prepared illustrating the visual effects of the facility from prominent areas and adjacent public roadways.

4372. The following information prepared by one or more professional engineers:

- a. a description of the facility and the technical, economic and other reasons for the proposed location, height and design.

b. confirmation that the facility complies with all applicable Federal and State standards.

c. a description of the capacity of the facility including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.

4373. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

4374. A general description of the build-out plan of other wireless communications facilities that the provider plans to install in Sudbury within the next five (5) years, including locations, approximate tower height, the capacity of the facility and the proposed compensation to the Town or Water District.

4375. Balloon Test: Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the proposed facility. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised, by the applicant, at least 7 days in advance of the first test date in a newspaper with a general circulation in the Town of Sudbury. The applicant shall inform the Board of Appeals, in writing, of the times of the test at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between the hours of 8:00 a.m. and 6:00 p.m. on the dates chosen, which shall be on a weekend.

**4380. Exemptions.** The following types of uses are exempt from this Section:

4381. Towers, satellite dishes or antennas for non-commercial use are regulated under Section 2632 of the Zoning Bylaw.

4382. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the tower operator is not licensed to conduct commercial business on a daily basis from that facility.

**4390. Selectmen Authority to Lease Town-owned sites.** The Board of Selectmen may lease Town-owned property to facilitate the purposes of this bylaw.

**4400. OPEN SPACE DISTRICT.**



**4410. Purpose.** The Open Space District is intended for the preservation and maintenance of the ground water table upon which the inhabitants of the town and other municipalities depend for water supply; for protection of the public health and safety of persons and property against the hazards of flood water inundation; for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods; to preserve and increase the amenities of the town; and to conserve natural conditions, wild life and open spaces for the education, recreation and general welfare of the public.

**4420. Permitted Uses Within the Open Space District.** The following uses are permitted within the Open Space District:

4421. Conservation of soil, water, plants and wildlife;

4422. Recreation including nature study, boating and fishing where otherwise legally permitted;

4423. Grazing and farming, including truck gardening and harvesting and storage of crops;

4424. Forestry;

4425. Proper operation and maintenance of dams and other water control devices including temporary alteration of the water level for emergency or maintenance purposes. An owner of a private dam may lower the water level to a point not below what was flooded prior to the erection of the dam;

4426. Any religious use or any educational use which is religious, sectarian, denominational or public as provided for by G.L. c. 40A.

**4430. Uses Permitted by Special Permit Within the Open Space District.** Upon the issuance of a special permit by the Board of Appeals, and subject to such other special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions are permitted:

4431. Boat houses, duck walks, landings and small structures for non-commercial recreational uses;

4432. Municipal uses such as water works, pumping stations and parks;

4500 Deleted: ATM 5/7/2014  
4600 ATM 5/7/2014

4433. Temporary storage of materials or equipment but in no event to exceed three months;

4434. Dams, excavations or grading, consistent with the purposes of this section to create ponds, pools or other changes in water courses, for swimming, fishing or other recreational uses, agricultural uses, scenic features, or drainage improvements.

**4440. Restrictions.** Except as provided above, there shall be in the Open Space District:

4441. No land filling or dumping in any part of the District;

4442. No building or structure, except as provided herein;

4443. No permanent storage of materials or equipment;

**4600. MEDICAL MARIJUANA TREATMENT CENTERS.**

**4610. Purpose:** To provide for the placement of Medical Marijuana Treatment Centers, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of Medical Marijuana Treatment Centers on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of Medical Marijuana Treatment Centers.

**4620. General Regulations:** Medical Marijuana Treatment Centers may be permitted in the Industrial District 2 (ID-2), Industrial District 4 (ID-4), Industrial District 6 (ID-6) and Limited Industrial District 1 (LID-1) pursuant to a Special Permit issued by the Planning Board.

4621. Location: Medical Marijuana Treatment Centers may not be located within 500 feet of the following protected uses which are lawfully existing at the time of application for a Special Permit under this section 4600:

- a. schools, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- b. licensed child care facilities;
- c. public libraries;
- d. public playgrounds and public parks;

- e. public or private youth centers, recreational fields or recreational facilities;
- f. public swimming pools; or
- g. similar facilities which provide services exclusively or predominantly to minors (dance studio, tutoring establishments, etc.), but not including restaurants, retail establishments or other commercial uses which are frequented by the general public, as identified by the Planning Board.

4622. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in this section to the nearest point of the property line of the proposed Medical Marijuana Treatment Center.

4623. Location waiver: The distance requirement may be reduced by up to twenty-five percent (25%), but only if:

- a. The applicant demonstrates that the Medical Marijuana Treatment Center would otherwise be effectively prohibited within the municipality;
- b. The applicant demonstrates that the Medical Marijuana Treatment Center will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

4624. Other restrictions:

- a. No Medical Marijuana Treatment Center may remain open for business past 9:00 P.M.
- b. There shall be no use of products or sampling of products at a Medical Marijuana Treatment Center.
- c. No marijuana or marijuana-based product shall be made, sold, grown or cultivated, interior or exterior, of a residential dwelling unit. Sale, processing, growing and related cultivation activities shall occur only in districts as permitted in this Bylaw, except as allowed under Massachusetts law.

**4630. Procedure:**

4631. Application: In submitting an application to the Planning Board, the applicant shall include:

- a. A copy of its registration as a Medical Marijuana Treatment Center from the Massachusetts Department of Public Health (DPH);
- b. Detailed floor plan of the premises of the proposed Medical Marijuana Treatment Center that identifies the square footage available and describes the functional areas of the Medical Marijuana Treatment Center, including areas for cultivating, any preparation or processing of products and retail sales area;
- c. Detailed site plans that include the following information:

- (1) Compliance with the requirements for parking and loading spaces calculated separately for each area of use identified in the floor plans
  - (2) Compliance with all dimensional requirements of section 2600, and all other provisions of this Bylaw;
  - (3) Design and appearance of proposed buildings, structures, signs, screening and landscaping; and
  - (4) Compliance with the Special Permit Criteria set forth in section 6220 of the Zoning Bylaw.
- d. A description of the security measures, including employee security policies, approved by DPH for the Medical Marijuana Treatment Center;
  - e. A copy of the emergency procedures approved by DPH for the Medical Marijuana Treatment Center;
  - f. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the Medical Marijuana Treatment Center;
  - g. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Medical Marijuana Treatment Centers approved by DPH;
  - h. A copy of proposed waste disposal procedures; and
  - i. A description of any waivers from DPH regulations issued for the Medical Marijuana Treatment Center.

4632. The Planning Board shall refer copies of the application to the Board of Selectmen, Town Counsel, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Town Engineer and any other boards, departments or committees as it may deem necessary or appropriate. The boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

4633. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.

**4640. Special Permit Conditions on Medical Marijuana Treatment Centers:** The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, protect ground and surface water quality, air quality, and significant environmental resources, ensure public safety and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Medical Marijuana Treatment Center, the Planning Board shall include the following conditions in any special permit granted under this Bylaw:

4641. Hours of Operation, including dispatch of home deliveries;

4642. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the Sudbury Police Department within 24 hours of creation by the Medical Marijuana Treatment Center. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;

4643. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the Medical Marijuana Treatment Center with the Zoning Enforcement Officer and Sudbury Police Department within 48 hours of receipt by the Medical Marijuana Treatment Center.

4644. The permit holder shall provide to the Zoning Enforcement Officer and Sudbury Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

4645. The special permit shall terminate within five years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.

4646. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Medical Marijuana Treatment Center.

4647. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

4648. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the Medical Marijuana Treatment Center or the expiration or termination of the permit holder's registration with DPH.

**4650. Exemption from Medical Marijuana Treatment Center Special Permit Requirement:** Medical Marijuana Treatment Centers that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A Section 3 are not required to obtain a special permit, but shall obtain Site Plan Approval pursuant to Section 6300 of the Zoning Bylaw.

**4660. Prohibition Against Nuisances:** No Medical Marijuana Treatment Center shall be permitted to create a nuisance to abutters or to the surrounding area, or create any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

**4670. Severability:** The provisions of this Bylaw are severable. If any provision, paragraph,

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sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw;

#### **4700. MIXED-USE OVERLAY DISTRICT**

**4710. Purpose.** The purpose of the Mixed-Use Overlay District (MUOD) is to (a) encourage redevelopment along the Route 20/Boston Post Road /Union Avenue commercial corridor that exhibits a blend of complementary land uses, thereby promoting an active streetscape, enhancing the vitality of businesses, and spurring the revitalization of underutilized commercial properties which build the Town's commercial tax base; (b) establish a set of development controls that allows for greater flexibility and development alternatives and promotes creative, efficient, and appropriate solutions for the redevelopment of complex sites; (c) improve the aesthetic character of the Route 20 commercial corridor and its surroundings and encourage efficient and organized layout of buildings, circulation and open spaces; (d) diversify and expand the Town's economy and local job opportunities through economic activity and private investment in commercial and residential uses; and (e) implement many of the goals for the Route 20 commercial corridor proffered by numerous planning studies, including *The Sustainable Sudbury Master Plan* (2001), *A Community Vision for the Old Post Road* (2002); *The Sudbury Route 20 Zoning Project* (2012), and *Route 20 Corridor: Urban Design Studies and Zoning Evaluations* (2015).

**4720. Overlay District.** The MUOD is hereby established as an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Notwithstanding anything to the contrary in this Zoning Bylaw, for any land subject to Section 4700, a Proponent may choose to have its project conform to either, but not both, all of the controls and processes which govern the underlying zoning district(s) or to all of the controls and processes contained in Section 4700. Except as explicitly provided elsewhere in Section 4700, the provisions and requirements of other applicable zoning districts, and any rules, regulations, approval processes and/or design or performance standards contained elsewhere in this Zoning Bylaw, shall not apply to any project developed pursuant to Section 4700.

The Mixed-Use Overlay District shall consist of the following parcels of land:

526 and 528 Boston Post Road, Assessor Map K07, Parcels 0011 and 0013.

The MUOD boundary shall not be extended to other parcels unless approved at Town Meeting by an amendment to this Zoning Bylaw and the Zoning Map, and only to the extent such other parcel(s) are wholly or partially located within a Business, Limited Business, Village Business, Industrial, Limited Industrial, or Industrial Park District, and have frontage on either Boston Post Road, Union Avenue, or Station Road.

**4730. Definitions.** As used in Section 4700, the following terms shall be defined:

Master Development Plan - a master development plan approved at Town Meeting in accordance with Section 4700.



MUOD Project Area - the geographic area for a project delineated on a Master Development Plan.

MUOD Project - a project that is depicted on a Master Development Plan.

Proponent – the applicant or developer of a proposed MUOD Project or any phase or portion thereof.

Rules and Regulations – the rules and regulations adopted by the Planning Board for the administration of Section 4700.

**4740. Master Development Plan.** A project developed pursuant to Section 4700 must have a Master Development Plan adopted by a two-thirds vote of a Town Meeting in accordance with the procedures for adoption or change of zoning ordinances or bylaws set forth in M.G.L. Chapter 40A, Section 5.

**4741. Master Development Plan Requirements.** At least sixty (60) days prior to the close of the warrant for the Town Meeting at which approval of a Master Development Plan is sought, the Proponent of the MUOD Project shall file with the Planning Board a package of Master Development Plan materials that includes, at minimum, the following information:

- a. A plan of existing conditions showing the area of land proposed to be developed under Section 4700, including topography at 2-foot contour intervals and the location of existing roadways, buildings, and other site improvements;
- b. A map showing the general condition and topography, at 2-foot contour intervals, of the land and improvements located within 200 feet of the MUOD Project Area, based on available Town geographic information system (GIS) data;
- c. A scalable development plan of the MUOD Project showing:
  - i. Location and areas of proposed development, including building envelopes, approximate sizes of all buildings, parking areas, areas proposed for stormwater and wastewater facilities, and other proposed site improvements;
  - ii. Proposed open space areas;
  - iii. Location and width of the proposed roads and ways (including private ways and driveways);
  - iv. Proposed setbacks of buildings to exterior property lines;
  - v. Proposed preliminary subdivision plan of land, if applicable.
- d. A table showing the following information:
  - i. Total land area of the MUOD Project Area;

- ii. Total land area of each development or use area by acreage and percent of total lot area;
  - iii. Total unit count for residential uses;
  - iv. Parking schedule for each proposed use;
  - v. For each development or use area, the following pre- and post-development calculations shall be provided by percent of total proposed lot area and percent of the development/use area: total building square footage and building coverage; total impervious surface area; total open space area;
  - vi. The MUOD Project's conformance with the dimensional requirements contained in Section 4780;
  - vii. The underlying zoning of the MUOD Project Area.
- e. Elevations showing the planned architectural approach for the proposed structures;
  - f. Accompanying technical reports and studies, consisting of a (i) preliminary stormwater and drainage report, (ii) preliminary wastewater management system report (iii) traffic study, (iv) utilities and infrastructure report, (v) fiscal impact report, and a (vi) draft construction management/phasing plan;
  - g. Certified list of abutters within 300 feet of the MUOD Project Area;
  - h. Such other materials as may be required by the Rules and Regulations adopted pursuant to Section 4764.

**4742. Conformance Recommendation.** A Master Development Plan for a MUOD Project shall receive a Conformance Recommendation from the Planning Board as a prerequisite to Town Meeting consideration and approval. By super-majority vote of the Planning Board, and after a public hearing has been held with noticing requirements as required in MGL c. 40A, s. 5, the Planning Board shall recommend consideration and approval of the Master Development Plan at Town Meeting if it finds that the final plans and materials (i) materially conform to the approved Master Development Plan standards and requirements set forth in Section 4700, and (ii) promote the purposes of the Zoning Bylaw as noted in Section 4710. No vote to approve a MUOD Project shall be taken by Town Meeting until a report setting forth the Planning Board's Conformance Recommendation has been submitted to Town Meeting. Considering the preliminary nature of a Master Development Plan, the Planning Board's Conformance Recommendation may include reasonable conditions, limitations, and safeguards concerning adequacy of (i) utilities, wastewater disposal, and stormwater drainage, (ii) pedestrian accommodations and traffic improvements, (iii) parking and circulation, (iv) fire and service equipment access, (v) lighting and noise protections, and (vi) general massing and architecture. Approval of the Master Development Plan at Town Meeting shall serve to ratify the Planning Board's Conformance Recommendation and any conditions, limitations, and safeguards contained therein.



**4750. Modifications to an Approved Master Development Plan.** Following approval at Town Meeting of a Master Development Plan for a MUOD Project, modifications to such Master Development Plan may be made as follows:

**4751. Minor Modification.** The Planning Board may, in its discretion, approve minor modifications to an approved Master Development Plan without requiring a public hearing. For purposes of this subsection, a plan modification is “minor” if the changes proposed, considered in the aggregate with any previously approved minor modifications:

- a. Do not involve the construction of an additional building not included in the approved Master Development Plan;
- b. Do not increase by more than five percent (5%) the total gross floor area of any land use included in the approved Master Development Plan;
- c. Do not change the square foot percentage of land uses between commercial and residential uses by more than five percent (5%);
- d. Do not increase or decrease the proposed number of parking spaces by five percent (5%) of the total number approved; and
- e. Do not alter the proposed roadways or access points significantly, as determined by the Planning Board.

**4752. Project Modification Review.** A MUOD Project shall undergo Project Modification Review for any proposed modification of the approved Master Development Plan that exceeds one or more of the thresholds identified in Section 4751, a “Project Modification.” No new building permit shall be issued with respect to a MUOD Project prior to the issuance of a decision by the Planning Board approving such Project Modification.

- a. Submittal Requirements. An application for Project Modification Review shall be filed with the Planning Board in the manner and quantity specified in the Rules and Regulations.
- b. Review Procedure. An application for Project Modification Review shall require a public hearing with noticing requirements as required in MGL c.40A, s.11. The Planning Board’s review and consideration of an application for Project Modification Review shall be in accordance with the Rules and Regulations.
- c. Waivers. In connection with Project Modification Review, the Planning Board, in its discretion, may waive application of one or more of the requirements of Section 4700 if it determines that (i) the waiver will substantially improve the MUOD Project; (ii) the project or applicable phase thereof advances the purposes of the MUOD as set forth in Section 4710; and (iii) the granting of a waiver will not nullify or substantially derogate from the intent or purpose of Section 4700.
- d. Criteria. The Planning Board shall issue a decision approving a Project Modification of the MUOD Project if it finds that the following criteria have been met with respect to

the project or the phase or portion thereof for which a building permit is being sought: (i) the final plans materially conform to the Master Development Plan requirements, and are compliant with the standards and requirements set forth in Section 4700; and (ii) the project or applicable phase or portion thereof does not pose material adverse impacts to the neighborhood. The findings required under clause (ii) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Section 4761 that, if satisfied, are designed to cause the project or applicable phase thereof to conform to these criteria.

e. Decision. The Planning Board shall issue a decision on the proposed Project Modification within 120 days of the application submittal, unless mutually extended. A majority vote of the Planning Board shall be required for approval or denial of a Project Modification.

f. Denial. In the event that the Planning Board finds that a proposed Project Modification to an approved MUOD Project does not satisfy the criteria set forth in Section 4752d, the Proponent may, at its option, (i) withdraw the Project Modification proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration in accordance with this Section, or (iii) seek approval of a revised Master Development Plan at Town Meeting.

**4753.** Notwithstanding the foregoing, minor adjustments in the location and configuration of the buildings, parking areas, and other site features shown on a Master Development Plan shall not require Planning Board approval provided that such minor adjustments do not exceed any of the thresholds set forth in Section 4751 and a qualified professional certifies to the Building Inspector that such adjustments comply with the dimensional limitations and other controls contained in Section 4700.

**4760. Administration.** The following administrative regulations shall apply in the MUOD:

**4761. Development Agreement.** A MUOD Project shall mitigate the impacts of the development to the satisfaction of the Town. The Proponent's mitigation and other general project commitments shall be memorialized in a Development Agreement entered into between the Proponent and the Board of Selectmen, which shall be submitted in recordable form binding upon the Proponent. No building permit shall be issued for any phase or portion of the MUOD Project requiring approval under Section 4700 until the Development Agreement has been executed.

The Development Agreement shall include, at a minimum, consideration of the following:

- a. Required mitigation to address the impacts arising out of the use and occupancy of the MUOD Project;
- b. Restrictions on development areas and such other development limitations as may be agreed upon;
- c. Proposed phasing of the MUOD Project;

- d. Obligations with respect to pedestrian and vehicular interconnectivity within and proximate to the MUOD Project Area to facilitate pedestrian access and parking efficiencies;
- e. The authority of the Town to retain the necessary professionals at the Proponent's expense to assist in their review of development applications.

**4762. Phased Development.** An approved MUOD Project may be constructed in one or more phases in accordance with a construction management/phasing plan submitted pursuant to Section 4741.

**4763. Application of Requirements to Individual Lots.** The requirements of Section 4700, including the dimensional requirements set forth in Section 4780, shall not be applied to the individual lots or ownership units within the MUOD, but shall be applied as if the entire MUOD were a single conforming lot, whether or not the same is in single or multiple ownership. Violations of this Zoning Bylaw shall be enforceable only against the owner of the specific lot on which such violation occurs within the MUOD.

**4764. Rules and Regulations.** The Planning Board may adopt rules and regulations for the administration of Section 4700, which may include but not be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 4700.

**4765. Issuance of Building Permit.** Following approval of a Master Development Plan at Town Meeting, the Proponent shall submit a building permit application and such other materials and fees as may be required, along with evidence of any Planning Board approval required under Section 4750, to the Building Inspector and a building permit may thereafter be issued for the approved project or any individual component thereof. Building permits may be sought and issued for individual components of an approved project. Except as may otherwise be required by a Development Agreement, nothing in Section 4700 shall obligate the Proponent to construct all or any portion of the improvements shown on an approved Master Development Plan.

**4766. Transfer of MUOD Approvals.** Approval of a MUOD Project, or any individual portion thereof, may be freely transferred between owners, provided that the transferee complies with the provisions of Section 4700 and the Planning Board is notified of the transfer.

**4767. Lapse.** An MUOD approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within five (5) years following the date the Master Development Plan is approved at Town Meeting. Substantial use, including, without limitation, the issuance of a building permit for construction of all or any portion of the approved Master Development Plan, shall vest the Master Development Plan, provided construction on that phase of the Master Development Plan for which the building permit was issued is commenced within one (1) year of issuance of the building permit. The

Planning Board may extend such approval, for good cause, upon the written request of the Proponent.

**4770. Uses.** The land and buildings shown on an approved Master Development Plan may be used as of right for any use listed below and, to the extent not listed below, any Permitted Use in the underlying zoning district(s), as set forth in the table of principal use regulations (Section 2230, Appendix A) of the Zoning Bylaw.

**4771. Principal Uses Permitted As of Right.** The following principal uses shall be permitted as of right within the MUOD:

**a. Commercial Uses.**

1. Bank, Financial Agency.
2. Business or Professional Office.
3. Child care facility.
4. Drive-in establishments regularly dispensing merchandise or money from inside a building to persons outside, but excluding the dispensing of food or drink.
5. Major Commercial Project, provided no single building exceeds 45,000 gross square feet.
6. Medical Center or Clinic.
7. Nursing or Convalescent Homes and/or Assisted Care Facilities, including facilities providing specialized care for residents needing memory care for dementia or other cognitive impairments.
8. Personal Service Establishment.
9. Restaurant.
10. Retail Stores and Services not elsewhere set forth.

**b. Residential Uses.**

1. Age-Qualified Housing: the provision of independent living arrangements in one or more buildings constructed on a single lot of not less than five (5) acres, containing not more than sixty (60) dwelling units in the aggregate, whether rental or ownership, all of which are restricted to households with at least one member fifty-five (55) years of age or older.

**c. Open Space Uses.**

1. All areas unoccupied by buildings, including, without limitation, areas containing utilities and/or stormwater infrastructure; sidewalks and paths; ice rinks, farmers'

markets, music festivals, and other seasonal outdoor uses and facilities; and green, landscaped, and open space areas.

**d. Miscellaneous Uses.**

1. Utilities and related infrastructure improvements, whether subterranean or aboveground, including, without limitation, wastewater treatment works, streets, parking, access drives, directional signage, lighting, pipes, conduits, manholes, and other appurtenances necessary for the transmission of gas, electricity, telephone, water and sewer service, and related utilities.

**4772. Prohibited Uses.** Any use(s) not expressly allowed either under Section 4771 or within the underlying zoning district(s) shall be prohibited unless the Building Inspector determines that such use is substantially similar in both its characteristics and its impact on abutting properties to a use listed as permitted as of right under Section 4771 or within the underlying zoning district(s).

**4773. Accessory Uses.** The following accessory uses shall be permitted as of right:

- a. Outdoor display, sales, and seating.
- b. Automated Teller Machines (ATMs), kiosks and similarly sized service booths and detached structures.
- c. Uses supporting approved Commercial and Residential Uses, including, without limitation, cafeterias, dining rooms, and other places serving food or beverages; beauty salons; patio cafés and other outdoor food services areas; halls, conference rooms, auditoriums and other places of assembly or meeting function purposes; health and fitness centers and swimming pools; dry cleaner drop-off service; retail kiosks; commercial or public parking lots and parking garages; indoor or outdoor markets, festivals or other limited duration special events; and similar establishments and services of the same general character as the above.
- d. Accessory off-street parking, whether at grade or in a covered garage, including overnight trailer parking accessory to and reasonably proximate to a Commercial Use.
- e. Accessory renewable energy resources, including but not limited to wind, solar, hydroelectric, methane, and wood alcohol facilities, but not including biomass incineration, for use within the MUOD which are designed to meet the total actual yearly energy needs of the MUOD Project; however, excess energy may be delivered to the energy market for sale or credit as long as the excess energy sale or credit is ancillary to the actual energy needs of the MUOD Project. Such accessory renewable energy resources not identified on an Approved Master Development Plan shall be required to undergo Project Modification Review by the Planning Board.

**4774. Accessory Use Not Located on the Same Lot as Principal Use.** The MUOD Project provides for a comprehensive site design that may include supporting parking areas, access ways, driveways, infrastructure and utilities which may extend into any lot or other area

within the MUOD. In addition, an accessory use may be located on a different lot from its associated principal use within the MUOD provided that the accessory use remains reasonably proximate to the principal use. The location of an accessory use on a different lot than the principal use, other than any accessory parking spaces provided as described in Section 4773, shall require the Building Inspector's determination that such accessory use is generally compatible with the surrounding development area and is reasonably proximate to the principal use it serves. For purposes of Section 4774, accessory uses located within 1,000 feet of their principal uses shall be presumed to be reasonably proximate to such principal uses. This presumption shall not be construed to limit the Building Inspector's ability to exercise his/her discretion to allow accessory uses at greater distances from their principal uses. Miscellaneous Uses defined in Section 4771 are exempt from this provision, however Miscellaneous Uses serving the MUOD Project shall be located within the MUOD.

**4780. Dimensional Standards and Requirements.** No MUOD Project shall be approved, and no principal or accessory building or structure shall be erected in a MUOD Project unless said MUOD Project and the buildings and structures proposed therein conform to the following requirements, calculated in accordance with Section 4763:

**Table of Dimensional Requirements**

<u>Maximum Building Height</u>	3 stories; 45 feet (or 50 feet, in the case of pitched roofs);  4 stories, 60 feet if set back more than 500 feet from Boston Post Road
<u>Maximum Building Coverage</u>	30% of the MUOD Project Area as a whole
<u>Minimum MUOD Project Area</u>	100,000 square feet
<u>Minimum MUOD Project Area Street Frontage</u>	50 feet
<u>Minimum Front Yard Setback</u>	20 feet
<u>Minimum Side Yard Setback</u>	20 feet [see Section 4783]
<u>Minimum Rear Yard Setback</u>	30 feet

**4781. Subdivision.** The owner of any lot shown on an approved Master Development Plan shall be entitled to lawfully divide such lot, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to M.G.L. Chapter 41, Section 81P, without modifying the approved Master Development Plan and without the need for other approvals under Section 4700, provided that any such lot must have minimum frontage of fifty (50) feet at the street line and a minimum lot area of 40,000 square feet.



**4782. Two or More Buildings on One Lot.** Notwithstanding anything to the contrary in this Zoning Bylaw, more than one (1) building or structure, including those intended solely for use as residential dwellings, shall be permitted on any lot within the MUOD.

**4783. Proximity to Residence Districts.** Notwithstanding anything to the contrary in Section 4700, within the MUOD, the setback requirement of Section 2600 of the Zoning Bylaw and the buffer and screening requirements set forth in Section 3500 of the Zoning Bylaw shall not apply. Instead, to minimize the MUOD Project's visual impact on any existing adjacent residence districts, there shall be maintained a minimum building and structure setback of fifty (50) feet wherever the MUOD abuts the boundary line of a residence district located outside the MUOD.

**4784. Screening and Landscaping.** Screening and landscaping, both internal and perimeter, for the MUOD Project shall be substantially as shown on an approved Master Development Plan, rather than by reference to Section 3500 of the Zoning Bylaw.

**4790. Parking and Loading.** The alternative parking requirements set forth in Section 4790 shall be used for the MUOD Project rather than the requirements and/or regulations set forth elsewhere in the Zoning Bylaw, including, without limitation, Section 3100.

**4791. Parking Schedule.** The number of expected parking spaces for the MUOD Project shall be as set forth on a Parking Schedule included with the Master Development Plan. The number of spaces contained within the MUOD Project may change from time to time, based upon changes in use and tenant requirements. Following adoption of a Master Development Plan at Town Meeting, adjustments in the number of spaces required for the MUOD Project may be authorized by the Planning Board through the procedures described in Section 4750.

**4792. Location.** Parking may be provided anywhere within the MUOD as shown on an approved Master Development Plan, except that no parking stalls shall be allowed within twenty feet (20') of a public way. On-street parking within the MUOD may be utilized in determining satisfaction of the requirements set forth in the Parking Schedule.

**4793. Shared Parking.** Shared parking arrangements shall be permitted and may be located on contiguous lots or on separate lots within the MUOD.

**4794. Design.** Each parking space within the MUOD shall comply with the applicable dimensional regulations set forth in Section 3130 of the Zoning Bylaw. The number of entrances and exits shall be the minimum necessary for safe and efficient traffic circulation, in accordance with the traffic study submitted pursuant to Section 4741.

**4795. Loading.** To ensure that adequate areas are provided to accommodate all delivery vehicles expected at a given premises at any one time, an off-street loading area shall be provided for any use that (i) contains more than ten thousand (10,000) square feet of net floor area and (ii) is regularly serviced by tractor-trailer trucks or other similar delivery vehicles. Where required, loading areas shall be shown on the Master Development Plan, shall be located at either the side or rear of each building, and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

**4790A. Signs.** Except as otherwise provided in Section 4790A, the alternative signage requirements set forth below shall apply to the MUOD Project, rather than the requirements and/or regulations contained in Section 3200 of the Zoning Bylaw.

**4791A. General Regulations.** All signs authorized by Section 3250 of the Zoning Bylaw shall also be permitted as of right within the MUOD. All signs prohibited by Section 3240 of the Zoning Bylaw shall also be prohibited within the MUOD. For all other signs, the standards and procedures set forth in Sections 4792A and 4793A shall apply.

**4792A. Comprehensive Signage.** In recognition of the interrelated nature of signage in mixed-use projects, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such projects, the Planning Board may approve a comprehensive signage program for all or any portion of (or building within) the MUOD Project. Appropriate design, dimensions, lighting and materials for all signs included in a comprehensive signage program shall be determined by the Planning Board in the course of its review pursuant to Section 4793A.

**4793A. MUOD Signage Review Procedure.** A comprehensive signage program shall require Planning Board approval, in consultation with the Design Review Board and in accordance with the Rules and Regulations, either (i) in connection with the Planning Board's Conformance Recommendation issued pursuant to Section 4742, in the case of signs submitted for approval concurrently with the Master Development Plan; or (ii) through Project Modification Review pursuant to Section 4752, in the case of signs submitted for approval after the adoption of a Master Development Plan. The Planning Board shall approve such sign(s) if it determines that the proposed signs adequately address the needs of the MUOD Project and are generally consistent with the design guidelines contained in Section 3290A of the Zoning Bylaw. Unless otherwise provided in Section 4790A, the requirements and procedures set forth in Section 3230 of the Zoning Bylaw shall not apply to the MUOD Project.

**4790B. Water Resources Protection Overlay District.** For a project developed pursuant to Section 4700, the requirements provided in Section 4200 of the Zoning Bylaw, Water Resource Protection Overlay District (WRPOD), shall apply as modified by Section 4790B.

**4791B. Application.** In recognition of the demonstrated improvement to water quality through conformance with the Sudbury Stormwater Management Bylaw and Regulations, natural resource conservation, and environmental protection secured through the comprehensive public reviews and mitigative measures required for any MUOD Project developed pursuant to Section 4700, the requirements of Section 4790B shall supersede any of the requirements of Section 4200 of the Zoning Bylaw that are inconsistent with Section 4790B.

**4792B. Allowed Uses and Activities.** All uses authorized by Section 4770 and all activities performed in connection with the construction and operation of the MUOD Project (including, without limitation, earth removal and earth moving activities) shall be allowed as of right in any portion of the MUOD located in the WRPOD, provided that a qualified professional certifies to the Building Inspector that (i) a minimum of thirty-five percent



(35%) pervious area is provided within the MUOD Project Area as a whole; and (ii) all stormwater Best Management Practices designed for the MUOD Project meet applicable Massachusetts Department of Environmental Protection stormwater guidelines.

**4793B. Review Procedure.** The Building Inspector shall review and confirm the MUOD Project's compliance with the foregoing standards and requirements prior to issuing a Building Permit or Certificate of Occupancy, as applicable, for any use or activity subject to Section 4790B.

#### **ARTICLE 5000. ALTERNATIVE RESIDENTIAL REGULATIONS.**

##### **5100. CLUSTER DEVELOPMENT.**

**5110. Purpose.** The purpose of Cluster Development is to maintain land use density limitations while encouraging the preservation of common land for conservation, agriculture, open space, and recreational use; to preserve historical or archeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote more suitable siting of buildings and better overall site planning; to promote better utilization of land in harmony with neighboring parcels, with its natural features and with the general intent of the zoning bylaw through a greater flexibility in design; and to allow more efficient provision of municipal services.

**5120. Applicability.** The Planning Board may grant a Special Permit for a Cluster Development in Single Residence "A", Single Residence "C" and the Wayside Inn Historic Preservation Residential Zone Districts for single family detached dwellings and accessory structures, subject to the provisions of this Section 5100.

**5130. Standards.** The following standards shall apply to all Cluster Developments:

5131. Minimum Tract Size. Cluster Developments shall be located upon a single tract, in common ownership with definite boundaries ascertainable from recorded deed or recorded plan, having an area of at least 10 acres and undivided by land of separate ownership or by a private or public right-of-way.

5132. Number of Building Lots Permitted. The total number of building lots in a cluster development shall be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. For purposes of this section, "building lot" shall mean any lot found by the Planning Board, Board of Health and Conservation Commission, at the time of application, assuming compliance with the Zoning Bylaw, to be suitable for the construction thereon of residential dwelling units under the rules and regulations of the Town of Sudbury and the applicable laws of the Commonwealth of Massachusetts relating thereto. In making the determination of the number of allowable lots, the Board shall require that the applicant provide evidence, satisfactory to the Board, that the number of lots shown on the Cluster Development Plan is no

greater than the number of lots that could otherwise be developed. Such evidence shall include but not be limited to the materials specified in Section 5152, herein.

5133. Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Article 2000, the requirements of this Section shall prevail. The following minimum dimensional requirements shall be observed in all Cluster Developments:

DISTRICT	A-RES	C-RES	WAYSIDE
Minimum Lot Area <sup>1</sup>	20,000 sq. ft.	30,000 sq. ft.	2 acres
Minimum Frontage	50 ft.	50 ft.	50 ft.
Average Frontage <sup>2</sup>	90 ft.	105 ft.	105 ft.
Minimum Front Yard Setback (ft.)	35	35	50
Minimum Side Yard Setback (ft.)	20	20	30
Minimum Rear Yard Setback (ft.)	30	30	30
Minimum Lot Width (ft.) (Lot perimeter ratio from section 2641 shall not apply)	50	50	50

<sup>1</sup> In instances where a tract overlaps Residence Zones "A", "C" or the Wayside Inn Historic Preservation Zone, the size and number of allowable lots shall be determined independently within each zone as follows: The minimum lot size in the cluster development shall be determined by multiplying the number of lots in Residence Zone "A" by 20,000 square feet, in Residence Zone "C" by 30,000 square feet and in the Wayside Inn Historic Preservation Zone by 2 acres, adding the areas and dividing by the total number of lots. The minimum area of any cluster development building lot which includes a Special Water Resource Area as defined in this paragraph shall be equal to that which would otherwise be allowed in the district in which it is located. For purposes of this section, 'SPECIAL WATER RESOURCE AREA' shall include any area constituting a protected resource under M.G.L. c. 131, s. 40, and the Town of Sudbury Wetlands Bylaw excluding the 100 foot buffer contained in the law, regulations promulgated under the law, or the Town bylaw and any area used for or suitable for development of a municipal water supply. An area shall be considered suitable for development of municipal water supply if the Planning Board finds, after reviewing the documentation provided under section 5150 of this section and after consulting with the Sudbury Water District that the hydrogeology of the area compared favorably with that of one or more other areas used successfully for municipal water supply in Sudbury.

<sup>2</sup> Lot frontages in a cluster development may be averaged together provided the average lot frontage in the cluster development is not less than the requirement set forth herein. In any case, no lot in a Cluster Development may have a lot frontage of less than 50 feet exclusive of any easements.

5134. Minimum Perimeter Buffer. To provide a buffer between a cluster development and surrounding properties, no structure shall be located within 100 feet of the overall perimeter boundary. A lesser buffer may be approved when, in the opinion of the Planning Board, such requirement would prohibit the use of this bylaw due to the shape, topography, or other physical constraints of the property.

5135. Water Quality Protection. To provide adequate dispersion of contaminated water originating on a cluster development, each applicant for a Special Permit shall demonstrate to the satisfaction of the Planning Board, Board of Health and Conservation Commission that the concentration of substances in surface and groundwater from the development shall nowhere exceed the concentrations that would be expected from the development that would otherwise be allowed on the tract.

5136. Preservation of Natural Site Features. Natural site features shall be preserved by minimizing disturbance to existing vegetation and by minimizing changes to existing topographic conditions on the site.

5137. Relation of Buildings to Environment. Proposed buildings shall be related harmoniously to the terrain and to the use, scale and proportions of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings.

5138. Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings.

**5140. Common Land.** Not less than 35% of the land area of the tract, exclusive of land set aside for road area, shall remain unsubdivided and shall be dedicated as common open land. The common open land shall contain, as a minimum and exclusive of land set aside for road area, 17.5% of the upland area of the parcel being subdivided. Uplands shall be defined as those portions of the parcel not defined as wetlands under G.L. c. 131, s. 40 and the Sudbury Wetlands Administration Bylaw, excluding buffer area. Ledge outcroppings, slopes in excess of 15% grade and Flood Plain shall not be included in the common open land for purposes of calculating the 17.5% minimum upland requirement.

5141. The common land shall be used for open space, conservation, agriculture, outdoor recreation or park purposes and shall be maintained and groomed by the owner in a manner appropriate for such use and in accordance with the purpose of this bylaw. The common land shall be in one or more parcels of a size, shape and location appropriate for its intended use as determined by the

Planning Board. The common land shall be selected in order to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The common land shall be left in an undisturbed, natural state. The common land shall remain unbuilt upon, except that a maximum of 5% of such land may be devoted to paved areas or structures accessory to active outdoor recreation and consistent with the open space use of the land. Such structures or paved areas may not be constructed on floodplain, wetland, slopes in excess of 10% grade, or ledge outcroppings. Provision shall be made so that the common land shall be readily accessible to all lots within the cluster development that do not abut the common land. Each parcel of common land shall be provided with at least one means of access at least 20 feet in width, leading from a public or private way. Such means of access shall be identified on the "Cluster Development Site Plan" submitted with the special permit application.

5142. The ownership of common land shall either be conveyed to the Town of Sudbury and accepted by it for open space, conservation, agriculture, outdoor recreation or park use, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots within the development. In all cases of ownership, a perpetual restriction of the type described in G.L. c. 184 ss. 31-32 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded for all common land. Such restriction shall provide that the common land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, outdoor recreation or park purposes. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the common land as the Planning Board may deem appropriate.

5143. In the case where the common land is not conveyed to the Town of Sudbury and in order to ensure that the corporation, trust or non-profit organization will properly maintain the common land, an instrument shall be recorded at the Middlesex South District Registry of Deeds which shall, at a minimum provide:

- a. a legal description of the common land;
- b. A statement of the purposes for which the common land is intended to be used and the restrictions on its use and alienation;
- c. The type and name of the corporation, trust or non-profit organization which will own, manage and maintain the common land;

d. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, the ownership or beneficial interest in the corporation, non-profit organization or trust of each owner of a dwelling in the Cluster Development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom;

e. Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and officers of the corporation or non-profit organization or of trustees of the trust;

f. Procedures for the conduct of the affairs and business of the corporation, trust or non-profit organization, including provisions for the calling and holding of meetings of members, directors and officers of the corporation or non-profit organization or beneficiaries and trustees of the trust, and provisions for quorum and voting requirements for action to be taken. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation or trust;

g. Provisions for the management, maintenance, operation, improvement and repair of the common land and facilities thereon, including provisions for obtaining and maintaining adequate insurance and where applicable levying and collecting from the dwelling owners common charges to pay for expenses associated with the common land, including real estate taxes. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, it shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation or trust and that each dwelling owner's share of the common charges shall be a lien against his real estate in the Cluster Development which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;

h. The method by which such instrument or instruments may be amended.



**5150. Application for a Special Permit.** Any person who desires a special permit for a Cluster Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

5151. A "Cluster Development Site Plan" showing, as a minimum, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: a hydrogeologic description of the suitability of the site and all of its subareas for development of potable water supply; soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c. 131, s.40, including delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission; existing floodplain boundary lines; proposed location of dwellings, all setback lines, garages, driveways, lighting, signs; proposed and existing wells and septic systems on the parcel and abutting properties; existing and proposed grades of the land; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon, and the proposed ownership of all common land and any other information required by the Planning Board.

5152. Preliminary Subdivision Plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section. Such plan shall generally conform to provisions described in the Rules and Regulations governing the subdivision of land for a Preliminary Subdivision Plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from the Board of Health stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Said plan shall also delineate the official wetland area boundaries and areas of the site potentially suitable for development of potable water supply consistent with the provisions of this section.

5153. Copies of all instruments to be recorded with the Cluster Development Site Plan including the proposed common land deed and, if applicable, the trust document(s) or organizational articles of the corporation and perpetual restriction.

**5160. Reports from Town Boards or Agencies.** The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Engineering Department, Design Review Board, Park and Recreation Commission, Historic Districts Commission, Building Inspector,

Fire Department, Highway Surveyor, Tree Warden and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the petition shall be deemed a lack of opposition.

5161. Appointment of Design Review Committee. The Planning Board may, for purposes of reviewing cluster subdivision plans, appoint a Design Review Committee numbering at least three professionals in the fields of land planning, landscape architecture, or engineering to act in a review capacity to the Planning Board during the approval process of the cluster subdivision.

**5170. Planning Board Action.** The Planning Board, in considering an application for a Cluster Development, shall grant a special permit for a Cluster Development if it finds that the Cluster Development complies with the purposes of Cluster Development as stated herein; the Cluster Development duly considers the existing and probable future development of surrounding areas; the layout and design of the Cluster Development minimizes disturbance to the natural site features; the Cluster Development responds to the recommendations of Town Boards and Agencies; the granting of the special permit would not result in unsuitable development of the land in question; and the development of the tract as a conventional subdivision would not be consistent with the purposes of this Section.

5171. Special Permit Conditions. The Planning Board shall grant a special permit for a Cluster Development if it appears that the granting of such permit will be consistent with the intent of cluster development, and will result in suitable development in compliance with the standards enumerated in this bylaw. The Planning Board may impose further restrictions upon the tract as a condition to granting the special permit as the Planning Board shall deem appropriate to accomplish the purposes of this bylaw.

5172. Common Land Conveyance. If a special permit is granted under this section, the Planning Board shall impose as a condition that the common land shall be conveyed, free of any mortgage interest, security interest, liens or other encumbrances and subject to a perpetual restriction of the type described above, prior to any construction or alteration of the land. The petitioner shall provide satisfactory assurance of said conveyance recording in the form of copies of the recorded instruments bearing the recording stamp.

5173. Changes of Cluster Development Plan. Any change in the number of lots, the layout of ways, any significant changes in the common open land, its ownership or use, or in any conditions stated in the original special permit shall require that a new special permit be issued in accordance with the provisions of this Bylaw.

5174. **Limitation of Subdivision.** No lot shown on a plan for which a permit is granted under this section may be further divided so as to reduce the area of any lot for the purpose of creating an additional building lot(s) and a condition to that effect shall be shown on the recorded plan and on each deed conveying building lots on said plan.

**5180. Rules, Regulations and Fees.** The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw, G.L. c. 40A and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum, the size, form, contents, style and number of copies of plans and specifications, the town board or agencies from which the Planning Board shall request written reports, and the procedure for submissions and approval of a Cluster Development Special Permit. Nothing contained herein shall in any way exempt a proposed subdivision from compliance with other applicable provisions of these bylaws or the Subdivision Rules and Regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without conditions and modifications, or disapprove a subdivision plan in accordance with the provisions of such Rules and Regulations and of the Subdivision Control Law.

**5200. FLEXIBLE DEVELOPMENT.**

**5210. Purpose.** The purpose of Flexible Development is to allow development to be sited in the most suitable areas of a property; to allow for greater flexibility and creativity in the design of residential developments; to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner; to encourage a less sprawling form of development; and to minimize the total amount of disturbance on the site.

**5220. Applicability.** The Planning Board may grant a Special Permit for a Flexible Development in Single Residence "A", Single Residence "C", and the Wayside Inn Historic Preservation Residential Zoning Districts for the construction of single family detached dwellings and accessory structures, subject to the provisions of this Section 5200.

**5230. Standards.** The following standards shall apply to all Flexible Developments:

5231. **Minimum Tract Size.** Flexible Developments shall be located upon a single tract, in common ownership with definite boundaries ascertainable from recorded deed or recorded plan, having an area of at least 10 acres and undivided by land of separate ownership or by a private or public right-of-way.



5232. Number of Building Lots Permitted. The total number of building lots in a Flexible Development shall be equal to the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils for the construction of a single family wastewater disposal system as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home.

5233. Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Article 2000, the requirements of this section shall prevail. The following minimum dimensional requirements shall be observed in all Flexible Developments:

DISTRICT	A-RES	C-RES	Wayside Inn Zone
Minimum Lot Area	30,000 sq. ft.	40,000 sq. ft.	2 acres
Minimum Frontage <sup>3</sup>	120 ft.	120 ft.	120 ft.

5234. Single dwelling per lot. No more than one single family dwelling and its accessory structures and uses may be located on a lot created under this Flexible Development Bylaw.

5235. Restriction Against Further Development. No Flexible Development for which a Special Permit has been issued under this section may be further subdivided. A notation to that effect shall be made on the Definitive Plan prior to endorsement by the Planning Board and recording in the Registry of Deeds or the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Sudbury, shall be recorded with respect to the land within the Flexible Development. Such restriction shall provide that no lot in the Flexible Development may be further subdivided into additional building lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.

5236. All applications for Flexible Development shall require subdivision approval pursuant to G.L. c. 41, and shall conform to the Preliminary or Definitive Plan requirements and all design and construction standards in the Rules and Regulations Governing the Subdivision of Land, as may be amended.

<sup>3</sup> Provided, however, that where 100% of the frontage is located along the arc of the circular turnaround of a cul-de-sac, minimum frontage shall be 90 feet, further provided a front building line is designated for such a lot and the width of the lot at the building line is at least equal to 120 feet.

**5240. Planning Board Action.** A Special Permit for Flexible Development shall be granted only if the Planning Board determines the proposal better serves the bylaw purposes than would development under otherwise applicable requirements by the incorporation into the proposal of one or more of the following elements:

5241. Traffic circulation and safety would be improved through a reduction in length of streets or creation of fewer or better located or designed driveways and street egresses from the development onto existing streets.

5242. Visual intrusion would be reduced by preserving some visual buffering between proposed dwellings and previously existing streets.

5243. Protection of natural features would be accomplished by reducing the volume of cut and fill for roads and construction sites; reducing the area of vegetation displaced or disturbed; or reducing the area of environmentally sensitive lands disturbed by construction.

5244. Maintaining water quality within Water Resource Protection Overlay Districts would be achieved by reducing the number of on-site wastewater disposal systems or the amount of impervious surfaces within the development.

5245. Recreation and conservation needs would be promoted by reserving common land in a condition appropriate to meet those needs.

**5250. Rules and Regulations.** The Planning Board may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Bylaw, G.L. c. 40A

and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. In the absence of dedicated Rules and Regulations for Flexible Development, those Rules and Regulations Governing the Subdivision of Land shall suffice, where applicable.

**5300. SENIOR RESIDENTIAL COMMUNITY.**

**5310. Purpose.** The purposes of the Senior Residential Community Special Permit are to provide alternative housing for a maturing population; to provide a type of housing which reduces residents' burdens of property maintenance and which reduces demands on municipal services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.

**5320. Applicability.** The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of a Senior Residential Community (SRC)

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and accessory structures, in the following districts: Single Residence "A", Single Residence "C", the Wayside Inn Historic Preservation, Limited Business, Village Business and Research Districts.

**5330. Standards.** The following standards shall apply to all Senior Residential Communities:

5331. Tract Qualifications. At the time of granting a special permit by the Planning Board, the property under consideration for a SRC shall be located on one or more contiguous parcels, whether or not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres.

5332. Age Qualification. A SRC shall constitute housing intended for persons of age fifty-five or over within the meaning of M.G.L. c151B, S4, 16 and 42 USC S3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in a Senior Residential Community shall each be owned and occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in a SRC, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

5333. Applicant Qualifications. The applicant for a Special Permit for a SRC shall be the owner of the tract proposed for such development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the development.

5334. Number of Dwelling Units Permitted. The maximum number of dwelling units in a SRC shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations for which district the parcel is located within, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every

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district shall contain no more than 25% which is underwater land or wetland resource as defined in G.L. c. 131, s.40, or in the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of five (5) bedrooms shall be permitted. The number of bedrooms shall determine the number of units, pursuant to section 5336 below, with the maximum number of bedrooms in any unit being less than or equal to 3.

5335. Perimeter Buffer. A 100-foot wide buffer between a SRC and abutting properties is required around the entire SRC perimeter; provided, however, that access roads and pedestrian paths may cross the buffer at the discretion of the Planning Board, and the Planning Board may otherwise reduce the width of the buffer to no less than 50 feet at appropriate locations, taking into account the character or open space use of abutting properties or the existence or requirement of buffer thereon. The perimeter buffer shall remain in a natural state to preserve the visual character of the parcel being developed. The perimeter buffer may be included in Open space computations.

5336. Building and Dwelling Unit Requirements. The following requirements shall apply to all buildings and dwelling units in a Senior Residential Community:

- a. Dwelling units can be attached, or detached as single units, or a combination of these types.
- b. Dwelling Units Per Building. No building shall contain more than four dwelling units.
- c. Maximum Height. No building constructed in a SRC shall exceed 35 feet in height.
- d. No dwelling unit in a SRC shall contain more than three bedrooms. No more than twenty-five percent (25%) of the total units in a SRC shall have fewer than two bedrooms."

5337. Accessory Buildings and Structures. In a SRC, accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures, garages, and other customary accessory structures. Accessory buildings and structures shall be shown on the Site Plan.

5338. **Parking.** Two parking spaces shall be provided for each dwelling unit (with the exception of one bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped.

5339. **Private Roads.** Roads and driveways within a SRC shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5339A. **Other Facilities.** All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5339B. **Project Maintenance.** In every SRC there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of internal roads and driveways, snow plowing, landscape maintenance, trash removal, utility services and maintenance and repair of other common elements and facilities serving the residents, and the Town of Sudbury shall not be responsible therefor.

5339C. **Wastewater Disposal.** In every development wastewater disposal comply with the regulations of the Sudbury Board of Health, the Sudbury Water Resource Protection District and Wastewater Treatment Facilities Bylaws, and applicable Department of Environmental Protection regulations.

**5340. Open Space.** At least 25% of the upland area of the parcel shall be Open Space. No development, including clearing, primary or accessory structures, parking, wastewater disposal or stormwater management, shall take place within the 100-foot buffer area of any jurisdictional wetland, unless authorized by the Conservation Commission. Upon approval of the Conservation Commission, the buffer area may be reconfigured to provide better protection of resources on the site if such reconfiguration achieves a similar goal of resource protection; however, in no event shall the total area of the 100-foot buffer be reduced without compensation in an equal amount elsewhere on the site. The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve



large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5341. **Ownership of Open Space.** The open space shall be owned in common by the owners of the dwelling units in the SRC, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

5350. **Design Criteria.** All buildings in a SRC shall be designed (a) to have compatibility of style, building materials and colors with those in Sudbury, (b) to afford variations of facade and roof lines, and interior layouts of dwelling units, (c) so as not to have any dwelling unit extend under or over another dwelling unit in the same building and (d) to comply with requirements of law with respect to housing intended for persons of age fifty-five and over. The Planning Board may utilize the skills of the Design Review Board, or may appoint a committee, to review the architectural details and styling of the buildings prior to approval of a SRC.

5351. **Interrelationship of Buildings.** The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from each other and all other structures in the development.

5360. **Procedures.** The procedure for issuance of a special permit for a Senior Residential Community shall be as follows:

5361. **Application for Special Permit.** Any person who desires a Special Permit for construction of a SRC shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.

b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetlands Administration Bylaw.

c. A SRC Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to the Sudbury Wetlands Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

d. A schedule of the stages or phases of development which the applicant proposes to construct the SRC, including dates.

e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

f. Plans showing proposed methods of stormwater management, including drainage calculations.



g. Plans showing proposed wastewater disposal facilities.

h. Sample copies of the condominium association or other legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and bylaws of the organization. All such documentation shall include a reference to the objectives of the Senior Residential Community and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

5362. Reports from Town Boards or Agencies - The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Engineering Department, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Highway Surveyor, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

**5370. Planning Board Action.** The Planning Board shall not grant a Special Permit for a SRC unless it shall, after holding a public hearing in accordance with requirements of Chapter 40A of the General Laws, find that: (i) the SRC complies with the purposes of the SRC bylaw as stated herein; (ii) the SRC is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the SRC; (iv) the SRC use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the SRC use would not cause undue traffic congestion in the immediate area; (vi) the SRC responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

5371. Special Permit Conditions. In order to implement a Special Permit for a SRC and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings in any stage or phase of the SRC (i) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (ii) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities, drainage and related services

in such phase, and (iii) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

5372. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

5373. The Planning Board may in a Special Permit for a SRC set forth further requirements and conditions as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

**5380. Enforcement.** In accordance with the provisions of the General Laws, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this Section in equity or at law and to recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the development plan approved.

5381. The penalty provisions of these bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s) contractor(s), or any and all persons having an interest in the development site, including a mechanics lien, mortgage or attachments.

5382. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

5383. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing

any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the zoning bylaw.

**5390. Rules, Regulations and Fees.** The planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a SRC Special Permit. The Planning Board shall also specify the fees to be paid in connection with an application for Special Permit for a SRC, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.

#### **5400. INCENTIVE SENIOR DEVELOPMENT**

**5410. Purpose.** The purposes of the Incentive Senior Development Special Permit are to provide a more affordable means of housing for a maturing population; to provide a type of housing which reflects the senior population desire to reduce residents' burdens of property maintenance; which provides a type of development which reduces demands on municipal and educational services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.

**5420. Applicability.** The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of an Incentive Senior Development and accessory structures, in the following zoning districts: Single Residence "A", Single Residence "C", Limited Business, Village Business and Research District.

**5430. Standards.** The following standards shall apply to all Incentive Senior Developments:

**5431. Tract Qualification.** At the time of granting a special permit by the Planning Board, the property under consideration for an Incentive Senior Development shall be located on a contiguous parcel, not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. For parcels greater than 20 acres, parcels may be separated by a private or public way.

5432. Age Qualification. An Incentive Senior Development shall constitute housing intended for persons of age fifty-five (55) or over within the meaning of M.G.L. c151B, §4, ¶6 and 42 USC §3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in an Incentive Senior Development shall each be owned and occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/ occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in such a development, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

5433. Applicant Qualifications. The applicant for a Special Permit under the provisions of this section shall be the owner of the tract proposed for such Development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the Development.

5434. Number of Dwelling Units Permitted. The maximum number of dwelling units shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts, Limited Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% of land which is underwater land or wetland resource as defined in G.L. c. 131, s. 40 or in the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of 4 units shall be permitted to be constructed.

5435. Building and Dwelling Unit Requirements. The following requirements shall apply to all buildings and dwelling units in an Incentive Senior Development:

- a. Dwelling units can be attached or detached, or a combination of these types.
- b. No building shall contain more than four dwelling units.

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c. No dwelling unit in an Incentive Senior Development shall contain more than two (2) bedrooms. No more than twenty-five percent (25%) of the total units in an Incentive Senior Development shall have fewer than two bedrooms.

d. Accessory Buildings and Structures. Accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis courts, cabanas, storage and maintenance structures, garages, and other customary accessory structures; however, any common facilities or structures must be constructed on land owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners. Accessory buildings and structures shall be shown on the development plan, and may not be constructed within any minimum open space required herein.

e. Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from other structures in the development.

5436. Parking. Two parking spaces shall be provided for each dwelling unit (with the exception of one-bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped. The Planning Board may authorize a decrease in the number of parking spaces up to 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan.

5437. Roadways. Roads and driveways within the development shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.



5438. Other Facilities. All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5439. Project Maintenance. In every development there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of common elements and facilities owned by and serving the residents of the development, and the Town of Sudbury shall not be responsible therefore.

5439A. Wastewater Disposal. In every development wastewater disposal shall comply with the requirements of the Sudbury Board of Health, the Sudbury Water Resources and Wastewater Bylaws, and applicable Department of Environmental Protection regulations.

**5440. Open Space.** Open Space requirements shall be set forth according to the acreage of the parcel, as follows:

SIZE OF PARCEL	Minimum % OPEN SPACE REQUIRED
10-15 acres	17.5% of the upland area of the parcel
16-20 acres	20% of the upland area of the parcel
21-25 acres	22.5% of the upland area of the parcel
over 25 acres	25% of the upland area of the parcel

No development, including clearing, primary or accessory structures, parking, wastewater disposal or stormwater management, shall take place within the 100-foot buffer area of any jurisdictional wetland, unless authorized by the Conservation Commission. Upon approval of the Conservation Commission, the buffer area may be reconfigured to provide better protection of resources on the site if such reconfiguration achieves a similar goal of resource protection; however, in no event shall the total area of the 100-foot buffer be reduced without compensation in an equal amount elsewhere on the site.

The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission

shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5441. **Ownership of Open Space.** The open space shall be owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

5442. On smaller parcels where conveyance of the open space property is not valuable to the Town or a conservation organization, the required open space as calculated above may be left in the control of the owners of the dwelling units in the development without the granting of a conservation restriction or other perpetual easement, with a notation on the Plan that such property is not available for construction of any structures and removal of vegetation is prohibited.

**5450. Price Restrictions.** Units developed under this Bylaw shall be sold and resold at no more than 2 times the cost for the sale of 2 bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded in the cost per unit calculation.

5451. **Enforcement of Sale and Resale Provisions.** Original purchase and resale prices shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Sale and resale provisions shall be contained in applicable deed restrictions, covenants, contractual agreements such as limited equity provisions, condominium association Bylaws and/or other mechanisms to ensure compliance. Such restrictions shall not be permitted to be altered without consent of the Town of Sudbury. Annual reporting to the Planning Board is required for all units sold or resold.

**5460. Procedures.** The procedure for issuance of a special permit for an Incentive Senior Development shall be as follows:

5461. **Application for Special Permit.** Any person who desires a Special Permit for construction of an Incentive Senior Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:



- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.
- b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetland Administration Bylaw.
- c. A Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to the Sudbury Wetland Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.
- d. A schedule of the stages or phases of development in accordance with which the applicant proposes to construct the development, including dates.
- e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

- f. Plans showing proposed methods of stormwater management, including drainage calculations.
- g. Plans showing proposed wastewater disposal facilities;
- h. Sample copies of the legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and Bylaws of the organization. All such documentation shall include a reference to the objectives of this Bylaw and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

5462. Reports from Town Boards or Agencies. The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Department of Public Works, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

**5470. Planning Board Action.** The Planning Board shall grant a Special Permit for an Incentive Senior Development if it finds, after holding a public hearing in accordance with requirements of G.L. c. 40A, that: (i) the development complies with the objectives of the Bylaw as stated herein; (ii) the development is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the development; (iv) the special permit use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the special permit use would not cause undue traffic congestion in the immediate area; (vi) the development plan responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

5471. Special Permit Conditions. In order to implement a Special Permit for an Incentive Senior Development and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings (a) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (b) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the

construction and installation of driveways, utilities, drainage and related services in such phase, and (c) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

5472. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

5473. The Planning Board may set forth further requirements and conditions in the Special Permit as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

**5480. Enforcement.** In accordance with the provisions of the General Laws, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this Section in equity or at law and to recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the development plan approved.

5481. The penalty provisions of these Bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s), or any and all persons having an interest in the development site.

5482. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

5483. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing

5500ATM 4/6/2009

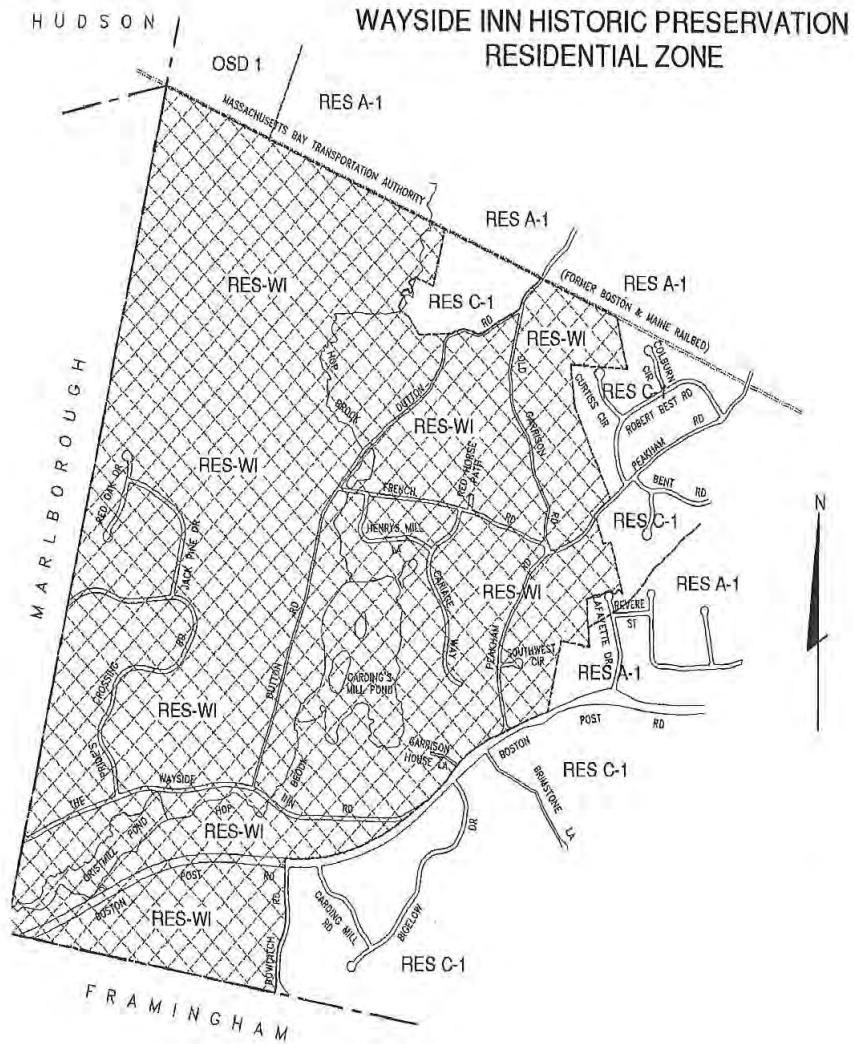
any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the Zoning Bylaw.

**5490. Rules, Regulations and Fees.** The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town Boards or Agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Special Permit under the provisions of this section. The Planning Board shall also specify the fees to be paid in connection with application for a Special Permit for an Incentive Senior Development, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.

#### **5500. ACCESSORY DWELLING UNITS IN RESIDENCE DISTRICTS**

**5510. Purpose.** The purpose of this bylaw is to increase housing opportunities in Sudbury by allowing the utilization of the existing housing stock to offer different housing styles reflective of a more diverse population, in terms of age, family size and income. The type of housing allowed under this bylaw may benefit several sectors of the population - current residents whose lifestyles no longer fit into the usefulness of a larger single family dwelling will be able to supplement their income by renting a portion of their home, and those not financially capable of home ownership may be able find suitable housing in these units - without adding to the number of buildings in Town or substantially altering the appearance of the Town. This type of diverse housing is in accordance with the 2001 Master Plan and the 2005 Community Housing Plan, and ensures compliance with zoning standards, regulations regarding building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

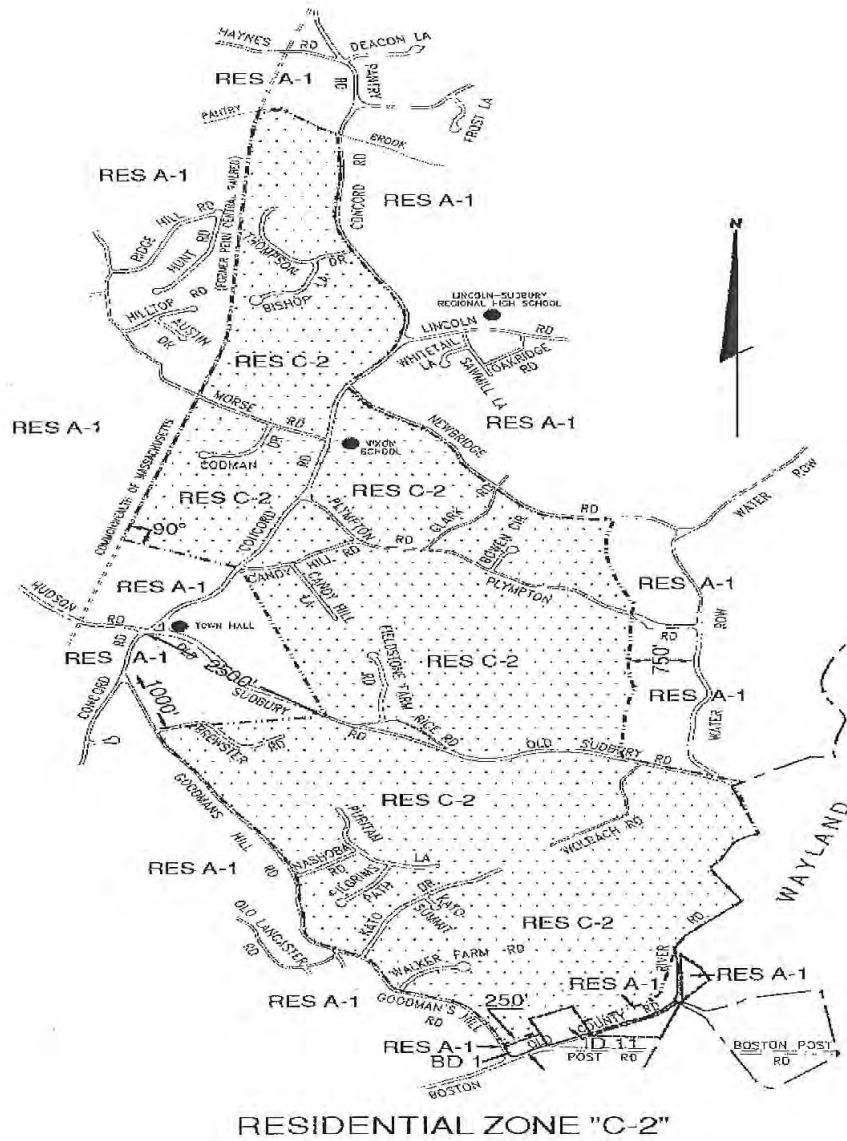
**5520. Conditions and Requirements.** An owner or owners of a single family dwelling in Single Residence District "A", "C" or Wayside Inn Historic Preservation Zone may apply to the Board of Appeals for a Special Permit for the creation and occupancy of an Accessory Dwelling Unit. Such application shall be accompanied by the application fee established by the Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of Health, the Board of Appeals may grant



**Wayside Inn Historic Preservation Residential Zone (WI)**

Beginning at a point on the Sudbury Town Line, said point being the Town Corner common to Sudbury, Framingham, and Marlborough; thence northerly along the Sudbury-Marlborough town line to a point on the centerline of the former Boston and Maine Railroad right-of-way, a distance of 10,150 feet, more or less; thence southeasterly along said railroad right-of-way to a point opposite the northeasterly corner of land now or formerly of Massachusetts Federation of Women's Clubs, a distance of 4,110 feet, more or less; thence southerly, westerly, southerly and easterly along said land of Massachusetts Federation of Women's Clubs to a point on the westerly sideline of Dutton Road, a distance of 2,340 feet, more or less; thence northeasterly along Dutton Road to a point on the centerline of the former Boston and Maine Railroad right-of-way, a distance of 1,520 feet, more or less; thence southeasterly along the railroad right-of-way to a point opposite the northwesterly corner of land shown as A.J. Lane Construction Corporation on plan number 25 of 1971, recorded with the Middlesex South Registry of Deeds, a distance of 1,160 feet, more or less; thence southerly, westerly and southerly along said land of Lane to a point on the northerly sideline of Peakham Road, a distance of 3,005 feet, more or less; thence southwesterly along Peakham Road to a point opposite the north-westerly corner of lot 1A shown on plan number 743 of 1960, recorded with the Middlesex South Registry of Deeds, a distance of 300 feet, more or less; thence southerly, crossing Peakham Road, a distance of 33 feet, more or less; thence southerly and easterly along said lot 1A to land formerly of Griffin, as shown on said plan number 743, a distance of 414 feet, more or less; thence southerly along land formerly of Griffin to the brook, a distance of 600 feet, more or less; thence westerly along said brook to a point on the easterly property line of lot 3-I shown on plan 1977 of 1946, recorded with the Middlesex South Registry of Deeds, a distance of 523 feet, more or less; thence southerly, westerly, and southerly along said lot 3-I to a point on the northerly sideline of Boston Post Road, a distance of 1,800 feet, more or less; thence westerly along Boston Post Road, crossing the Wayside Inn Road, to a point opposite the westerly sideline of Bowditch Road, a distance of 4,030 feet, more or less; thence southerly, crossing Boston Post Road, and running along the westerly sideline of Bowditch Road to a point on the Sudbury-Framingham town line, a distance of 1,600 feet, more or less; thence westerly along said Town Line to the point of beginning, a distance of 3,650 feet, more or less.

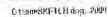






**Residential Zone "C-2" (C-Res)**

Commencing at a point on Goodman's Hill Road 250' North of the intersection of Goodman's Hill Road and the Boston Post Road, thence Northerly along Goodman's Hill Road to a point 1,000' East of the intersection of Goodman's Hill Road and Concord Road, thence extending in a straight line an Easterly direction to a point on Old Sudbury Road 2,500' Easterly from the intersection of Old Sudbury Road and Concord Road, thence Northerly in a straight line to the intersection of Candy Hill Road and Concord Road, thence Westerly in a straight line to the Penn Central Railroad track at right angles to the Pantry Brook, thence Easterly along Pantry Brook to the point where Pantry Brook crosses Concord Road, thence Southerly along Concord Road to the intersection of Concord Road and New Bridge Road, thence Easterly along New Bridge Road to a point 750' West of Water Row, thence Southerly along a line parallel to Water Row and 750' Westerly of Water Row to Old Sudbury Road, thence Easterly along Old Sudbury Road to the Wayland-Sudbury town line, thence Southerly along the Wayland-Sudbury town line to a point 250' North of Old County Road and thence Westerly parallel to Old County Road and 250' North of Old County Road and thence Westerly parallel to Old County Road and 250' Northerly of Old County Road to the intersection of Old County Road and the Boston Post Road, thence still Westerly 250' North of the Boston Post Road and parallel to the Boston Post Road to the point of beginning, exclusive of any Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park, Open Space and Research Districts within the above described boundaries.



## **APPENDIX C**

### **LOCATION OF ZONING DISTRICTS**

#### **RESIDENCE DISTRICTS**

Residence Zones in single residence districts are shown on the Zoning Map as Residence "A1"; Residence "C1", "C2"; and Wayside Inn Historic Preservation Zone, and are severally described as follows:

#### **Residential Zone "A-1" (A-Res)**

Beginning at the point of intersection of the town lines of Acton, Concord, Maynard and Sudbury, thence southeasterly along the Concord-Sudbury town lines to the Sudbury River; thence southerly by the Sudbury River and the Wayland-Sudbury town line to the point of intersection of the town lines of Sudbury, Wayland and Framingham; thence westerly along the Sudbury-Framingham town line to the point of intersection of the Marlboro, Sudbury and Framingham town lines; thence northerly along the Sudbury-Marlboro, Sudbury-Hudson, and Sudbury-Stow town lines to the point of intersection of the Sudbury, Stow and Maynard town lines; thence by the Sudbury-Maynard town line to the point of beginning, meaning and intending to describe the Town of Sudbury, but, excluding therefrom Residential Zones "C1" and "C2", the Wayside Inn Historic Preservation Residential Zone and all Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park, Research and Open Space districts.

#### **Residential Zone "C-1" (C-Res)**

Commencing at the intersection of the Boston-Maine Railroad tract and the Marlboro-Hudson town line and extending easterly along the Boston-Maine Railroad track to a point 1,000' east of Peakham Road, thence southerly parallel to Peakham Road and 1,000' easterly of Peakham Road to the Boston Post Road, thence easterly along the Boston Post Road to Dudley Road, thence southeasterly along Dudley Road to Nobscot Road, thence easterly and at right angles to the Penn Central Railroad track thence southerly along the Penn Central Railroad track to the Framingham-Sudbury town line, thence westerly along the Framingham-Sudbury town line to the Marlboro town line, thence northerly along the Marlboro-Sudbury town line to the point of beginning, exclusive of any Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park, Open Space and Research Districts, and the Wayside Inn Historic Preservation Zone, within the above described boundaries.

SECTION 2600 APPENDIX B - TABLE OF DIMENSIONAL REQUIREMENTS:

(also see sections 2326, 2327, 2630 and 2640 for exceptions and other requirements)

RD4/2/2002

A,C,WI 4/9/2003

4/11/2005 Ctr.Setback

DISTRICT	Minimum lot area (sq. ft.)	Min. lot frontage (ft.)	Min. front yard (ft.)	Min. side yard (ft.)	Min. rear yard (ft.)	Min. Street Centerline Setback (ft.)	Min. Side or Rear Setback from Residence Zone (ft.)	Max. height (# stories)	Max. height (ft.)	Max. Building Coverage (% of lot) <sup>i</sup>
A-RES	40,000	180	40	20	30	-	-	2.5	35	40
C-RES	60,000	210	40	20	30	-	-	2.5	35	40
WI	5 acres	210	40	20	30	-	-	2.5	35	40
BD	-	50	20 <sup>3</sup>	5 <sup>2</sup>	-	-	20	2.5	35	60
LBD	-	50	35	5	-	-	20	2.5	35	60
VBD	-	50	20 <sup>3</sup>	-	-	-	20	2.5	35	60
ID	-	50	20	30 <sup>2</sup>	30 <sup>2</sup>	-	30	2	35	60
LID	100,000	50	125	50 <sup>2</sup>	50 <sup>2</sup>	-	100	2	35	25
IP	100,000	50	125	50 <sup>2</sup>	50 <sup>2</sup>	-	300	2	35	25
RD	8 acres	200	100	50 <sup>4</sup>	50 <sup>4</sup>	-	150	3	45	18
OPEN SPACE	-	-	40	40	40	-	100	2	35	10

<sup>1</sup> Including principal and accessory buildings.

<sup>2</sup> Unless abutting a railroad siding.

<sup>3</sup> Set back a maximum of 40 feet.

<sup>4</sup> Unless abutting a railroad siding or Town Line.

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yard and 50 feet from the side and rear yard property lines; (3) if abutting a residential use, the facility must comply with a minimum 100 foot setback on any side abutting such use; (4) wastewater disposal shall only be by means of an on-site subsurface system complying with the requirements of Title 5, 310 CMR 15.000.

- iii. Hotels shall have a maximum of ten guest rooms.
- iv. Located, at their closest point, more than ten feet from an exterior wall of a lawful existing building, the sole purpose of which is to dispense or provide products, service or entertainment, including, but not limited to financial information or transaction services.
- v. Incidental to and usual in connection with any permitted uses on the same premises, provided that the major portion of the products are sold at retail on the premises and that not more than 1,000 square feet of floor area per establishment are used for such manufacturing.
- vi. Only as incidental to research, development or engineering work.

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>i</sup>	ID	LID	IP	RD
20. ATMs, kiosks and similarly sized service booths and detached structures <sup>iv</sup>	N	N	N	N	N	N	N	N	N	N
21. Drive-in establishments regularly dispensing merchandise or money from inside a building to persons outside but excluding the dispensing of food or drink	N	N	N	Y	N	N	N	N	N	N
22. Indoor commercial recreation	N	N	N	ZBA	N	Y	ZBA	ZBA	N	N
23. Outdoor commercial recreation	N	N	N	N	N	N	ZBA	Y	N	N
24. Club or lodge, private	N	N	N	Y	Y	Y	Y	Y	N	N
25. Major commercial project	N	N	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
26. Pools, Private (reference section 2325)	Y	Y	Y	N	ZBA	Y	N	N	N	N
27. Pools, Public or semi-public (reference section 2325)	ZBA	ZBA	ZBA	N	ZBA	ZBA	N	N	N	N
D. INDUSTRIAL										
1. Light manufacturing	N	N	N	Y <sup>v</sup>	Y <sup>v</sup>	Y <sup>v</sup>	Y	Y	Y	Y <sup>vi</sup>
2. Laboratory for research and development	N	N	N	Y	N	N	N	Y	Y	Y <sup>vi</sup>
3. Wholesale, warehouse, self-storage, mini-warehouse or distribution facility	N	N	N	N	N	N	Y	Y	Y	N
4. Manufacturing	N	N	N	N	N	N	Y	Y	Y	Y <sup>vi</sup>
5. Wholesale or retail lumber yard	N	N	N	N	N	N	Y	ZBA	N	N

<sup>i.</sup> Any single occupancy of more than 10,000 square feet of building area, exclusive of basement or attic storage space shall not be permitted in the Village Business District.

<sup>ii.</sup> Provided that: (1) such use is on a parcel with a minimum size of 5 acres; (2) the facility can comply with minimum setbacks of 50 feet from front

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>i</sup>	ID	LID	IP	RD
2. Educational use, nonexempt	N	N	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
3. Farm stand, nonexempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Animal clinic or hospital	N	N	N	BOS	N	N	BOS	N	N	N
5. Kennel	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
6. Nursing or convalescent home and assisted care facility	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	N	ZBA <sup>ii</sup>	ZBA <sup>ii</sup>	N	N	N	Y
7. Funeral home	N	N	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
8. Adult day care facility	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
9. Bed and Breakfast	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
10. Motel or hotel	N	N	N	ZBA	N	Y <sup>iii</sup>	ZBA	N	N	N
11. Retail stores and services not elsewhere set forth	N	N	N	Y	Y	Y	Y	Y	N	N
12. Motor vehicle sales and rental	N	N	N	ZBA	N	N	ZBA	N	N	N
13. Motor vehicle general and body repair	N	N	N	ZBA	N	N	ZBA	N	N	N
14. Motor vehicle light service	N	N	N	ZBA	N	N	ZBA	N	N	N
15. Personal service establishment	N	N	N	Y	Y	Y	N	N	N	N
16. Restaurant	N	N	N	Y	Y	Y	Y	N	N	N
17. Business or professional office	N	N	N	Y	Y	Y	Y	Y	Y	Y
18. Medical center or clinic	ZBA	ZBA	ZBA	N	ZBA	ZBA	N	N	N	Y
19. Bank, financial agency	N	N	N	Y	Y	Y	Y	Y	Y	Y



PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>j</sup>	ID	LID	IP	RD
B. EXEMPT AND INSTITUTIONAL USES										
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Family day care	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Child care facility (in existing building)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Child care facility (not defined in M.G.L., Chapter 28A, section 9)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
6. Use of land for the primary purpose of agriculture, horticulture, floriculture, or in accordance with M.G.L. c. 40A, s.3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Municipal purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
9. Essential services	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
C. COMMERCIAL										
1. Agricultural use, nonexempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

SECTION 2230 APPENDIX A  
TABLE OF PRINCIPAL USE REGULATIONS

B.5  
4/2/02, 4/6/10  
C.11  
5/4/11  
B.6  
5/8/2012  
D.3  
4/7/03

D I S T R I C T S

PRINCIPAL USE	A-RES	C-RES	WI	BD	LBD	VBD <sup>i</sup>	ID	LID	IP	RD
A. RESIDENTIAL										
1. Single-family dwelling	Y	Y	Y	N	ZBA	Y	N	N	N	N
2. Residential apartments on second and/or third floors, above ground level business uses	N	N	N	N	N	Y	N	N	N	N
3. Boarding house	ZBA	ZBA	ZBA	N	ZBA	ZBA	N	N	N	N
4. Cluster Development (Section 5100)	PB	PB	PB	N	N	N	N	N	N	N
5. Flexible Development (Section 5200)	PB	PB	PB	N	N	N	N	N	N	N
6. Senior Residential Community (Section 5300)	PB	PB	PB	N	PB	PB	N	N	N	PB
7. Incentive Senior Development (Section 5400)	PB	PB	N	N	PB	PB	N	N	N	PB
8. Residential care facility	N	N	N	N	N	N	N	N	N	Y

A-RES = A-Residential

C-RES=C-Residential

WI=Wayside Inn Historic Preservation Zone

BD=Business District

LBD=Limited Business District

VBD=Village Business District

ID=Industrial District

LID=Limited Industrial District

IP= Industrial Park District

RD=Research District

Y=Permitted Use

N=Prohibited Use

ZBA=Use Requires a Special Permit by the Zoning Board of Appeals

BOS=Use Requires a Special Permit by the Board of Selectmen

PB=Use Requires a Special Permit by the Planning Board

8000 ATM 5/8/ 2013  
8000 Deleted ATM 5/7/ 2014

**Zone II (Aquifer Contribution Zone):** That area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated.

**Zone III (Aquifer Recharge Zone):** The land area beyond the area of Zone II from which surface water and ground water drain into Zone II.

CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**Warehouse:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

**Wireless services:** "Personal wireless facilities" referenced in Section 704 of the Telecommunications Act of 1996. These include, but are not limited to, all commercial mobile services which are for-profit, are available to the public or a substantial portion of the public, and provide subscribers with the ability to access or receive calls from the public switched telephone network or other similar services, and the transceivers, antenna structures and other types of installations used for the provision of personal wireless services. Common examples include personal communications services (PCS), cellular radio mobile service, paging services, unlicensed wireless services, and common carrier wireless exchange access services.

**Yard:** An open space on a lot unoccupied by a building or structure or such parts thereof; provided, however, that cornices, or eaves not exceeding eighteen inches in width, steps, unroofed porches, window sills, slanted bulkheads, fences, gates or security stations, yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. The minimum required yard shall be a strip of land of uniform depth required by this bylaw measured from the lot or street line and adjacent thereto.

**Yard, front:** A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building, as measured perpendicular to nearest street or way line. The depth of a front yard shall be the minimum distance between the building and front lot line.

**Yard, rear:** A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.

**Yard, side:** A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and side lot line.

**Zone I:** The protective radius required around a public water supply well or well field, measured as a 400 foot radius from the well.

erected thereon. A public or private way shall not be deemed to be a street as to any lot of land that does not have rights of access to and passage over said way.

**Street frontage:** A street which provides the required frontage for a building. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal building on the lot is numbered on such frontage street.

**Street line:** The boundary of a street right-of-way or layout.

**Structure:** A combination of materials assembled to give support or shelter, such as buildings, towers, masts, sheds, roofed storage areas, mechanical equipment, swimming pools, signs; but not including septic tanks and septic systems, and accessory facilities associated with the provision of utilities such as drains, wells, transformers and telephone poles.

**Structure, height in feet of:** Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire structure to the highest extension of any part of the structure.

**Structure, temporary:** A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the intensity schedule of section 2600 and shall receive a permit from the building inspector.

**Swimming Pool:** A structure or tank designed or customarily used for human swimming and which is at least 18 inches in depth and at least 10 feet in its longest dimension.

**Toxic or hazardous materials:** Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, environmental quality, or to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, pathogenic or infectious wastes, solvents, thinners and other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency under any of the following laws: (1) Toxic Substances Control Act 15 U.S.C. s.2601 et seq.; (2) Federal Insecticide, Fungicide and Rodenticide Act 7 U.S.C. s.136 et seq.; (3) Resource Conservation and Recovery Act of 1976 42 U.S.C. s 6901 et seq.; (4) Comprehensive Environmental Response, Compensation and Liability Act of 1980 42 U.S.C. s.9601 et seq.; and (5) Federal Water Pollution Control Act 33 U.S.C. s.1251 et seq. and all substances defined as Toxic or Hazardous under G.L. c. 21C and c. 21E and 310

**43. Vehicle Sign:** Any sign on a vehicle of any kind, provided the sign is painted or attached directly to the body of the original vehicle and does not project or extend beyond two (2) inches from the original manufactured body proper of the vehicle. The vehicle to which the sign is attached shall be in proper working order and shall bear a current license plate and shall not be permanently parked on a public street or street right-of-way. A sign in or on a vehicle that advertises the vehicle for sale, lease or rental shall not be considered a Vehicle Sign.

**44. Wall Sign:** Any sign attached parallel to, but within twelve inches of, a wall, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

**45. Window Area.** The total area of all windows along a building frontage.

**46. Window Sign:** Any sign visible from the exterior of a building that is painted on, affixed to, or suspended immediately in front of, on, or up to 24" behind a window.

**Solid wastes:** Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, combustion residues, garbage, scrap materials, junk, inert fill material, demolition debris, construction wastes and refuse.

**Story:** That portion of a building contained between any floor and the floor or roof next above it, not including either the lowest portion so contained if more than one-half of such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

**Story, half:** A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

**Street:** A street shall be 1) an improved public way laid out by the Town of Sudbury, or the Middlesex County Commissioners or the Commonwealth of Massachusetts; or 2) a way which the Sudbury Town Clerk certifies is maintained by public authority and used as a public way; or 3) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law; or 4) a way in existence as of January 1, 1954 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be

32. **Real Estate Signs:** All signs advertising the sale or rental of the premises on which it is located; on subdivisions of land, all signs erected solely to advertise the selling of land or buildings in said subdivision.

33. **Religious Institution Signs:** All signs erected by religious institutions on any land, building or structure used by such institutions.

34. **Repair:** To restore to sound condition, but not reconstruct. Repairs are considered general, routine maintenance.

35. **Resident Identification Sign:** Any sign in a residential district, either attached or freestanding, indicating only the name of the occupant, street number, and accessory permitted uses or occupations engaged in thereon.

36. **Roof Line:** The top of the roof or the top of the parapet, whichever forms the top line of the building silhouette, on the side of building on which the sign is located.

37. **Roof Sign:** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure.

38. **Self-illuminated sign:** Any sign illuminated by an artificial light source located within the front face of the sign including channel letters.

39. **Sign:** Any object, device, display, or structure or part thereof which is affixed to or otherwise represented directly or indirectly upon a building interior or exterior or piece of land and that is used to advertise, identify, display, or attract attention to any object, person, institution, organization, business, product, service, place, activity, or event related to the premises on which the sign is situated by any means including words, letters, figures, designs, or symbols.

40. **Sign Face:** The area made available by the sign structure for the purpose of displaying a message thereon.

41. **Sign Permit:** A permit issued by the Town to regulate the erection, expansion, alteration, relocation, or reconstruction of signs in all parts of this municipality.

42. **Temporary Sign:** A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, sheet metal, plywood or similar materials on private property and intended to be displayed for a limited period of time, includes political signs.



22. **Illumination:** Any method of giving forth artificial light, either directly from a source of light incorporated in or connected with a sign, or indirectly from an artificial source.
23. **Integral Roof Sign:** Any sign erected, constructed, painted-on, or woven into the shingles of the roof as an integral or essentially integral part of a normal roof structure of any design, including a false mansard roof or other fascia, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by more than 12 inches.
24. **Interim Sign:** Any sign used as an identifier of the business on the property on a temporary basis, which is replaced with a permanent sign.
25. **Lightbox:** Any sign illuminated by an internal light source located behind a translucent panel which is the continuous front face of the sign.
26. **Lighting Cove:** A decorative architectural device that conceals a light source and is mounted above, below or around and separate from a sign face, leaving a gap that reflects the light back and creates a soft lighting effect around the sign face.
27. **Maintain:** To allow to exist or to continue.
28. **Neon Sign:** A self-illuminated sign using neon light which is created by injecting either neon or argon gas into an exposed thin glass tube that has been bent to form either letters or graphic designs.
29. **Non-conforming Sign:** Any sign that existed on the effective date of this ordinance (or amendment thereto), and does not comply with the regulations set forth herein.
30. **Portable Signs:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs. Includes A-Frame Signs.
31. **Projecting Sign:** Any two-sided sign which is supported by an exterior wall of a building with the exposed face of said sign in a plane approximately perpendicular to the plane of the wall, etc. and projecting more than twelve (12) inches and less than sixty (60) inches.

and/or announcing the character or purpose of the building, but not advertising any product.

15. **Direct Illuminated Sign:** Any sign illuminated by an artificial light source located in front of the face of the sign. This includes lighting coves. Where signs are externally illuminated, adjacent roads and properties shall be screened from the light source.
16. **Directional Sign:** Any signs erected near a street, driveway or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. Directional signs shall not advertise, identify or promote any product, person, premises or activity but may identify the street name/number and provide traffic directions.
17. **Directory Sign/General Directory Sign:** A sign giving the name, address number and location of the occupants of a building or buildings, and may also include a map or plan and the name of the business center to locate such buildings, if it is a general directory sign.
18. **Flag:** Any fabric banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government or political subdivision and that is mounted to a pole or building attached at a maximum of one point to a structure. A flag must be free-flying (i.e., it must be attached to a pole on one end only, not two).
19. **Freestanding Sign:** Any two-sided sign supported by one or more uprights or braces placed on, or anchored in, the ground and not attached to any building or structure.
20. **Fuel Pump Signs:** In accordance with M.G.L.c.94, s.295, standard gasoline fuel pump signs on service station fuel pumps bearing thereon in usual size and form the name, type and price of the gasoline.
21. **Governmental, Utility or Public Safety Signs:** Any signs such as traffic control signs, railroad crossing signs, legal notices, signs that serve as an aid to public health or safety or that show the location of public telephone, underground cables, etc. Includes signs erected and maintained by the Town of Sudbury, the Sudbury Water District, the Sudbury Housing Authority, the Lincoln-Sudbury Regional High School, the Commonwealth of Massachusetts, or the Federal Government on any land, building or structure used by such agencies and any other signs at any location required by such agencies.

8. **Business Center Identification Sign:** Any sign identifying a building or group of buildings containing two or more businesses. All business center identification signs shall contain only the name and address of the business center, and shall not contain logos, icons or names of individual businesses.
9. **Business:** All of the activities carried on by the same legal entity on the same premises and shall include, but not be limited to, service, commercial and industrial uses and fraternal, benevolent, educational and social organizations.
10. **Business Center:** Two or more business tenants as occupants in a building, or on land in single ownership, or business condominiums.
11. **Canopy Sign:** Any sign that is a part of or attached under an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area, and viewed when one is under a canopy.
12. **Changeable Copy Sign:** A sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign. A sign on which the only copy that changes is an electronic or mechanical indication of the time and temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign.
13. **Channel Letters:** Individual, three-dimensional, hollow letters, as metal or plastic structures, and mounted to the front face of a sign.
- a. **Silhouette Letters:** Also called reverse channel letters, these opaque hollow letters are manufactured with individual lights built into each letter, and the letters are mounted with stand-offs, leaving a gap between the rear of the letter and the sign face. The illumination directs the light back onto the surface of the sign face creating a halo effect around the letter.
  - b. **Backlit Channel Letters:** Similar to Silhouette letters, these hollow letters are manufactured with individual lights built into each letter, and the front of each letter is fitted with a translucent colored plastic, which allows for the illumination to be seen through the face of the letter. These letters are mounted directly to the sign face or with stand-offs.
14. **Construction Sign:** Any sign identifying the architects, engineers, contractors, and other individuals or firms involved with the construction,

of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

**Zone III:** That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

The following definitions apply specifically to **Article 3200 SIGNS AND ADVERTISING DEVICES**:

1. **Alter:** To change the size, shape, height, colors, lettering or materials of a sign.
2. **Animation:** Any form of movement by electric, mechanical, or kinetic means including, but not limited to, rotation, revolving or wind activation of all or a portion of a sign, or incorporating flashing or intermittent lights for sign illumination.
3. **Awning Sign:** Any fabric-covered roof-like structure, projecting from a building and providing shelter from the weather, which serves as a sign or advertising device. For secondary signs, verbiage shall occur on the valance of the awning.
4. **Banner Signs:** Any sign of lightweight fabric or similar non-rigid material, including nylon, vinyl, cloth, canvas or similar fabric, and which is attached to a rod at the top. National flags and state or municipal flags shall not be considered banners.
5. **Beacon:** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.
6. **Billboard:** Any single or double-faced sign that is permanently fixed or placed on particular premises advertising goods, products or services that are not sold, manufactured or distributed from the premises or facilities on which the sign is located.
7. **Building Frontage: Primary Building Frontage:** The lineal extent of the public face of a structure which is occupied/leased by a single business and which contains the front door to the business. **Secondary Building Frontage:** If a business has a direct customer entrance into the business in a wall other than the front wall, the lineal extent of the public face of this side.

Against Radiation) or any other applicable provisions of federal or state law or regulation.

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

**Recorded Lots:** Lawfully laid out lots are governed and protected under the provisions of G.L. Chapter 40A, section 6.

**Residential care facility:** The provision of assisted living and/or independent living arrangements to persons 55 years or older in one or more buildings.

**Restaurant:** A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food restaurants."

**Restaurant, fast-food:** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

**Retail:** A facility selling goods but not specifically listed in the Table of Principal Use Regulations.

**Solid Waste:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility as defined by 310 CMR 19.00 and regulated by 310 CMR 30.00.

**Stormwater Management:** The process of ensuring that the volume and velocity of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

**Zone I:** The 400-foot protective radius required by the DEP around a public water supply well or wellfield.

**Zone II:** That area of an aquifer that contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well, and by the contact of the edge

**Nursing or convalescent home:** Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**Open Space:** Open space areas shall be those areas of a lot which, except as provided by this bylaw, are to remain unbuilt and which shall not be used for parking, storage or display.

**Parking garage:** A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

**Parking stall, length of line:** The dimension of the stall measured parallel to the angle of parking.

**Parking stall, width:** The linear dimension measured across the stall and parallel to the maneuvering aisle.

**Personal service establishment:** Collection station for laundry or dry cleaning, frozen food locker, hand or self-service laundry, photographic studio, or repair shop for wearing apparel or accessories; personal service shops of a barber, hairdresser, manicurist, shoe shiner; shops for custom work by a dressmaker, furrier, interior decorator, milliner, or tailor; shops for custom work by a cabinet maker, job printer, repairer of household appliances or furnishings, shoemaker, upholsterer, or woodworker.

**Pollutant:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, which is or may be discharged, drained or otherwise introduced into any surface or subsurface disposal or conveyance system, or waters of the Commonwealth.

**Process liquids:** Liquids used in cooling, cleaning or in manufacturing processes which contract raw materials, products, wastes or machinery and which because of that contact may contain pollutants as defined herein.

**Publicly Owned Treatment Works (POTW):** Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

**Radioactive materials:** Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection



**Maneuvering aisle:** A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

**Medical center or clinic:** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**Medical Marijuana Treatment Center:** A “not-for-profit entity, as defined by Massachusetts law only, registered by the MA Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”

**Mining of Land:** The removal or relocation of geologic materials such as topsoil, sand gravel, metallic ores, or bedrock.

**Motel or hotel:** A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**Motor vehicle body repair:** An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts.

**Motor vehicle general repair:** Premises for the servicing and repair of autos, but not to include fuel sales.

**Motor vehicle light service:** Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

**Municipal purposes:** Use of any building, facility or area owned or leased by and operated by the Town for the general use and welfare of the Town, its inhabitants or businesses located within the Town.

**Non-conforming use or structure:** Any use or structure which is lawfully in existence or lawfully begun, but which does not conform to the most recent, effective zoning regulations for the district in which such use or structure exists.



**Lot area:** Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which the lot abuts, even if fee to such street is in the owner of the lot; provided, however, when computing minimum lot area for any lot laid out and submitted for approval by the Planning Board, in accordance with G.L. c. 41 as of the effective date of this bylaw, no land designed for surface collection of storm water or drainage waters (i.e., detention, retention, infiltration ponds or basins, etc.) and no more than twenty-five percent (25%) of the minimum required lot size in any district which is underwater land or wetland resource area as defined in G.L. c. 131, s. 40 or the Sudbury Wetlands Administration Bylaw shall be used in the computation. The above limitation on calculated "lot area" shall not be applied in determining maximum building coverage, maximum floor area ratio or any open space requirement set forth herein.

**Lot, corner:** A lot with two (2) or more sides abutting upon streets. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the lot frontage by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street.

**Lot frontage:** The uninterrupted linear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in street line, and in the case of a corner lot shall extend to the point of intersection of the sideline of the rights-of-way. The legal right and physical ability to cross this line must exist. For purposes of calculation, the frontage length at the intersection of two streets is to be measured to the point of intersection of the two tangents. The point of intersection of the tangents at the intersection of two streets is considered to have frontage on each street.

**Lot line:** A line dividing one lot from another, or from a street or any public place.

**Lot line, rear:** A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the frontage street. Where, because of irregular lot shape, the building inspector and the lot owner cannot agree as to whether a lot line is a side or a rear line, it shall be considered a rear line.

**Major commercial project:** Any commercial or industrial building or combination of buildings containing more than 20,000 gross square feet which is a Permitted Use or a Special Permit Use in a specific zoning district pursuant to section 2230, Table of Principal Use Regulations (Appendix A).

- a. 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator, and/or
- b. a quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

**Home occupation:** Any occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

**Impervious surface:** Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil. This shall include non-paved surfaces that are compacted through regular use of automobiles such as gravel driveways or dirt roads.

**Junk:** Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning cannot be used for its original purpose as readily as when new shall be considered junk.

**Junkyard or automobile graveyard:** The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

**Landfill:** A facility or part of a facility established in accordance with a valid site assignment for the disposal of solid waste into or on land.

**Leachable waste:** Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.

**Light manufacturing:** Fabrication, assembly, processing, finishing work or packaging.

**Lot:** An area of land, undivided by any street, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) A deed recorded in Middlesex County South District Registry of Deeds, or 2) A certificate of title issued by the Land Court and registered in the Land Court section of such Registry or 3) Title of record disclosed by any and all pertinent public documents.

**Farm stand, nonexempt:** Facility for the sale of produce, and other edible farm products, flowers, fireplace wood, preserves, dairy and similar products on property not exempted by G.L. c. 40A, s. 3, provided however that the products have been produced by the owner of the land on which the facility is located.

**Floor area, gross:** The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces.

**Funeral home:** Facility for the conducting of funerals and related activities such as embalming.

**G.L.:** Massachusetts General Laws.

**Groundwater:** All the water found beneath the surface of the ground. In this bylaw the term refers to the subsurface water present in aquifers and recharge area.

**Hazardous or Toxic Materials:** Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

**Hazardous waste:** Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010 and/or MGL Chapter 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

**Hazardous Material or Waste, Household Quantity of Any or all of the following:**

- a. 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and/or

**Dwelling:** A building for human habitation, which shall not include a trailer or other mobile living unit. Single and two family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively. A multi-family dwelling shall be one designed for and occupied by three (3) or more families.

**Dwelling unit:** A room or group of rooms forming a habitable unit for one family, with facilities used, or intended to be used, for living, sleeping, cooking, eating, and sanitation.

**Dwelling unit, accessory:** A second dwelling unit located within a structure constructed as a detached single family dwelling, or its accessory structures, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the appearance of the structure as a one family dwelling.

**Earth removal:** Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

**Educational use, nonexempt:** Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

**Erect:** To build, construct, reconstruct, alter, enlarge, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

**Essential services:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overland, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Family:** A person or number of persons occupying a dwelling unit and living as a single housekeeping unit, provided that a group of six or more persons shall not be deemed a family unless at least half of them are related by blood, marriage or adoption, including wards of the state.

**Family day care:** Any private residence which on a regular basis receives for temporary custody and care during part or all of the day, children under seven (7) years of age or children under sixteen (16) years of age if such children have special needs.

**Building height in feet:** Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the ridge or highest point of the roof.

**Building, principal:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**Business or professional office:** A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

**Child Care Facility:** A child care facility, as that term is defined in G.L. c. 40A, s. 3.

**Commercial recreation, indoor:** A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Indoor commercial recreation shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers or places of assembly conducted for or not for profit.

**Commercial recreation, outdoor:** Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this Bylaw.

**Club or lodge, private:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**Demolition:** Removal of a building or structure by any means whatsoever.

**Design Flow:** The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

**Dog Kennel:** An establishment in which more than three (3) dogs are housed, groomed, bred, boarded, trained or sold.

**Driveway, interior:** A travel lane located within the perimeter of a parking lot which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the access driveway.



**Agricultural use, nonexempt:** Agricultural use of property not exempted by G.L. c. 40A, s. 3.

**Alteration:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**Animal clinic or hospital:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic or hospital use.

**Animal Feedlot:** A plot of land on which 25 livestock or more per acre are fed on a regular basis.

**Aquifer:** Geologic formation, composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**Assisted care facility:** A structure or structures containing dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by Chapter 19D of the General Laws.

**Best Management Practices (BMPs):** Any structural or non-structural mechanism designed to minimize the impact of nonpoint source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs.

**Boarding house:** A dwelling or part thereof in which lodging is provided by the owner to not more than five (5) boarders. Where more than two (2) unrelated individuals rent a portion of a dwelling, it shall be considered a boarding house.

**Building:** A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**Building coverage:** Building coverage shall be determined by dividing the total area of all buildings on a lot, including carports and canopies, whether or not such carports or canopies are part of a building, by the total lot area.

7000: Swimming Pool ATM 4/2/2002  
7000 ATM 4/14/2004  
7000 ATM 4/11/2005  
7000 ATM 4/6/2009  
7000: Structures ATM 4/6/2010  
7000 ATM 5/7/2014

#### **6700. SEPARABILITY.**

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

#### **ARTICLE 7000. DEFINITIONS**

In this bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.

**Access driveway:** The travel lane that allows motor vehicles ingress from the street and egress from the site and includes the area between the sideline of the street to the area within the lot where the access driveway is no longer within the minimum parking area setback required in section 3100 and to the perimeter of the parking lot.

**Accessory building:** An accessory building is one located on the same lot with the main building, detached or attached, and is subordinate and customarily incidental to the use of the main building.

**Accessory use:** An accessory use is one located on the same lot with (or in) the main building or use and which is subordinate and customarily incidental to the use of the main building or land.

**Adult day care facility:** A building or structure where care, protection, and supervision are provided, on a regular schedule, to adults over the age of 18.



**6520. Organization.** The Design Review Board shall elect from among its members a Chairman, Vice-Chairman and shall arrange for the services of a Secretary and such other officers or employees as is deemed necessary. Each officer shall serve for a term of one (1) year. The Design Review Board shall adopt rules and guidelines as are considered necessary to the conduct of its responsibilities which shall be a matter of public record. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine.

**6530. Proceedings.** The Board shall keep records of its proceedings showing the vote of each member on every question, of the fact of their absence or failure to vote, and the final decision of the Board. Records shall also be kept of all plans, photographs and any other documents pertaining to each case, as well as all examinations, findings, determinations, and any other official action, including all reasons for all decisions and conditions prescribed; and all such items shall be a matter of public record. Decisions of the Design Review Board shall be by a simple majority and no final action shall be taken without the concurrence of at least three members.

**6540. Duties and Procedures.** Whether or not requested by the applicant, the Design Review Board shall review all applications for building permits, special permits or variances for all proposals for non-residential uses if involving new construction, exterior alteration, or a sign larger than six square feet. An extra copy of all usual submittals required for such proposals shall be provided through the Inspector of Buildings. The Design Review Board review shall preferably be done in consultation with the applicant and their designer. The Design Review Board shall make an advisory report in writing to the applicant and as follows. Lack of a report from the Design Review Board shall not be sufficient reason to delay action on a proposal which otherwise could be acted upon by the Building Inspector, Special Permit Granting Authority, or Board of Appeals.

6541. For signs and building permits. A report to the Building Inspector regarding any changes to which the applicant has voluntarily agreed.

6542. For special permits. To the Special Permit Granting Authority regarding effect of the amenity on the neighborhood.

6543. For variances. To the Board of Appeals regarding possible detriment to the public good or derogation from the intent or purpose of the bylaw.

**6600. AMENDMENTS.**

This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

6389. No Certificate of Occupancy shall be issued by the Building Inspector until the site has been developed in compliance with the approved site plan, unless completion is delayed by seasonal considerations. In such instances, the Building Inspector may issue a temporary occupancy permit and shall require sufficient security to insure full compliance within six months.

**6390. Special Provisions in Village Business Districts.** In reviewing a site plan within the Village Business District, the Planning Board shall require the following: a) pedestrian circulation shall be safe and easy between all abutting properties, as well as within an individual property; b) all new structures and alterations to existing structures shall be respectful of the scale and visual character of the existing neighborhood; and c) all plans shall be reviewed by the Design Review Board, in a public hearing.

**6390A. Lapse and Appeal.** Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant. An appeal from a decision of the Planning Board relating to the substantive provisions of the Zoning Bylaw pursuant to section 6300 shall be taken in accordance with the provisions of G.L.c.40A,s.8.

**6400. PLANNING BOARD ASSOCIATE MEMBER.**

A majority of the Planning Board shall appoint one (1) individual as an associate member of the Planning Board for applications where the Planning Board acts as a Special Permit Granting Authority. An Associate Member shall be appointed every two (2) years by the Planning Board. In the event of a vacancy in the position of Associate Member, the position shall be filled in the same manner as in the case of the original appointment. The Chairman of the Planning Board may require such Associate Member to be in attendance at special permit hearings, and may designate such Associate Member to sit on the Board in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

**6500. DESIGN REVIEW BOARD.**

**6510. Establishment and Membership.** A Design Review Board is hereby established. Said Design Review Board shall consist of five (5) members who shall be appointed by the Planning Board in the manner prescribed herein. Members of the Design Review Board shall include, where possible in order of preference, an architect, a landscape architect, a resident from within or near the Business District and a graphics designer. Members shall serve for three years or until their successors are appointed.

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prepared by a professional, and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

**6380. Approval.** Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

- 6381. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
- 6382. Maximize pedestrian and vehicular safety both on the site and egressing from it;
- 6383. Minimize obstruction of scenic views from publicly accessible locations;
- 6384. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- 6385. Minimize glare from headlights and other light sources from the site onto other properties;
- 6386. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
- 6387. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; and
- 6388. Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping.

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walks, planting areas with size and type of stock for each shrub or tree; walls, fences, outdoor lighting and existing and proposed contours of the land at two foot intervals.

6354. A Building Plan(s) and Elevations shall be prepared by a Registered Architect in all cases where the plan specifies a facility of 35,000 cubic feet or more of gross volume. In any case a Building Plan(s) shall show the front elevation of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the gross floor area used to calculate the required parking and the proposed uses to be conducted on each floor. An architectural rendering of the appearance of the proposed new or altered structures, showing front and side features as they will appear from the public way or private access, shall also be submitted.

6355. Signs and outdoor advertising features shall be subject to the regulations of Section 3200, Signs and Advertising Devices. Such signs shall be reviewed as an integral element in the design and planning of all developments.

6356. Such other information as the Board may reasonably require including special studies or reports, such as traffic or hydrological impact studies.

**6360. Reports from Town Boards or Agencies.** The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Design Review Board, Town Engineer, Building Inspector, Fire Chief and such other boards, departments or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and to the applicant prior to the scheduled hearing on the site plan.

**6370. Minor Site Plan.** The Planning Board may, upon written request of the applicant, waive any of the technical requirements of this Section 6300, including the requirement for a public hearing, where the project involves relatively simple development plans or constitutes a minor site plan. Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate the gross floor area of new construction permitted within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 6350; provided, however, that the scale of the site plan may as agreed upon with the Planning Board, need not be

incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

6334. The time limits set forth herein may be extended by mutual consent of the Planning Board and the applicant.

6335. Minor deviations from an approved site plan, as determined by the Planning Board, shall be permitted without formal modification thereof.

**6340. Rules, Regulations and Fees.** The Planning Board shall adopt, and from time to time amend, rules and regulations not inconsistent with the provisions of this Section or G.L. c. 40A or other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a site plan. Such Rules and Regulations form an integral part of this Section.

**6350. Application.** Any person seeking site plan approval shall submit a written application therefor to the Planning Board. Each such application shall be accompanied by the following:

6351. A written statement detailing the proposed use, the extent of the building coverage and open space, drainage calculations and calculations of the volume of earth to be removed.

6352. Site Plan(s) prepared by a Registered Professional Engineer or Registered Land Surveyor, as appropriate to the data, showing all lot lines and setbacks, zoning district boundaries including flood plain; all wetlands and wetland buffer zones; all areas designated as open space; all existing and proposed topography at one foot intervals; buildings, structures, signs with location and size; parking and loading spaces; the limits of all paving and open storage areas and facilities for sewage, waste disposal and drainage. The Site Plan shall include that portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which this site plan approval is sought.

6353. A Landscape Plan(s) shall be prepared by a Registered Landscape Architect in all cases where the plan(s) specifies a proposed facility of 10,000 square feet or more of gross floor area, or a facility requiring 40 or more parking spaces. In any case, a Landscape Plan shall show the limits of work, the existing tree line and all proposed landscape features and improvements including



### CLASSIFICATION OF USES

Educational	Repair Shop & Building Trade
Religious	Veterinary and Kennel
Philanthropic	Financial & Business Office
Medical Center & Nursing Home	Medical Center & Laboratory
Lodge and Club	Auto Service Station
Hotel and Motel	Auto Body Shop
Retail Store	Vehicular Dealership
Personal Service Shop	Warehouse
Restaurant	Storage Yard
Indoor Recreation	Manufacturing, Packaging, Processing, Testing
Outdoor Recreation	Laboratory Research & Development
Funeral Home	Professional Office

**6330. Procedures.** Applications for site plan approval shall be in accordance with the Rules and Regulations of the Planning Board. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within one hundred-twenty (120) days of its receipt, but after a public hearing has been held, and notify the applicant of its decision. A majority vote of the Planning Board shall be required and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, unless 120 days lapse from the date of the submittal of the complete site plan without action by the Planning Board.

6331. Application for Building Permit. An application for a building permit to perform work as set forth in Section 6310 shall be accompanied by an approved site plan.

6332. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 6310 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 6310 shall contain the following condition:

The work described herein requires the approval of a site plan by the Sudbury Planning Board pursuant to Section 6300 of the Zoning Bylaw. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

6333. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be

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determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

**6300. SITE PLAN REVIEW.**

**6310. Applicability.** The following types of activities and uses require site plan review by the Planning Board:

6311. Construction or exterior expansion of, or change of use within, a municipal, institutional, exempt, commercial, or industrial structure involving more than 500 square feet;

6312. Construction or expansion of a parking lot for a municipal, institutional, exempt, commercial, or industrial structure or purpose;

6313. Construction or expansion of loading or vehicular service including driveways giving access thereto for any municipal, institutional, exempt, commercial or industrial structure or purpose;

6314. Substantial alteration to areas for parking, loading or vehicular access, including a change in the layout or location of parking spaces, an increase in pavement area or any relocation, addition or change in driveways. Resurfacing shall not be construed as a substantial alteration unless it involves a change of surface material.

6315. Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan, or work pursuant to an earth removal permit.

6316. Additions to wireless facilities pursuant to section 4345.

**6320. Interpretation.** Change in use means a change in part or all of an existing building or lot from one of the use categories listed in the chart below to another. Uses not included in the following chart shall be deemed to be included in the most nearly comparable use category. However, in a mixed or multi-use building, change or rearrangement of uses that does not result in an increase of required parking or loading spaces according to the Table of Parking Requirements in section 3100, hereof, shall not be construed as a change in use. For a use not included in said Table of Parking Requirements, the requirement for the most nearly comparable use appearing in the Table of Parking Requirements shall apply.



**6220. Criteria.** Unless otherwise specifically provided to the contrary, the Board of Appeals shall, before granting special permits, find that in its judgment all the following conditions are met:

- a. That the use is in harmony with the general purpose and intent of the bylaw;
- b. That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district;
- c. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- d. That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances;
- e. That the proposed use would not cause undue traffic congestion in the immediate area.

**6230. Procedures.** An application for a special permit shall be made in accordance with the rules and regulations of the Special Permit Granting Authority.

**6240. Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

**6250. Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the rules and regulations of the Special Permit Granting Authority.

**6260. Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

**6270. Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

**6280. Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 12 months following the filing of the special permit approval (plus such time required to pursue or await the

6144. Existence on the lot in question of a lawful structure or structures in good repair and of appearance compatible with its vicinity which can reasonably be maintained as a visual and taxable asset only if some nonconformity of use is permitted.

The use variance shall be granted only if the Board of Appeals makes all of the findings required by the Special Permit Criteria in section 6220, in addition to the findings required by statute for a variance in section 6130, and subject to all of the following limitations:

6145. The extent of the use nonconformity as to floor space, bulk, number of occupants or other relevant measure shall be no greater than the minimum necessary to provide relief from the statutory hardship;

6146. The operation of the use nonconformity as to hours, noise, level of activity or other relevant way shall be so restricted as to assure compatibility with conforming uses in the vicinity; and

6147. If the use is authorized under Sections 6142 or 6143 above by the prior existence of adjoining nonconformities or incompatibilities:

a. the use nonconformity on the lot in question shall be permitted no further from such prior adjoining conditions as the width of the lot or 100 feet, whichever is less; and

b. the use nonconformity shall be terminated within one year of the time when such adjoining conditions have been terminated, except that the Board of Appeals may grant a special permit for a further delay of not more than five years.

**6150. Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

**6160. Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

**6200. SPECIAL PERMITS.**

**6210. Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

**6110. Establishment.** The Board of Selectmen shall appoint a Board of Appeals of five members, each for a term of five years. Vacancies shall be filled by the Board of Selectmen by appointment for the balance of the term in which the vacancy occurs. Associate members, to fill vacancies caused by unavoidable absence, inability to act or conflict of interest on the part of a member, shall be appointed by the Board of Selectmen annually for a term of one year.

**6120. Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this Bylaw.

**6130. Variances.** Variances shall be granted by the Board of Appeals only upon its written determination that all the following conditions are met and in accordance with M.G.L. Chapter 40A, section 10, as amended from time to time:

6131. There must be special conditions relating to the soil conditions, shape, or topography of the land or structures thereon, and especially affecting the land or structures, but not affecting generally the zoning district in which the land is located.

6132. There must be a substantial hardship to the owner, financial or otherwise, if the provisions of the ordinance or Bylaw were to be literally enforced.

6133. There must be no substantial detriment to the public good if the variance is granted.

6134. Granting the variance must not nullify or substantially derogate from the intent or purpose of the ordinance or Bylaw.

**6140. Use Variances.** A use variance may be granted provided the statutory variance requirements enumerated in section 6130 are met, only on lots that conform to one or more of the following conditions:

6141. Expiration of the time limit specified for a previously granted use variance;

6142. Existence prior to January 1, 1978, of uses of the same general classification as the use variance applied for, on lots adjoining the lot in question on both sides, or, if the lot in question is a corner lot, on both sides and the rear;

6143. Existence on the lot in question of a lawful use of such nuisance characteristics as to render unreasonable any conforming use of the lot in question; and

5562. Recording of Permit. Any Special Permit issued under this bylaw shall be recorded at the Middlesex South District Registry of Deeds prior to issuance of a building permit for a new unit, or an occupancy permit for existing units.

5563. No Separate Conveyance. The ownership of the Accessory Dwelling Unit shall not be conveyed or otherwise transferred separately from the principal dwelling.

5564. Removal of Separate Facilities. The Building Inspector may, in addition to other remedies, order removal of the separate kitchen facilities, equipment or fixtures that were made or installed to create such unit, if the unlawful use of such unit is discovered.

5565. Revocation. A Special Permit granted hereunder may be revoked by the Board of Appeals for violation of the terms thereof or occupancy of the Accessory Dwelling Unit in violation of the Special Permit or the Zoning Bylaw.

5566. Provision of Information. The applicant for a Special Permit shall file with the Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

5567. Discontinuation of Accessory Unit. If an Accessory Dwelling Unit is discontinued, the owner shall notify the Zoning Enforcement Agent of removal of the facilities. Upon certification by the Zoning Enforcement Agent, said unit shall be removed from the Town's inventory.

#### **5570. Existing Special Permits.**

With respect to structures constituting or containing an Accessory Dwelling Unit for which a Special Permit was obtained at any time prior to April 6, 2009 any references in Article IX, the Zoning Bylaw, to "850 s.f." will be replaced with references to "1200 s.f.". This modified language will apply to both the renewal of an existing Special Permit with respect to such Accessory Dwelling Unit, as well as to any new Special Permit applied for with respect to such Accessory Dwelling Unit.

**5580. Rules and Regulations.** The Board of Appeals may adopt, and from time to time amend, Rules and Regulations to implement the provisions of this subsection, and shall file a copy of said Rules and Regulations with the Town Clerk.

#### **ARTICLE 6000. PROCEDURES.**

##### **6100. BOARD OF APPEALS**

5527. The Accessory Dwelling Unit shall be designed so that the appearance of the structure remains that of a single family dwelling and its associated accessory structures.

5528. Off-street Parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the Accessory Dwelling Unit. No parking spaces shall be located within the boundary of a street right of way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required parking.

5529. All the Special Permit Criteria of section 6220 of the Zoning Bylaw shall be met.

**5530. Reports.**

5531. In order to ensure compliance, the applicant shall obtain and submit to the Board of Appeals prior to the hearing, a written report of the Board of Health certifying that the conditions of subsection 5526 have been met.

5532. Planning Board Report. In connection with an application for a Special Permit under this section, the applicant may consult with the Planning Board prior to the hearing and the Planning Board may submit in writing, prior to the hearing, its recommendations and report to the Board of Appeals.

**5540. Number of Accessory Dwelling Units.** The number of Accessory Dwelling Units permitted under this by-law shall not exceed five percent of the total number of dwelling units existing in the Town at the beginning of the calendar year in which the application was filed.

**5550. Duration of Special Permit.** The Special Permit for an Accessory Dwelling Unit may be issued for the duration of ownership of the principal structure. Such permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying compliance every four years consistent with the Special Permit. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit, unless a Special Permit to transfer the unit to a prospective new owner, utilizing the same criteria set forth herein, is applied for and granted.

**5560. Other Requirements.**

5561. Building Permit Required. A Building Permit, or inspection by the Building Department, shall be required to create an Accessory Dwelling Unit.

such Special Permit provided that each of the following conditions and requirements is met:

5521. Such Accessory Dwelling Unit shall be occupied by not more than four persons.

5522. The Accessory Dwelling Unit shall contain no more than 850 square feet, and shall occupy no more than 30% of the floor area of the single family dwelling. Floor area, for the purpose of section 5522, is defined as the actual heated living area and does not include unfinished basements, attics, or storage spaces. On request of the applicant, the Board of Appeals may waive the provisions of section 5522 due to the physical constraints of an existing structure (but not for a new structure).

5523. An Accessory Dwelling Unit may be built in a detached accessory structure separate from the main dwelling provided: (1) the detached structure has existed at its current size for no less than five (5) years prior to the date of the application for creation of an Accessory Dwelling Unit; (2) the lot meets the current minimum zoning requirement for lot area in the district in which the lot is located, (3) the detached structure meets the same minimum setback requirements that apply to the principal residence in the district in which the structure is located, (4) the Accessory Dwelling Unit occupies no more than 50% of the floor area of the detached structure, and (5) the Accessory Dwelling Unit is not greater than 850 square feet.

5524. There shall be no more than one Accessory Dwelling Unit per building lot.

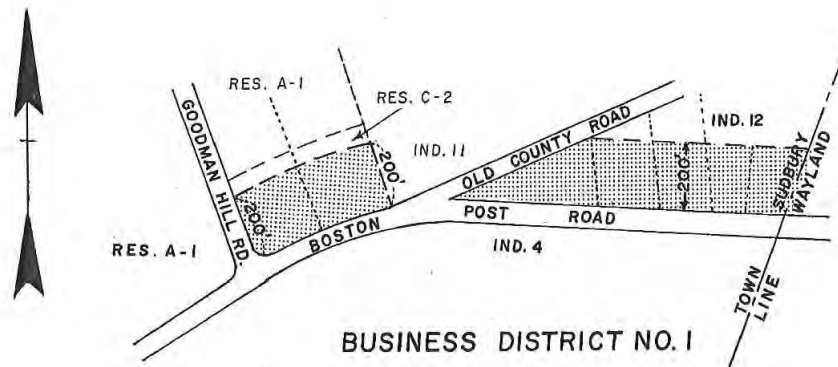
5525. The owner of the dwelling in which the Accessory Dwelling Unit is created shall reside in the dwelling, either in the principal dwelling unit or the Accessory Dwelling Unit. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who hold title to the dwelling, and for whom the dwelling is the primary residence. If the lot on which the Accessory Dwelling Unit is to be located is owned by the Town of Sudbury or the Sudbury Housing Authority, the owner occupancy requirement of this subsection shall not be applicable. If the owner of the dwelling resides in the Accessory Dwelling Unit, the occupancy of the principal dwelling shall comply with the requirements of section 5521 above.

5526. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the Accessory Dwelling Unit in accordance with all requirements of the Board of Health.

**Business Districts (BD) No. 1**

Business District No. 1 is bounded by a line starting at a point on the Sudbury and Wayland town line of the Post Road at the northerly side of said road extending 200 feet in a northerly direction along Town Boundary, thence westerly parallel to the Post Road to Goodman's Hill Road, all land which is in Sudbury, thence along Goodman's Hill Road to the junction of the Post Road, thence southerly to meet the Boston & Maine track at right angles, thence easterly along said track to the Wayland Line, thence following along the Wayland Line to point of beginning.

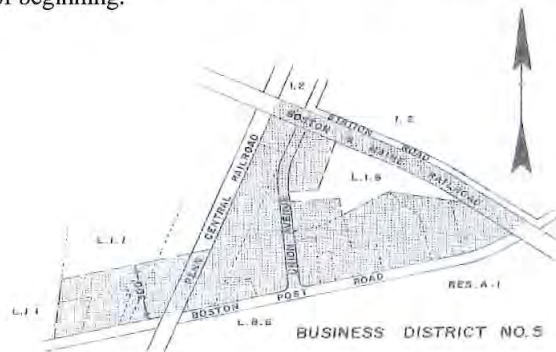
(NOTE: The original description of BD-1 voted in 1939 read as above. Since that time, parts of ID-4, ID-6, ID-11 and LID-5 have been superimposed over sections of BD-1 without deleting those sections of BD-1 in the votes establishing the industrial and limited industrial zones. For detailed diagrams and history of the zones, see Annotated Zoning Bylaws, Town Clerk's Office.)





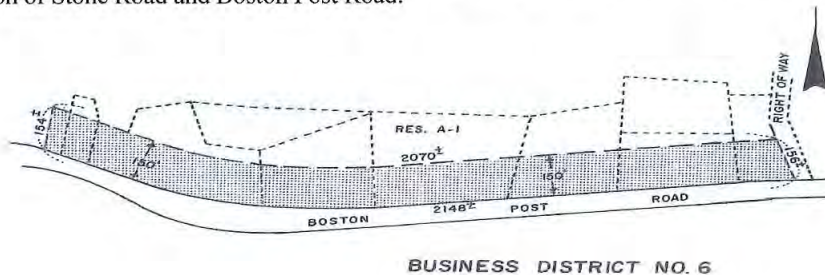
**Business District (BD) No. 5**

Business District No. 5 is bounded by a line starting at the intersection of the northerly property line of the Boston and Maine Railroad right-of-way and the westerly side of the Boston Post Road; thence westerly by the northern boundary of the Boston Post Road to the westerly property line n/f owned by Irene Burke; thence northerly by such property line to a point which is 300 feet from the Boston Post Road, measured perpendicularly; thence easterly and 300 feet parallel to the Boston Post Road to the east boundary line of the Penn Central Railroad; thence northerly along the east property line of the Penn Central Railroad to its intersection with the northerly property line of the Boston and Maine Railroad; thence easterly to the point of beginning.

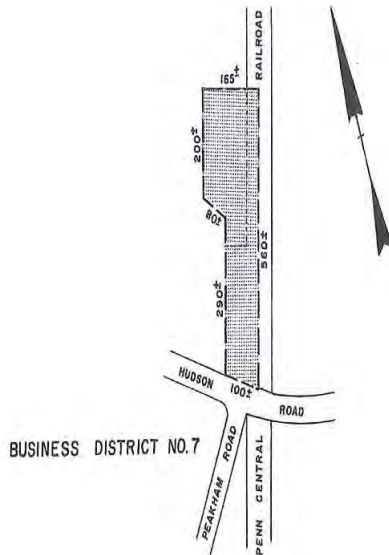


**Business District (BD) No. 6**

Business District No. 6 Beginning at a point on the northerly side line of Boston Post Road at the westerly boundary of an existing right-of-way; thence westerly along the northerly side line of Boston Post Road 2148+/- feet to the easterly property line of the land now or formerly of John and Mary O'Brien; thence northerly along said property line 154+/- feet; thence easterly and 150 feet parallel to the northerly side line of Boston Post Road 2070+/- feet to the westerly boundary of the previously mentioned right-of-way; thence southerly along the right-of-way 156+/- feet to the point of beginning, which is 150+/- feet from the intersection of Stone Road and Boston Post Road.



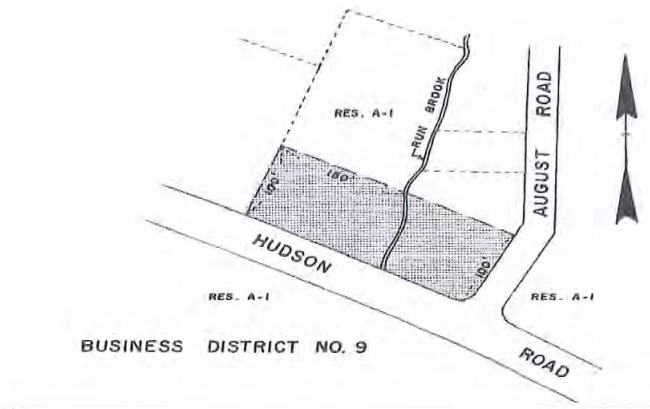
**Business District (BD) No. 7**



Business District No. 7 Beginning at the intersection of the northerly line of Hudson Road and the center line of the Penn Central Railroad layout, thence westerly 100+/- feet to the westerly property line of the Penn Central Railroad; thence northerly 290+/- feet; thence northwesterly 80+/- feet; thence northerly 200+/- feet; thence easterly 165+/- feet to the center line of the Penn Central Railroad; thence southerly along the center line of the Penn Central Railroad 560+/- feet to the point of beginning.

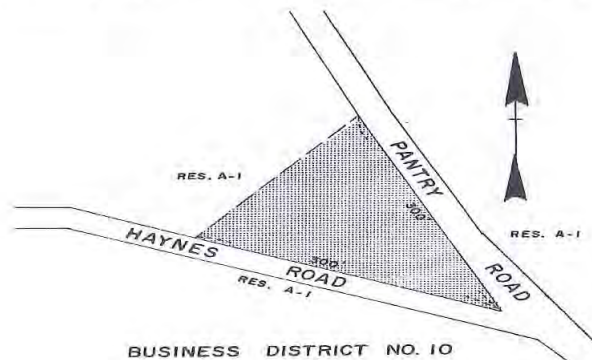
**Business District (BD) No. 9**

Business District No. 9 is bounded by a line starting at a point at the junction of Hudson Road and August Road, thence northerly 100 feet along latter, thence in a westerly direction parallel to Hudson Road to a point 150 feet west of Run Brook, thence southerly to Hudson Road, thence easterly along Hudson Road to a point of beginning.



**Business District (BD) No. 10**

Business District No. 10 is bounded by a line starting at a point at the junction of Pantry and Haynes Roads extending northerly 300 feet along Pantry Road, thence southerly to a point on Haynes Road 300 feet westerly of point of beginning, thence easterly along Haynes Road to a point of beginning.



**Business District (BD) No. 12**

Business District No. 12 Beginning at a point on the northerly sideline of Hudson Road, said point being the southeasterly corner of land formerly of the United States government:

Thence N32°39'14"E one hundred-eight and 44/100 (108.44) feet;

Thence N60°49'30"W fifty-two and 93/100 (52.93) feet;

Thence N45°05'20"E two hundred sixty-seven and 41/100 (267.41) feet.

Thence N57°47'10"E one hundred eighty-seven and 15/100 (187.15) feet; said last four courses being by land formerly of the United States government;

Thence S14°22'30"W five hundred and 97/100 (500.97) feet by land now or formerly of Howard R. & Anne N. Lehr, to a point on the northerly sideline of Hudson Road;

Thence N75°37'30"W fifty and 00/100 (50.00) feet along said Hudson Road;

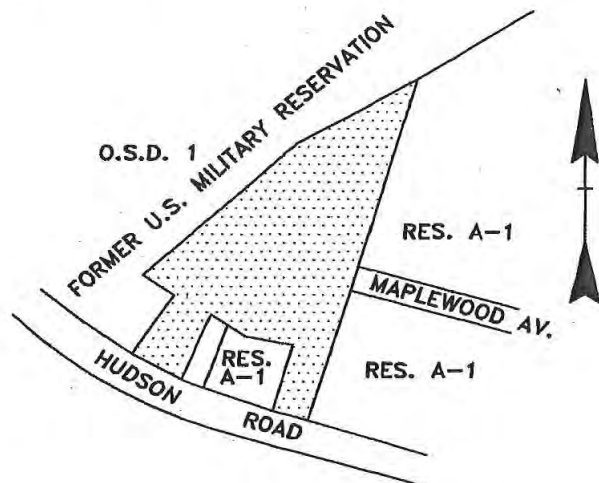
Thence N14°22'30"E one hundred and 00/100 (100.00) feet; said course being the easterly property line of Lot 17 (Block W);

Thence N75°37'30"W eighty-two and 30/100 (82.30) feet;

Thence  $N60^{\circ}49'30''W$  thirty-one and 37/100 (31.37) feet; said last two courses comprising the northerly property lines of lots 17, 18, 19, 20, and 21 (Block W);

Thence  $S21^{\circ}00'26''W$  one hundred six and 26/100 (106.26) feet to a point on the northerly sideline of Hudson Road; said course being the westerly property line of lot 21 (Block W); the aforementioned lots 17 thru 21 inclusive being shown on a "Plan of Pine Lakes, Sudbury, Mass.", dated April 1927 and recorded at the Middlesex County (South) Registry of Deeds as Plan 37 in Plan Book 394:

Thence along a curve having a radius of three hundred sixty-eight and 98/100 (368.98) feet a distance of seventy-five and 00/100 (75.00) feet along the northerly sideline of Hudson Road to the point of beginning.



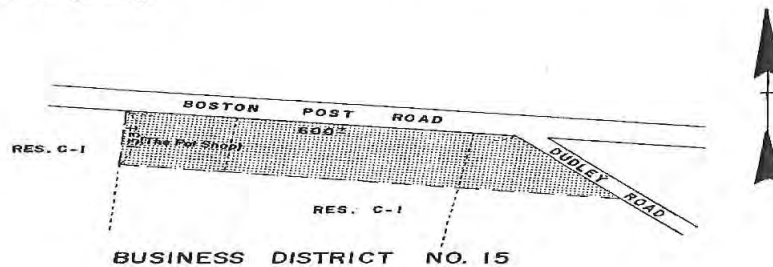
BUSINESS DISTRICT NO. 12



**Business District (BD) No. 15**

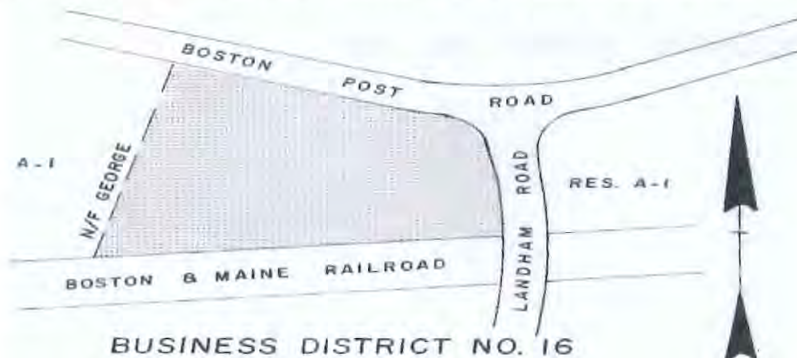
Business District No. 15 A certain parcel of land, situated on the southerly side of the State Highway known as Boston Post Road, bounded and described as follows:

Beginning at the intersection of the westerly side line of Dudley Road with the southerly side line of the Boston Post Road; thence in a westerly direction along said Boston Post Road 600 feet, more or less, thence southerly, a distance of 133 feet, more or less, thence easterly by a line parallel to and 133 feet distant from the southerly line of Boston Post Road to the westerly side line of Dudley Road; thence in a northwesterly direction along Dudley Road to the point of beginning.



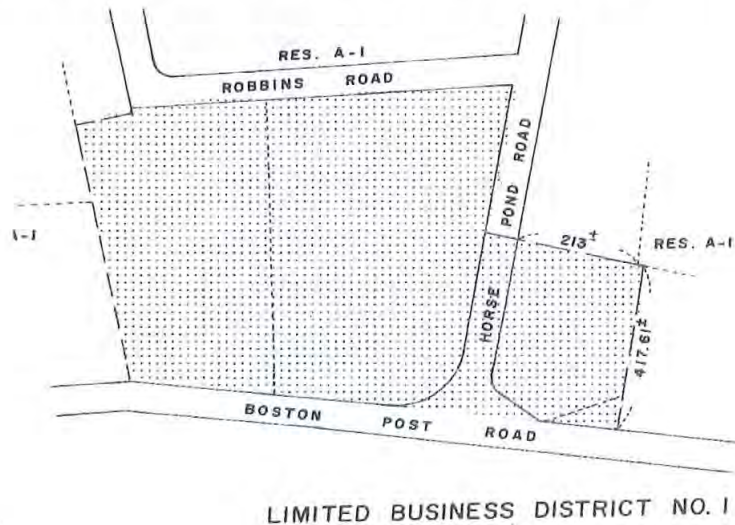
**Business District (BD) No. 16**

Business District No. 16 Beginning at the intersection of the southerly line of the Boston Post Road with the westerly line of Landham Road; thence southerly by said Landham Road, 210 feet, more or less, to the land of the Boston & Maine Railroad Co.; thence westerly by land of said Railroad Co., 490 feet, more or less, to land of Georgia George, now or formerly; thence northerly by land of said George, 357 feet, more or less, to the Boston Post Road; thence easterly by said Boston Post Road, 390 feet, more or less, to the point of beginning.



**Limited Business District (LBD) No. 1**

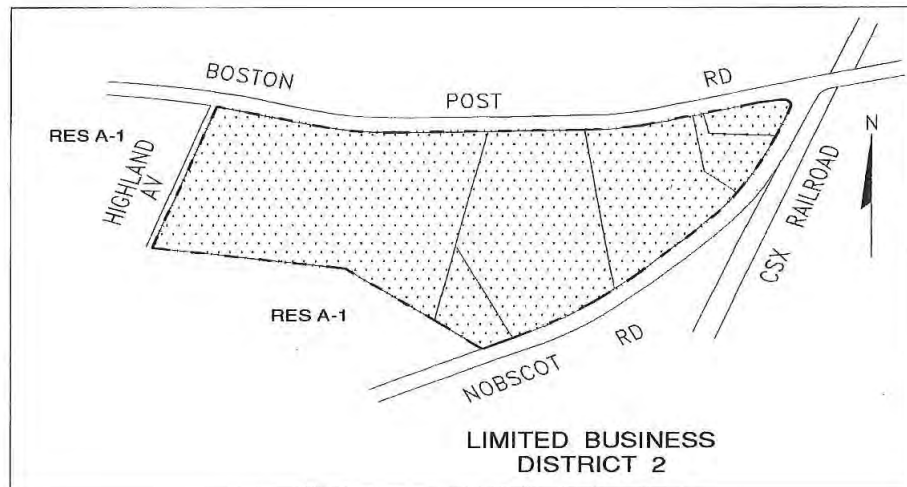
**Limited Business No. 1** Beginning at a stake on the southerly boundary line between the land of Fred Stone and the road variously known at State Road and Boston Post Road; thence westerly two hundred fifteen feet (215'), more or less, to the northeasterly corner of the intersection of Boston Post Road and Horse Pond Road; thence continuing westerly across Horse Pond Road fifty and 03/100 feet (50.03'), more or less, to a stake and stones at the northwesterly corner of the intersection of Boston Post Road and Horse Pond Road; thence continuing westerly five hundred fifty feet (550'), more or less, to a stake and stone at land now or formerly of Aiken and Lewis five hundred and ten feet (510'), more or less; thence easterly by land now or formerly of Lewis one hundred feet (100'), more or less; thence northerly nine and 01/100 feet (9.01'), to Robbins Road, so-called now or formerly owned by Livoli; thence easterly by said Robbins Road six hundred twenty-one and 91/100 feet (621.91'), more or less, to a pipe and stones at Horse Pond Road; thence southerly by Horse Pond Road two hundred forty-five and 37/100 feet (245.37'), more or less; thence easterly, perpendicularly across Horse Pond Road, to a stone bound on the boundary line between land of Stone and Meader, at the northwesterly corner of land of said Stone; thence continuing easterly by land of Meader and by other land of Stone two hundred thirteen feet (213'), more or less; to a cement bound; thence southerly by other land of Fred Stone four hundred seventeen and 61/100 feet (417.61'), more or less, to the point of beginning.



**Limited Business District (LBD) No. 2**

**Limited Business No. 2** A certain parcel of land in the southerly part of Sudbury bounded and described as follows:

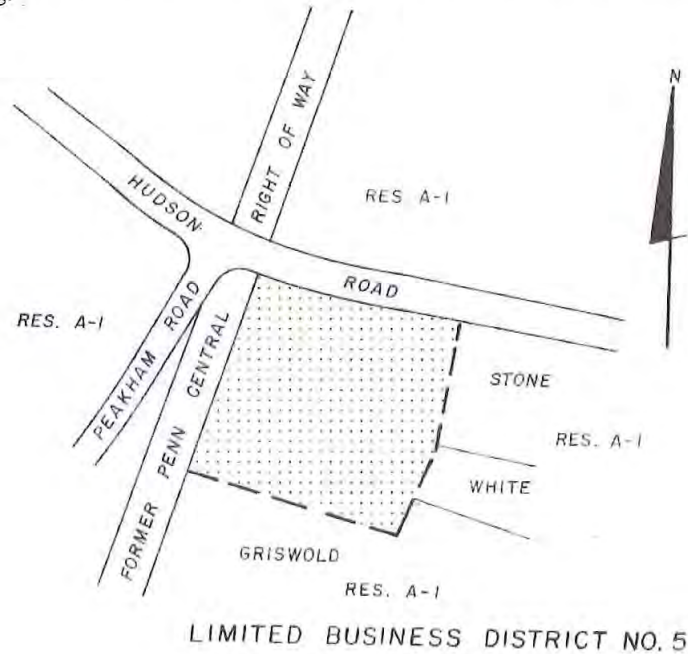
Northerly by Boston Post Road; Southeasterly by Nobscot Road; Southerly by land formerly of Ralph Hawes; and Westerly by Highland Avenue; including all of the land shown on Sudbury property maps as parcels K07-005, K07-006, K07-007, K08-001, K08-002 and L07-014.





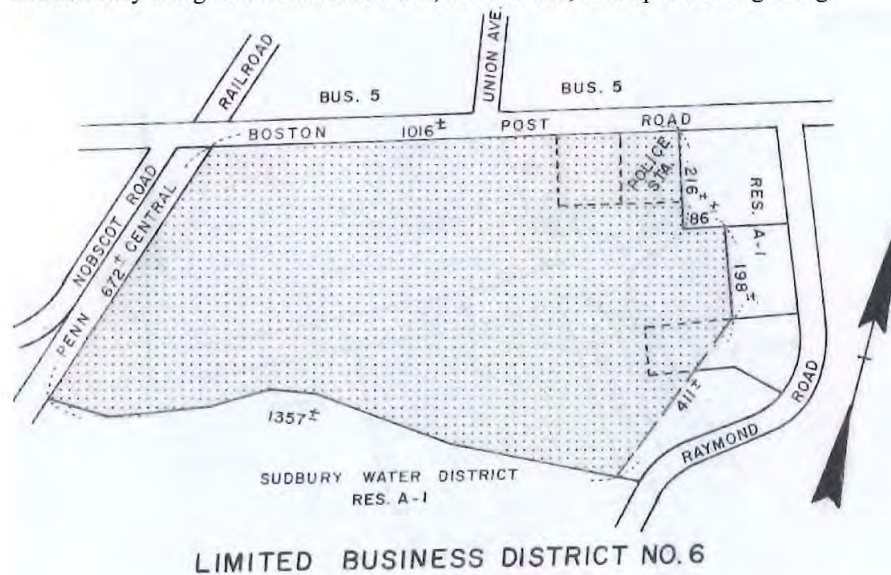
**Limited Business District (LBD) No. 5**

Limited Business District No. 5 Beginning at a point on the southerly side line of Hudson Road 338.45 feet distant from the easterly side line of the former Penn Central Railroad right-of-way; thence southerly along property line of land now or formerly of Edmund C. Stone, et ux by three courses totaling 213.89 feet, continuing southerly along property line of land now or formerly of Linda I. White 76.23 feet and southerly again along property line of land now or formerly of Lamonte and Florence Griswold by two courses totaling 84.78 feet; thence westerly along property line of land now or formerly of Griswold, 352.17 feet to the easterly side line of said railroad right-of-way; thence northerly along said railroad right-of-way to the southerly side line of Hudson Road; thence easterly 338.45 feet by three courses to the point of beginning.



**Limited Business District (LBD) No. 6**

Limited Business District No. 6 Beginning at a point on the southerly side line of Boston Post Road at the easterly boundary of the Penn Central Railroad; thence easterly along the southerly side line of Boston Post Road 1,016 feet, more or less, to the easterly property corner of the Sudbury Police Station; thence southerly by land n/f of Murphy 216 feet, more or less; thence easterly 86 feet, more or less; thence southerly by land n/f of Presby 198 feet, more or less; thence southwesterly 411 feet, more or less, to a point approximately 50 feet from the westerly side line of Raymond Road; thence westerly by land of the Sudbury Water District 1,357 feet, more or less, to the easterly boundary of the Penn Central Railroad; thence northeasterly along said Railroad 672 feet, more or less, to the point of beginning.



**Village Business District (VBD) No. 1**

Village Business District No. 1 shall comprise an area the boundaries of which are as follows: the areas involved are the existing LBD-3, LBD-4, BD-2, BD-3, BD-4 and small portions of A-1 and ID-2 per the map below.

Beginning at a point on the southerly sideline of Boston Post Road at its intersection with the northeasterly sideline of the Massachusetts Bay Transportation Authority Right-of-Way;

Thence northeasterly along Boston Post Road 50 feet, more or less, to a point opposite the northeasterly sideline of Station Road;

Thence turning and running northwesterly, crossing Boston Post Road and following the northeasterly sideline of Station Road 190 feet, more or less, to a point, said point being at the location of the former dam shown on Land Court Plan 12835A;

Thence easterly along the line of the former dam 45 feet, more or less, to the centerline of Hop Brook;

Thence northwesterly by the centerline of Hop Brook 330 feet, more or less, to the southwesterly corner of the Goodnow Library lot;

Thence easterly along said library lot 132 feet, more or less, to a point, said point being 661.46 feet westerly of the westerly sideline of Concord Road;

Thence southeasterly 120 feet, more or less, along a line (the projection of which would intersect the northerly sideline of Boston Post Road at a point 150 feet northeasterly of the northeasterly sideline of Station Road) to a point, said point being a perpendicularly measured distance of 100 feet south of the library lot;

Thence easterly, running parallel to the library's southerly lot line, 230 feet, more or less, to the lot line common to lots 3 and 1, said lots shown on Plan No. 268 of 1957;

Thence northerly along said common lot line 100 feet, more or less, to the southerly lot line of the library;

Thence easterly along the library's southerly lot line 369 feet, more or less, to a point on the westerly sideline of Concord Road;

Thence southerly by the westerly sideline of Concord Road 150 feet, more or less, to a point opposite the southwesterly lot corner of Lot B, said Lot B being shown on Plan No. 885 of 1952;

Thence turning and running easterly, crossing Concord Road and following the southerly lot line of Lot B 237 feet, more or less;

Thence southerly 17 feet, more or less; Thence easterly 73 feet, more or less; Thence northerly 13 feet, more or less;

Thence easterly 102 feet, more or less, to a point, said point being the northeasterly lot corner of the property known as the "Wood-Davison House", the last four courses following the southerly line of the forementioned Lot B;

Thence southerly along the easterly lot line of the "Wood-Davison House" 132 feet, more or less, to a point, said point being a perpendicularly measured distance of 100 feet north of the northerly sideline of Boston Post Road;

Thence easterly along a line parallel to 100 feet distant from Boston Post Road 170 feet, more or less, to a point on the easterly lot line of No. 344 Boston Post Road;

Thence southerly along said lot line 100 feet, more or less, to a point on the northerly sideline of Boston Post Road;

Thence easterly along Boston Post Road 60 feet, more or less, crossing King Philip Road to a point, said point being on the southeasterly sideline of said King Philip Road;

Thence northeasterly along the southeasterly sideline of King Philip Road 190 feet, more or less, to a point, said point being a perpendicularly measured distance of 100 feet north of the northerly sideline of Boston Post Road;

Thence easterly along a line parallel to and 100 feet distant from Boston Post Road 135 feet, more or less, to a point on the easterly lot line of No. 61 King Philip Road;

Thence southerly along said lot line 10 feet, more or less, to the northwesterly lot corner of No. 320 Boston Post Road;

Thence easterly 88 feet, more or less; Thence southerly 50 feet, more or less;

Thence easterly 102 feet, more or less, to a point on the westerly sideline of Massasoit Avenue, said last three courses as shown on Plan No. 1325 of 1967;

Thence southerly by Massasoit Avenue 141 feet, more or less, to a point on the northerly sideline of Boston Post Road;

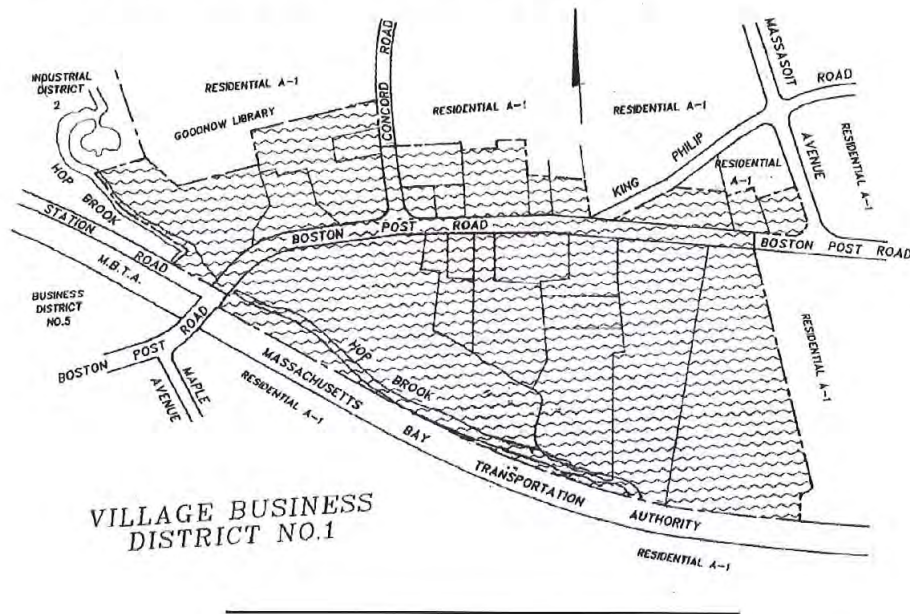
Thence westerly along Boston Post Road 100 feet, more or less, to a point opposite the northeasterly lot corner of the property known as "Mill Brook Park Condominium II";

Thence turning and running southerly, crossing Boston Post Road, 50 feet to the northeasterly lot corner of "Mill Brook Park Condominium II";

Thence southerly 687 feet, more or less; Thence southwesterly 29 feet, more or less;

Thence southerly 69 feet, more or less, to a point on the northeasterly sideline of the Massachusetts Bay Transportation Authority Right-of-Way, said last three courses as shown on Plan No. 1927 of 1986;

Thence northwesterly by the sideline of the Massachusetts Bay Transportation Authority Right-of-Way 1760 feet, more or less, to the point of beginning.





**Industrial District (ID) No. 2**

Industrial District No. 2 Beginning at a point on the westerly sideline of the former Penn Central Railroad right-of-way at its intersection with the northwesterly sideline of the Massachusetts Bay Transportation Authority Right-of-Way;

Thence northerly by said former Penn Central Railroad right-of-way 1500 feet, more or less, to a point on the southerly sideline of Codjer Lane;

Thence turning and running easterly 690 feet, more or less, along the southerly sideline of Codjer Lane, crossing Union Avenue, to a point, said point being 215 feet, more or less, easterly of the easterly sideline of Union Avenue;

Thence southerly by several courses, 587.97 feet and 348.55 feet;

Thence northwesterly 8.24 feet;

Thence southeasterly by several courses 87.06 feet, 97.01 feet, 134.74 feet, 232.45 feet, and 155.87 feet to a point on the southerly property line of land of the Town of Sudbury (Goodnow Library), said point being 661.46 feet westerly of the westerly sideline of Concord Road, the last eight courses being shown on several plans of land formerly owned by Henry Ford and/or the Wayside Inn;

Thence westerly along said library lot 132 feet, more or less, to the centerline of Hop Brook;

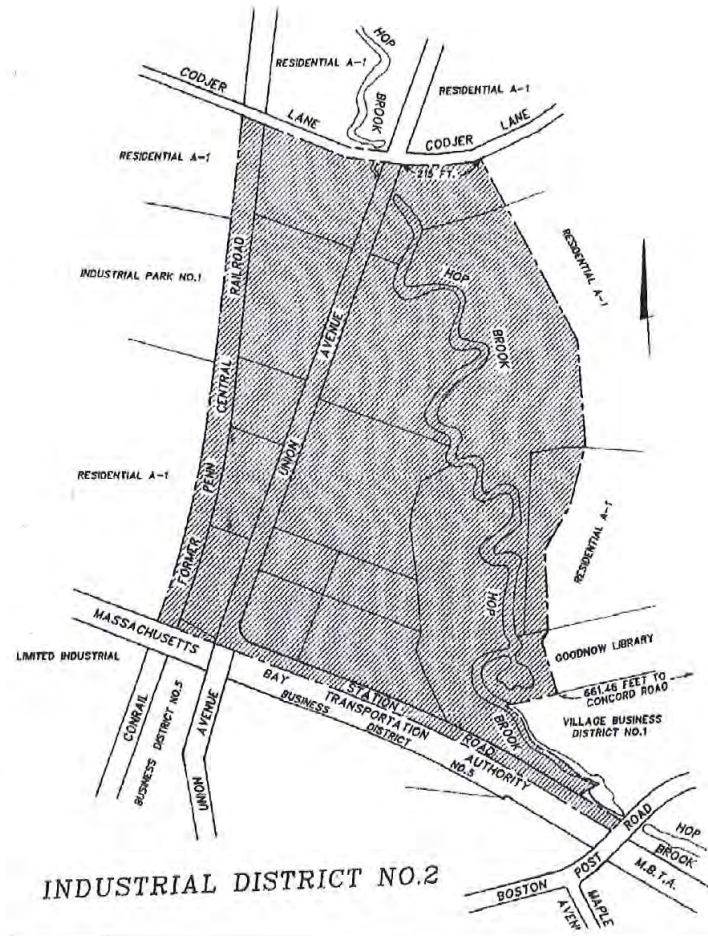
Thence southeasterly 330 feet, more or less, by the center-line of Hop Brook to a point, said point being at the location of the former dam shown on Land Court Plan 12835A;

Thence westerly along the line of the former dam 45 feet, more or less, to a point on the northeasterly sideline of Station Road;

Thence southeasterly along the northeasterly sideline of Station Road 140 feet, more or less, to a point on the northerly sideline of Boston Post Road;

Thence southwesterly 40 feet, more or less, along the northerly sideline of Boston Post Road, crossing Station Road to a point on the northeasterly sideline of the Massachusetts Bay Transportation Authority Right-of-Way;

Thence northwesterly along the northeasterly sideline of said Right-of-Way 1400 feet, more or less, to the point of beginning.

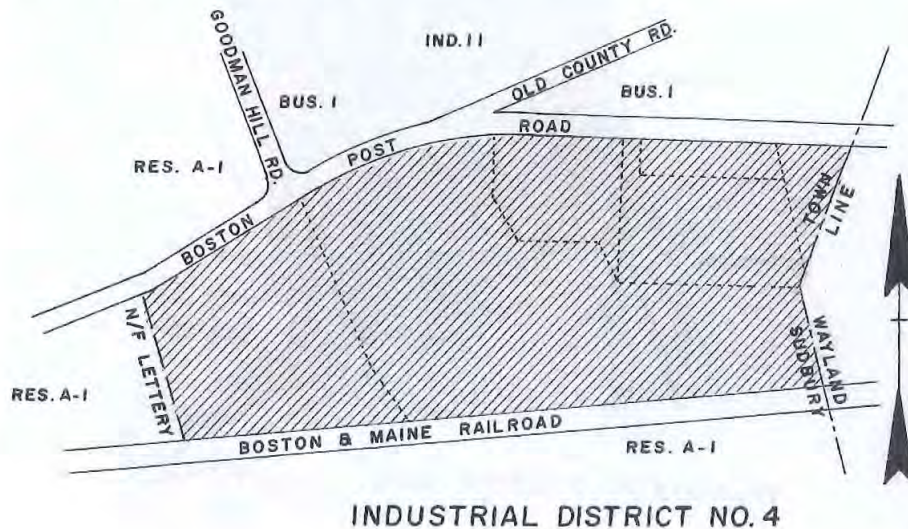




**Industrial District (ID) No. 4**

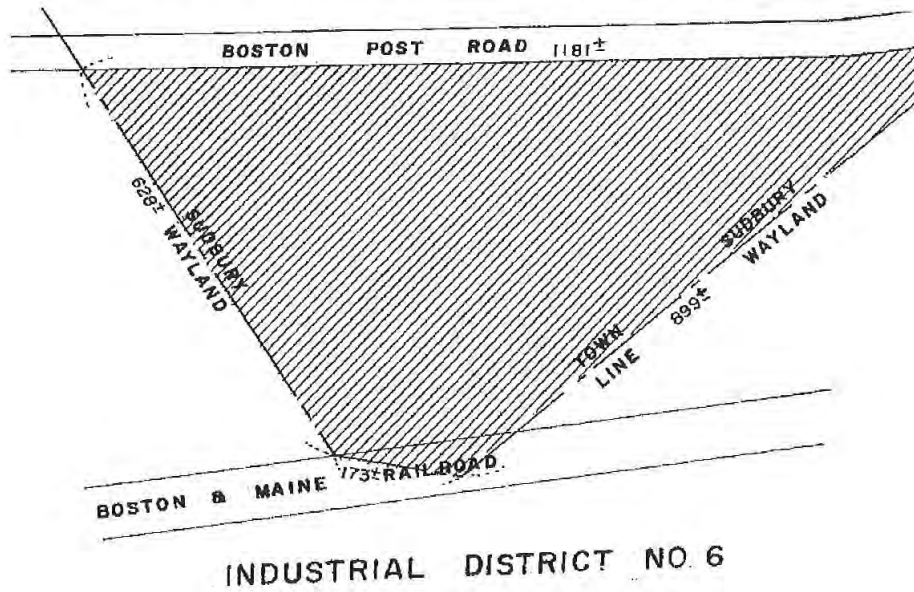
**Industrial District No. 4** A certain area of land in the easterly part of Sudbury, situated on the southerly side of Boston Post Road, bounded and described as follows:

Beginning at the northeasterly corner thereof on the southerly side of Boston Post Road at the intersection the Sudbury-Wayland town line; thence northwesterly by Boston Post Road 2,139.14 feet; thence southwesterly by land now or formerly of George F. Lettery et al, 431.36 feet to land of Boston and Maine Railroad Company; thence southeasterly by land of said railroad 1,842.42 feet to the intersection of the Sudbury-Wayland town line; thence northerly by said Sudbury-Wayland town line to Boston Post Road and the point of beginning. (See NOTE under BD-1)



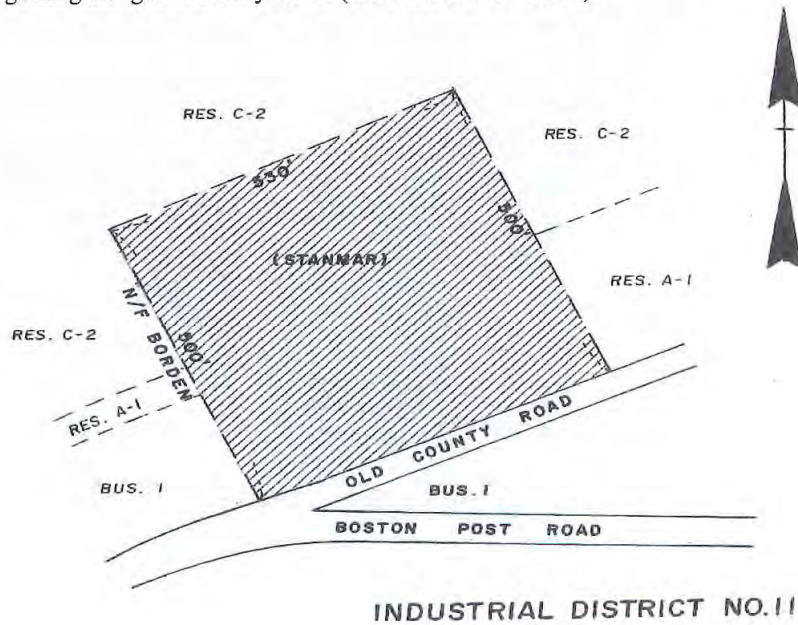
**Industrial District (ID) No. 6**

**Industrial District No. 6** Beginning at a point on the southerly side line of Boston Post Road at the Wayland/Sudbury town line; thence easterly along the southerly side line of Boston Post Road 1,181 feet, more or less, to the Sudbury-Wayland town line; thence southeasterly along the town line 24 feet, more or less, to Town Bound S/W 23; thence southwesterly along the town line 899 feet, more or less, to Town Bound S/W 24; thence northwesterly along the town line 173 feet, more or less, to Town Bound S/W 25; thence northwesterly along the town line 628 feet, more or less, to the point of beginning. (See NOTE under BD-1)



**Industrial District (ID) No. 11**

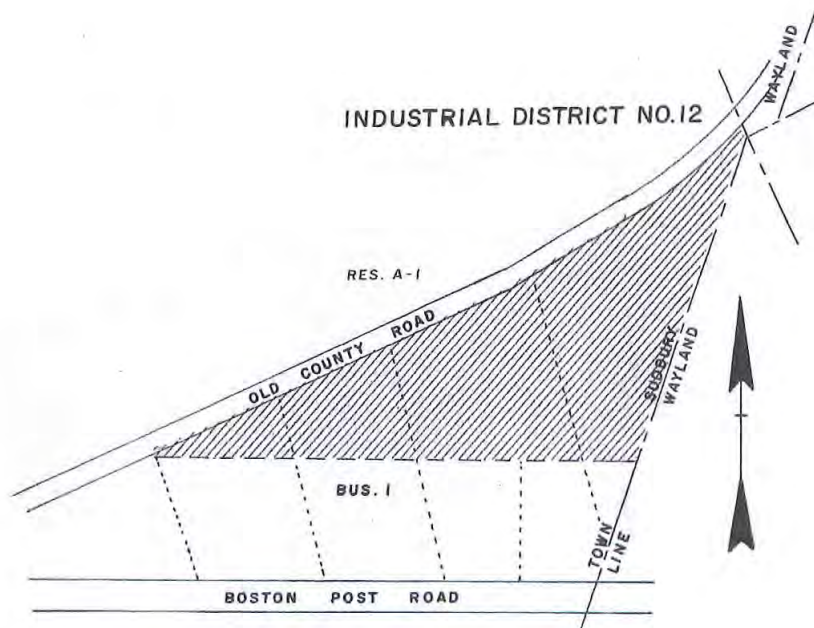
Industrial District No. 11 Beginning at the southwesterly corner of Old County Road at land of Aubrey W. Borden; thence N. 24 47' 59" W. five hundred(500) feet to an angle, thence N. 66 44' 28" E. five hundred thirty (530) feet to an angle; thence S. 24 47' 15" five hundred (500) feet to an angle at Old County Road; thence S. 66 17' 05" W. one hundred ninety-two and nineteen hundredths (192.19) feet to an angle; thence S. 68 00' 34" W. two hundred twenty and ninety-eight hundredths (220.98) feet to an angle; thence S. 65 05' 38" W. one hundred sixteen and eighty-three hundredths (116.83) feet to the point of beginning, the last three courses beginning along Old County Road. (See NOTE under BD-1)



**Industrial District (ID) No. 12**

Industrial District No. 12 A certain parcel of land, situated on the southeasterly side of Old County Road, bounded and described as follows:

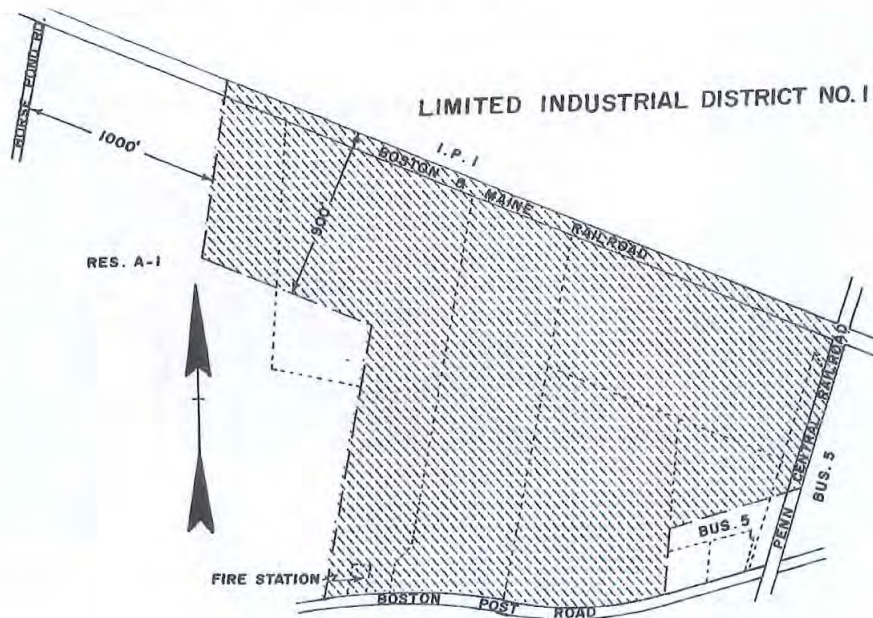
Beginning at the intersection of Business District No. 1 where it intersects the southeasterly side line of Old County Road; thence in a northeasterly direction along Old County Road till it intersects the Wayland town line at town bound No. 12 and 27; thence in a southwesterly direction along the town line till it intersects the northerly line of Business District No. 1; thence in a westerly direction by Business District No. 1 to Old County Road and the point of beginning.





**Limited Industrial District (LID) No. 1**

Limited Industrial District No. 1 Beginning at a point of the northerly property line of the Boston and Maine Railroad and the westerly property line of the Penn Central Railroad Company; thence westerly along the northerly property line of the Boston and Maine Railroad to a point 1,000 feet distant from the easterly boundary of Horse Pond Road; thence southerly by a line parallel to and 1,000 feet east of said Horse Pond Road a distance of 900 feet; thence easterly by a line parallel to and 900 feet south of said northern property line of the Boston and Maine Railroad a distance of 900 feet; thence southerly along the western property line of land n/f owned by Capaldi to the northern boundary of the Boston Post Road; thence easterly along the northern boundary of the Boston Post Road to the westerly boundary line of Business District No. 5; thence by the boundary of Business District No. 5 and Industrial District No. 2 to the point of beginning.

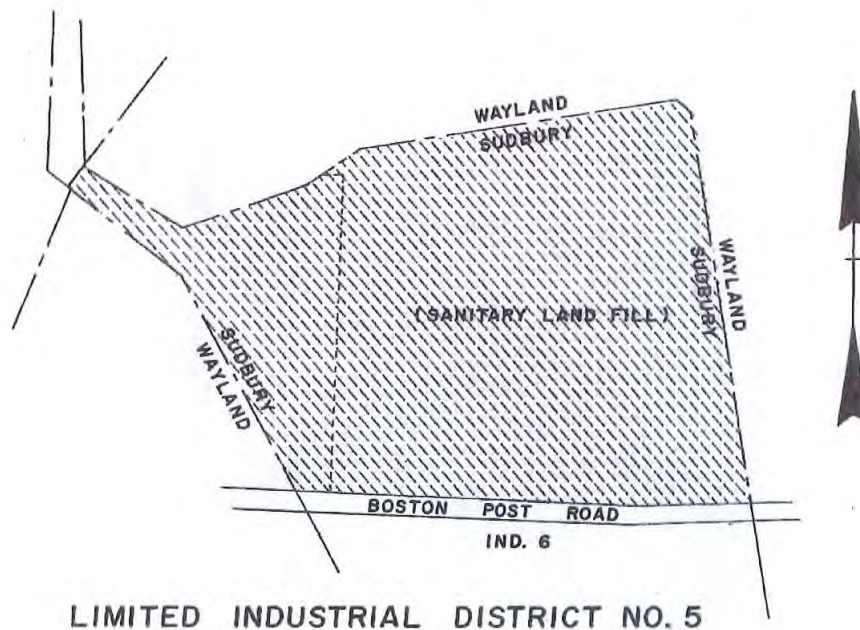


### Limited Industrial District (LID) No. 5

Limited Industrial District No. 5 Including all of the following described land:

Shown on a plan entitled: "Plan of Town of Sudbury Limited Industrial District No. 5", dated: January 28, 1971, by George D. White, Town Engineer, a copy of which is on file in the Town Clerk's office, which plan is incorporated herein by reference, and bounded and described, according to said plan, as follows: southerly by the Boston Post Road; southwesterly by the Town of Wayland; northwesterly by a line which runs from Town Bound 12/27 to Town Bound 13/17; northeasterly, northwesterly and northerly by the Town of Wayland; and easterly by the Town of Wayland; meaning and intending to describe Limited Industrial District No. 5 as shown on said plan.

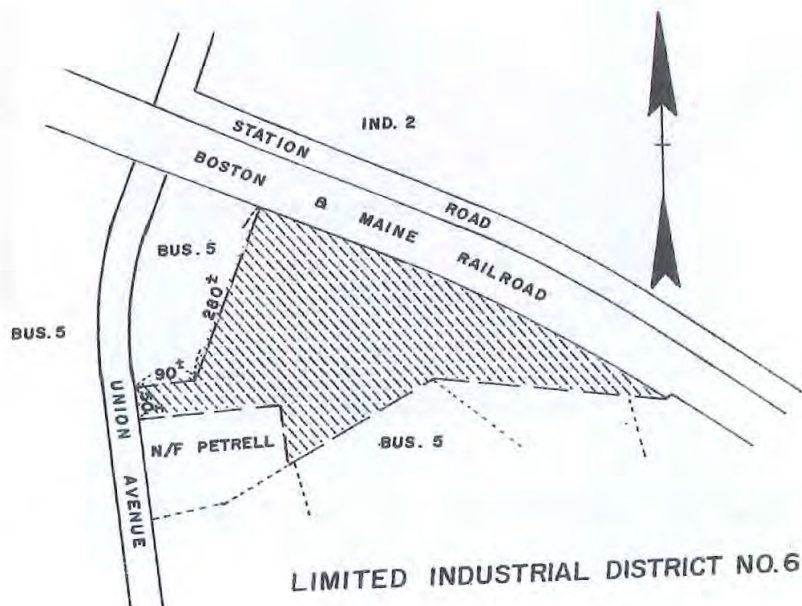
(See NOTE under BD-1)



**Limited Industrial District (LID) No. 6**

Limited Industrial District No. 6 Beginning at a point 105 feet easterly of the intersection of the easterly line of Union Avenue with the southerly line of the Boston & Maine Railroad; thence in a southerly direction by said Railroad 722.95 feet; thence S 2 26' 15" E, 8.22 feet by land of Gertrude Forsberg and Sarah Lundberg; thence N 42 57' 20" W, 349.92 feet by land of Gertrude Forsberg and Sarah Lundberg, Theodore A. and Agnes E. Brown; thence N 81 15' 30" W, 263.25 feet by land of Joseph and Libby Buchhalter, Charles E. Channing; thence 30 20' 00" E, 92.85 feet by land of John J. Petrell, Jr., et als; thence N 59 40' 00" W, 215,000 feet to Union Avenue, thence northeasterly by Union Avenue 50 feet, more or less, to Business District No. 5; thence southeasterly 90 feet, more or less, and northeasterly 280 feet, more or less, to the point of beginning.

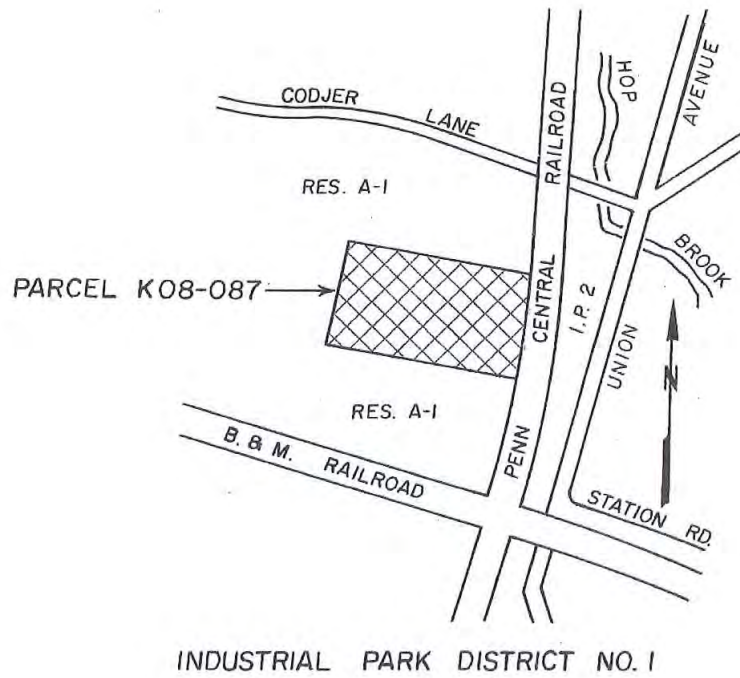
[NOTE: The vote establishing LID-6 in 1968 did not delete that section of BD-5 so that LID-6 is superimposed over part of BD-5. The votes in 1973 redefining the boundaries of BD-5 specifically stated that LID-6 was not affected.]



**Industrial Park District (IP) No. 1**



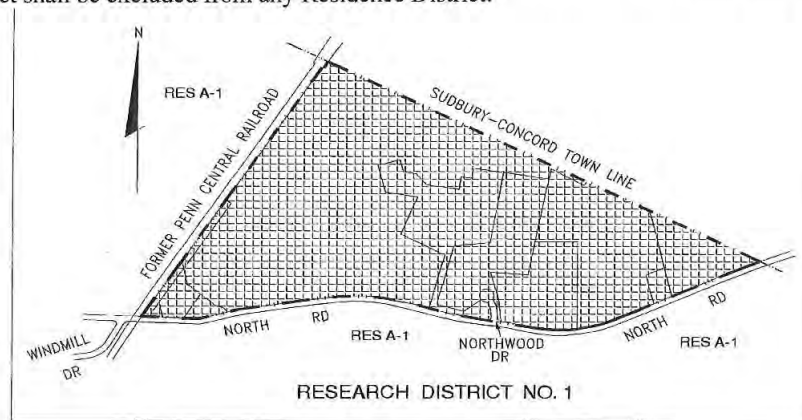
Industrial Park District No. 1 That portion designated as Parcel 087 on page K08 of the Town Property Map.



### **Research Districts (RD)**

Research District No. 1 shall comprise an area the boundaries of which are as follows:

Northerly and easterly by the Sudbury-Concord town line, southerly by North Road and westerly by the location of New York, New Haven & Hartford Railroad; and such Research District shall be excluded from any Residence District.



### **Open Space Districts (OS)**

Open Space District No. 1 Comprising property belonging to the United States Military Reservation and the Commonwealth of Massachusetts, said district bounded and described as follows:

Beginning at a point being the boundary corner between the Towns of Sudbury, Maynard, and Stow;

Thence northeasterly along the Sudbury-Maynard Town Line 6050 feet, more or less, to a point on the easterly boundary of the United States Military Reservation, so called;

Thence southerly along said easterly boundary 2200 feet, more or less, to a point on the northerly shoreline of Willis Lake;

Thence in a counter-clockwise direction along the shoreline of Willis Lake 3950 feet, more or less, to a point on the westerly sideline of Lake Shore Drive;

Thence southwesterly along the easterly boundary of the United States Military Reservation 4100 feet, more or less, crossing Hudson Road, to a point on the Southerly sideline of Hudson Road;

Thence easterly along Hudson Road 59 feet, more or less, to a point;

Thence southeasterly along the easterly boundary of the United States Military Reservation 1448 feet, more or less, to a point at land of the Town of Sudbury Conservation Commission;

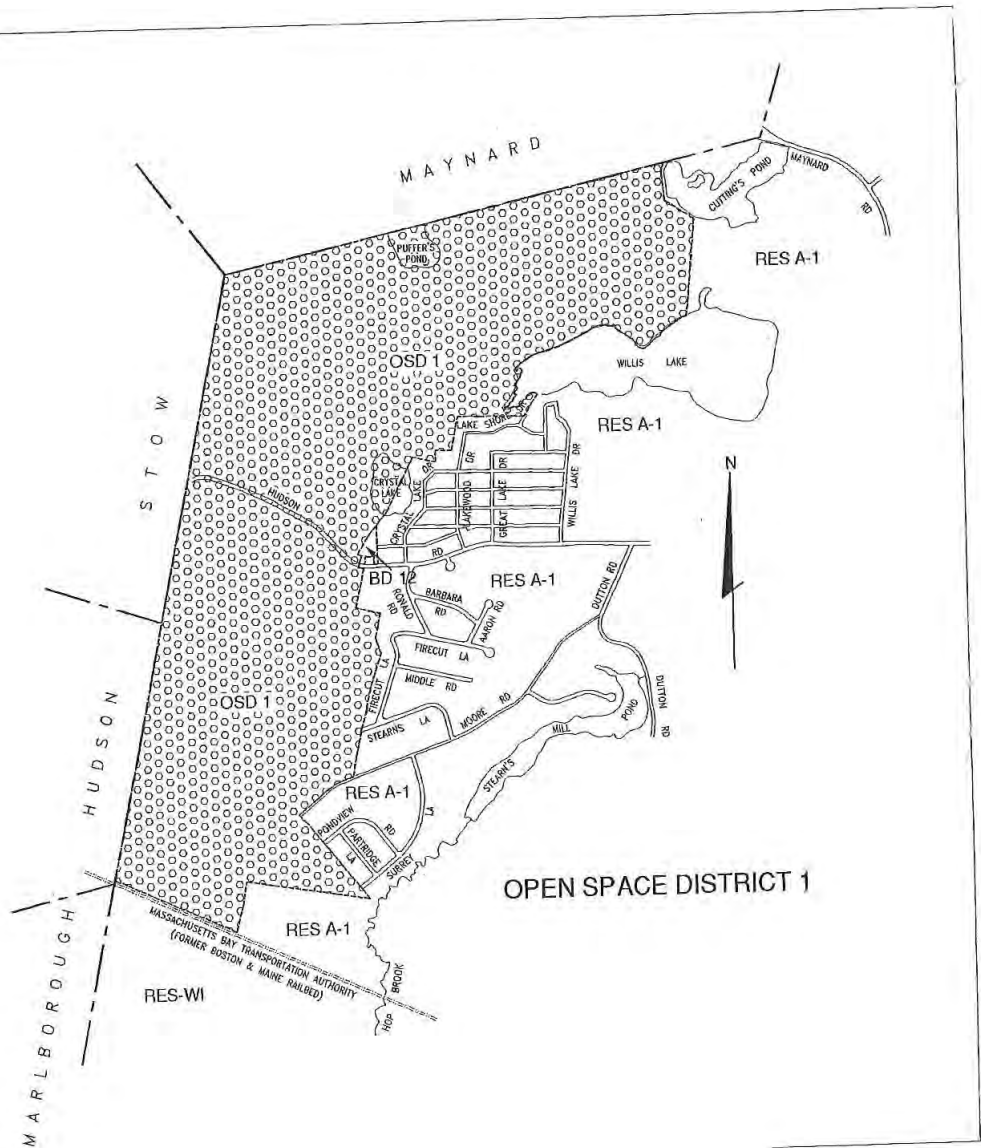
Thence westerly and southerly along said land of the Town of Sudbury Conservation Commission 2354 feet, more or less, to a point on the northerly sideline of the former Boston and Maine Railroad layout;

Thence westerly along said railroad layout 1700 feet, more or less, to a point on the Sudbury-Hudson- Town Line;

Thence northeasterly along the Sudbury-Hudson Town Line 3500 feet, more or less, to the boundary corner between the towns of Sudbury, Hudson, and Stow;

Thence northeasterly along the Sudbury-Stow Town Line 4665 feet, more or less, to the point of beginning."

(Note: Open Space District No. 1 was previously zoned Residential A-1)



## HISTORIC DISTRICTS

OLD SUDBURY & HUDSON ROAD DISTRICTS

WAYSIDE INN HISTORIC DISTRICTS NO. 1 & 2

KING PHILIP HISTORIC DISTRICT

GEORGE PITTS TAVERN HISTORIC DISTRICT

### NOTE:

While historic districts are not part of the Zoning Bylaw (Article IX) of the Town Bylaws, plans showing the boundaries of the four historic districts currently in existence in the Town have been included here for information since the exterior architectural and color features of building, landscaping, stone walls, signs, etc., located within an historic district are subject to restrictions and controls under Chapter 40 of the Acts of 1963 administered by the Historic District Commission.

Article 4 of the 1961 Annual Town Meeting empowered the Selectmen to appoint an Historic Districts Study Committee. This Committee reported to the Town in 1962 recommending the acceptance of a special act, similar to the State enabling act (Chapter 40C, G.L.) but "modified by this Committee to better suit the needs of Sudbury". The purpose of the act was to preserve and protect buildings, places and districts of historic or architectural significance by establishing an Historic Districts Commission of five members and by defining its powers and duties. Subsequently, the General Court passed the proposed special act as Chapter 40 of the Acts of 1963, and it was accepted by vote of the Town under Article 31 of the 1963 Annual Town Meeting.

In addition to providing for the Historic Districts Commission and defining its powers, Chapter 40 of the Acts of 1963 established the boundaries of Sudbury's first historic district in the Town Center along Concord Road, Old Sudbury Road, and along Hudson Road to the railroad tracks. The 1967 Annual Town Meeting under Article 44 extended the district along Hudson Road to the intersection of Maynard and Hudson Roads so the boundaries are as presently shown on the plan.

The Annual Town Meeting of 1967, under Article 45 and 46, established and defined the boundaries of Wayside Inn Districts No. 1 and No. 2. The King Philip Historic District was established at the 1972 Annual Town Meeting under Article 30. An extension of the Old Sudbury and Hudson Road District was approved at the 2000 Annual Town Meeting under Article 35.

The Annual Town Meeting of 2005, under section 12 of chapter 40 of the acts and Resolves of 1963, extended the King Philip Historic District by adding: Beginning and running westerly on Boston Post Road from the westerly border of the existing King Philip Historic District, including 300 ft. on either side of the layout of said road, to the intersection

of Concord Road and extending 300 ft. beyond said Concord Road; thence running north on Concord Road to a point 150 ft. beyond the southerly sideline of Codjer Lane on the easterly side of Concord Road and to the southerly sideline of Codjer Lane on the westerly side of Concord Road, including 300 ft. on either side of the layout of said road.

The Annual Town Meeting of 2008, under section 12 of chapter 40 of the Acts and Resolves of 1963, created the George Pitts Tavern Historic District; Beginning at a point on the southerly sideline of Boston Post Road, said point being on the southwesterly boundary of the King Philip Historic District, as amended in 2005;

Thence southeasterly along said boundary 150 feet to a point;

Thence southwesterly, 150 feet distant from and parallel to the southerly sideline of Boston Post Road, to a point, said point being 150 feet, measured perpendicularly, from the southeasterly sideline of Maple Avenue;

Thence southeasterly, 150 feet distant from and parallel to the southeasterly sideline of Maple Avenue, to a point, said point being on a line perpendicular to the sideline of Maple Avenue where the 1892 public layout of Maple Avenue ends:

Thence southwesterly to the sideline of Maple Avenue and then continuing across the road to a point on the southwesterly sideline of Maple Avenue;

Thence northwesterly along said sideline to a point, said point being a property corner between Lot 1 and Land of Withrow, shown on Plan 1260 of 1967, recorded at the Middlesex South Registry of Deeds;

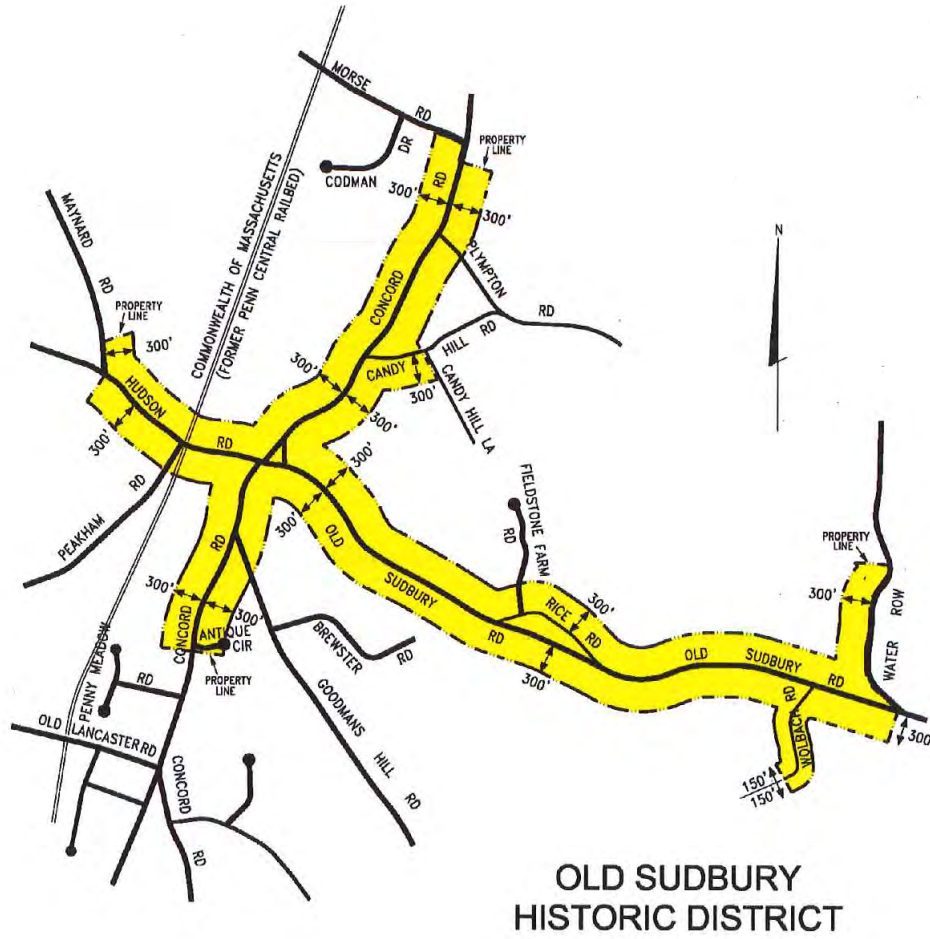
Thence turning at a right angle to the left from the northwesterly sideline and running 150 feet to a point;

Thence northwesterly, 150 feet distant from and parallel to the northwesterly sideline of Maple Avenue to a point on the southerly property line of Lot 3, also known as 395 Boston Post Road, shown on Plan 1202 of 1946, recorded at the Middlesex South Registry of Deeds;

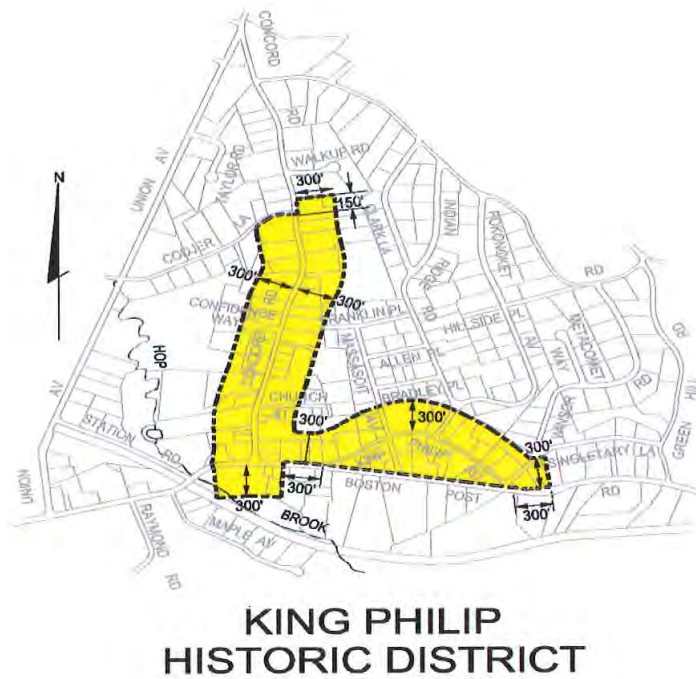
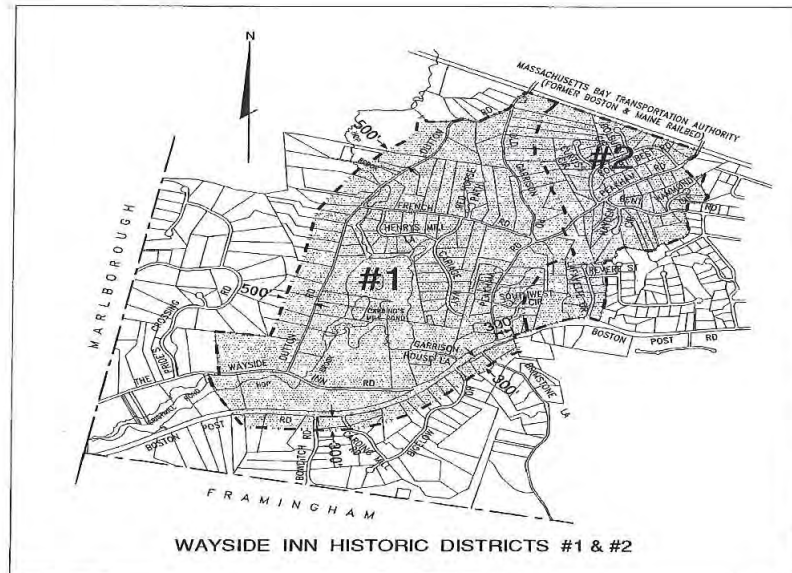
Thence northeasterly along said property line to a point on the northwesterly sideline of Maple Avenue;

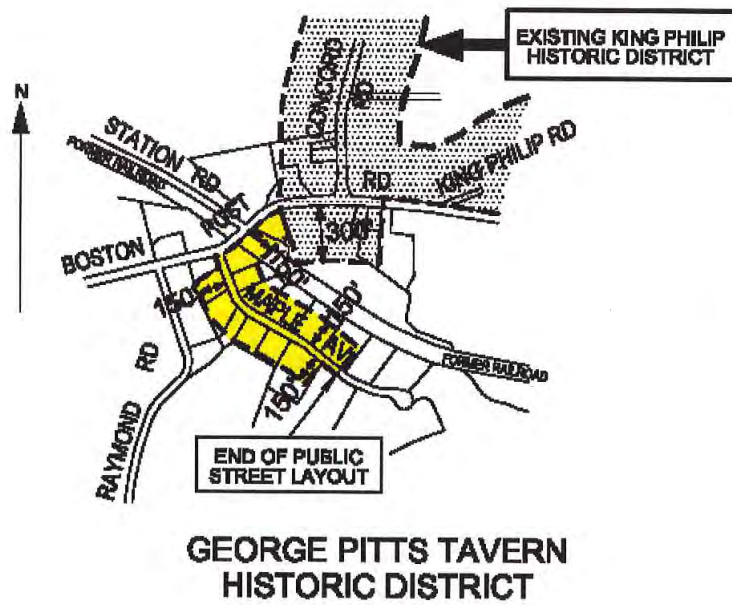
Thence northwesterly along the sideline of Maple Avenue to a point, said point being the intersection of the northwesterly sideline of Maple Avenue and the southerly sideline of Boston Post Road;

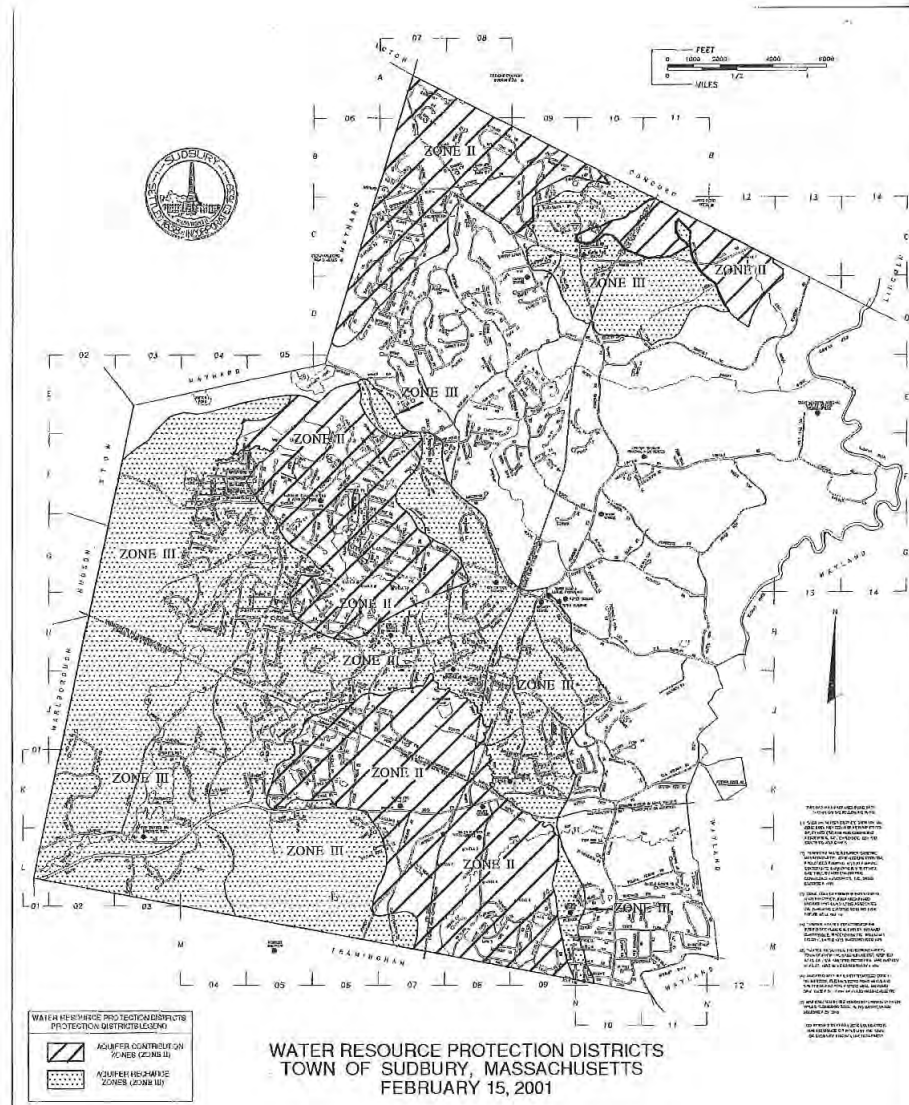
Thence northeasterly along the southerly sideline of Boston Post Road to the point of beginning.











**EFFECTIVE DATES**

**GENERAL BYLAWS:** *July 13, 2016*

**ZONING BYLAWS:** *June 13, 2016*

**A TRUE COPY ATTEST:**

  
**TOWN CLERK**



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

January 26, 2017

Joan M. Wordell, Town Clerk  
Town of Hudson  
78 Main Street  
Hudson, MA 01749

Re: **Hudson Special Town Meeting of November 21, 2016 - Case # 8203**  
**Warrant Article # 17 (Zoning)**

Dear Ms. Wordell:

**Article 17** – We approve the amendments adopted under Article 17 at the Hudson Special Town Meeting of November 21, 2016.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Margaret J. Hurley*

By: Margaret J. Hurley  
Chief, Central Massachusetts Division  
Director, Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4402

ATTEST A TRUE COPY  
POSTED 2/2/17  
Michael Schmeine  
CONSTABLE - HUDSON

cc: Town Counsel Aldo Cipriano

*Joan M. Wordell*  
TOWN CLERK  
HUDSON, MA 01749



**TOWN OF HUDSON, MASSACHUSETTS**

**Office of the Town Clerk**

Town Hall, Hudson, Massachusetts 01749  
978-568-9615

**Joan M. Wordell**  
Town Clerk

**Dawn K. Jacobs**  
Assistant Town Clerk

At the Special Town Meeting of the legal voters of the Town of Hudson, duly called, published, and posted and held Monday, November 21, 2016, with a quorum present, under Article 17 of the Warrant, which was:

**ARTICLE 17 Amend Zoning By-Law – C-1 District**

To determine whether the Town will vote to amend the Town of Hudson Protective Zoning By-Laws by deleting the following language from Section 9.2, "noted in Table 2" Use Scheduled, C-1 Zoning District and replacing it with "required under Section 7.1.7"; or take any action relative thereto.

**THE FOLLOWING ACTION WAS TAKEN:**

**UNANIMOUSLY VOTED** the adoption of the subject matter of this article.

**A TRUE COPY**

**ATTEST:** November 23, 2016

Joan M. Wordell  
TOWN CLERK

Submission #2



***TOWN OF HUDSON, MASSACHUSETTS***

***Office of the Town Clerk***

Town Hall, Hudson, Massachusetts 01749  
978-568-9615

**Joan M. Wordell**  
Town Clerk

**Dawn K. Jacobs**  
Assistant Town Clerk

**NOTICE**

Claims of invalidity of the foregoing amendments to the Zoning By-Law, by reason of any defects in the procedure of adoption, may only be made within ninety (90) days of this posting.

Copies of amendments to the By-Laws may be examined and obtained at the office of the Town Clerk, 78 Main Street, Hudson, MA, 01749.





**TOWN OF HUDSON, MASSACHUSETTS**

**Office of the Town Clerk**

Town Hall, Hudson, Massachusetts 01749  
978-568-9615

**Joan M. Wordell**  
*Town Clerk*

**Dawn K. Jacobs**  
*Assistant Town Clerk*

**Date: February 28, 2017**

This is to certify that according to the records of the Town Clerk of the Town of Hudson the attached booklet entitled:

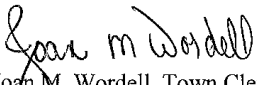
**TOWN OF HUDSON**

**PROTECTIVE ZONING BY-LAWS**

Amended May 2, 2016

is a true copy of the Zoning By-Laws of the Town of Hudson, adopted at duly held Town Meetings, and that all of the Zoning By-Laws contained therein were duly approved by the Attorney General and were thereafter posted by a Constable in accordance with Mass. General Laws, Chapter 40, Section 32; On January 27, 2017, the Attorney General approved Article 17 of the November 21, 2016 Special Town Meeting. A certified copy of the Article is enclosed.

Witness my hand and the seal of the Town of Hudson this **Twenty-eighth** day  
of **February, 2017**

  
Joan M. Wordell, Town Clerk  
Hudson, Massachusetts



# **TOWN OF HUDSON**

## **PROTECTIVE ZONING BY-LAWS**

Updated through May 2, 2016



# **TOWN OF HUDSON**

## **PROTECTIVE ZONING BY-LAWS**

Updated through May 2, 2016

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## **1 0. PURPOSE AND AUTHORITY**

### **1.1. Purpose**

- 1.1.1. The purposes of this Zoning Bylaw include but are not limited to the following: to promote the health, safety and general welfare of the inhabitants of the Town of Hudson; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, congestion, confusion and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid other dangers; to avoid undue concentration of population; encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town of Hudson, including consideration of the recommendations of the Master Plan; and to preserve and increase the beauty and amenities; natural conditions and historic sites.

### **1.2. Authority**

- 1.2.1. This Bylaw is adopted under the authority provided by, and in accordance with, the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended.

## **2.0. DEFINITIONS**

### **Terms and Words**

For the purposes of this Bylaw certain terms and words are herein defined as follows:

Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the word "plot"; the word "land" includes the words "marsh" and "water". For the purposes of this bylaw certain terms and words are herein defined as follows unless a contrary meaning is required by the context, or is specifically prescribed.

Accessory Use: A use customarily incidental to that of the main building or the use of the land, but not the exterior storage of junk, dismantled or abandoned cars, or any other storage detrimental to the health, safety or general welfare.

ADULT ENTERTAINMENT ENTERPRISES: Adult Entertainment Enterprises shall include the following uses: (1) Adult Bookstore: an establishment which has more than ten percent (10%) of its gross floor area or a substantial or significant portion of its stock-in-trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L.A. Chapter 272, Section 31; (2) Adult Motion Picture Theater: a building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L.A. Chapter 272, Section 31; (3) Adult Paraphernalia Store: an establishment which has more than ten percent (10%) of its gross floor area or a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L.A. Chapter 272, Section 31; (4) Adult Video Store: an establishment which has more than ten percent (10%) of its gross floor area or a substantial or significant portion of its stock-in-trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L.A. 272, Section 31; (5) Adult Entertainment Establishment: an establishment which displays entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. Chapter 272, Section 31, including entertainment which features exotic dancers, strippers, male or female impersonators or similar entertainers.

Billboards: Any free standing sign(s) which are located off premises and which are larger than ninety six (96) square feet in area. Such signs shall also be subject to the provisions of 711 CMR 1.00 - 3.00 of the Commonwealth of Massachusetts.

Building: A structure having a roof or cover for the shelter, housing or enclosure of persons, animals, or property.

- a) Building, Accessory: a subordinate building located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land.
- b) Building Line: The line established by law beyond which a building shall not extend.
- c) Building Lot: See lot building.
- d) Building, Main or Principal: A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling or apartment building shall be deemed to be a main building on the lot on which the same is situated.

Dwelling: Any building, or part thereof, used for habitation for one (1) dwelling unit intended and designed to be occupied by a single family. It shall not include a trailer or mobile home, however mounted.

- a) Dwelling, Multi-family (Multiple Family Housing Units, Multiple Family House, Apartment or Apartment House): A dwelling or building including single-family attached units, containing two (2) or more separate dwelling units in residential or mixed-use buildings.
- b) Dwelling, Seasonal: Any dwelling which is limited to human occupancy between April 15 and October 15 due to the temporary nature of cooking, heating and sanitary conditions.
- c) Dwelling, Single-Family: A detached dwelling containing one (1) dwelling unit intended and designed to be occupied by a single-family.
- d) Dwelling Unit: one (1) or more rooms with cooking, living, sanitary and

sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

- e) Dwelling, Year-Round: Any dwelling which is suitable for human occupancy on a permanent, year-round basis and meets the requirements of the Massachusetts State Building Code, the State Environmental Code, and the Town of Hudson health regulations for single-family dwellings.

Family: One (1) or more persons living together in one (1) dwelling unit, but not including sororities, fraternities and other communal arrangements.

Farm: An undivided parcel of land, five (5) acres or more in area, used in the raising of agricultural products, live stock, poultry and dairy products, including necessary farm structures and the storage of equipment used.

Fence: A barrier intended to prevent escape or intrusion or to mark a boundary. A structure of posts and boards, wire, pickets or rails commonly used as an enclosure for a field or yard.

Floor Area: The gross horizontal area of the several floors of the building excluding areas used for accessory garage purposes and basement areas. All horizontal dimensions shall be taken from the exterior faces of walls, including walls of other enclosures.

Frontage: The linear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line of the same lot.

Hazardous Waste Facility: Any facility as defined in Chapter 21D of the General Laws of the Commonwealth of Massachusetts.

Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck of a mansard roof; and to the average height between plate and ridge of a gable, hip or gambrel roof.

Home Occupation: An occupation customarily conducted in the place of residence of the operator, or a professional person, or in a building accessory thereto, such as dressmaking, millinery, home cooking, handcraft, specialized cultivation and propagation of house plants, insects, fish and birds; beauty parlor; the office of a physician, surgeon, dentist, clergyman, artist, lawyer, musician, landscape architect, city or town planner, engineer, or member of any recognized profession; real estate, insurance, stock or other brokerage business or similar establishment offering services to the general public, provided that not more than two (2)

persons are engaged in the activity and that the activity occupies no more than two hundred (200) square feet of floor area.

Landscaped Area: Land left substantially in a natural state or developed for the recreational use for the residents of apartments, but it shall not include public or private street rights-of-ways, parking lots, service or loading areas, driveways, sidewalks, easements for above ground utilities, ground area covered by any structure other than those structures directly related to an open space or recreational use, or any other land deemed unsuitable by the Planning Board, including, but not limited to swamps, wetlands or land exceeding a slope of thirty-three (33) percent.

LOT:

- a) Lot, Building: That area of land described on a site plan in an application for a building permit or an application to the Board of Appeals for a permit or a variance, or otherwise defined as the area on which a structure is to be constructed or a use is to be conducted. A building lot shall not include any part of a street.
- b) Lot Corner: A lot at the intersection of, and abutting one, two or more streets where the angle of intersection is not more than one hundred and thirty-five (135) degrees, or where the intersection is bounded by a curve having a radius of less than one hundred (100) feet.
- c) Lot Depth: The distance measured perpendicular to and at every point in the frontage required.
- d) Lot Line: The established division line between lots or between a lot and a street.
  - 1) Lot Line, FRONT: the dividing line or lines, between a street and the lot line.
  - 2) Lot Line, REAR: The line, or lines, bounding a lot at the rear and approximately parallel to and at the maximum distance from the front line.
  - 3) Lot Line, SIDE: The line, or lines, bounding a lot which extends from the street toward the rear in a direction approximately perpendicular to the street. In the case of a corner lot, or through lots, all lines extending from streets shall be considered side lot lines.

- e) Lot, Minimum Width Of: The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch, but not be in front of, the building. In the case of a corner lot, the minimum width shall be similarly measured and for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front line and the lot lines adjacent thereto shall be considered as side lot lines.

Membership Club: A private, non-profit organization, and its building or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

Mobile Home: A dwelling unit built on a chassis, containing electrical, plumbing and sanitary facilities, designed to be propelled either by an attached vehicle or otherwise, and designed to be installed on a temporary or permanent foundation; but not including a vehicle known as a travel trailer or travel coach nor any prefabricated dwelling unit which contains detachable or expandable parts equal to or greater than fifty (50) percent of the floor area of the dwelling unit.

Non-Conforming Uses: A non-conforming use of land or building is an existing use of land or building which does not conform to the regulations for the district in which such use of land or building exists and which existed at the time of adoption of the regulation to which it does not conform.

Open Space: Those areas of a lot on which no building or structure(s) is permitted, except as otherwise permitted by this By-Law and which is not to be used or devoted to streets, driveways, sidewalks, off-street parking, storage or display is to be permanently maintained in grass or other plant material such as trees, shrubs, bushes and other ground cover. Open space must be free from any vehicular traffic.

Recorded: "Recorded", or "of record", means recorded or registered in the Middlesex County Registry of Deeds, or a record title to a parcel of land disclosed by any or all pertinent public records.

Setback: The minimum horizontal distance between the street or front lot line and the part of the building nearest the street or front lot line, such distance measured at a right angle to the street or front lot line.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or



locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

Street: A public way or private way either shown on a plan approved in accordance with the subdivision control law or otherwise qualifying a lot for frontage under the subdivision control law.

- a) 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 laying out the way upon which the lot abuts; the sum total of lengths of front lot lines abutting a street.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, viewing stand, platform, bin, fence, sign, flagpole, mast for radio antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

Structural Alteration: As applied to a building or structure means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

Yard: An open space, other than enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group or building and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure except for fences.

- a) Yard, Front: A yard extending across the full width of the lot and lying between the front lot line of the lot and the nearest line of the principal building. The depth of a front yard shall be the minimum distance between the principal building and front lot line.
- b) Yard, Rear: A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building. The depth of a rear yard shall be the minimum distance between the principal building and the rear lot line.
- c) Yard, Side: A yard between the side lot line of the lot and the nearest line of the principal building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the principal building and the side lot line.

Wireless Communication Facility: Any “personal wireless service facility” as defined in the Telecommunications Act of 1996, 47U.S.C. § 332(c)(7)(C)(ii), including facilities used or to be used by a licenses provider of personal wireless services.

### **3.0 ESTABLISHMENT OF DISTRICTS**

#### **3.1 TYPES OF DISTRICTS**

The Town of Hudson is hereby divided into types of districts designated as:

##### Residential Districts

- Single Residence (SA 5-8)
- General Residence (SB)
- Multiple Residence (SB 1 and 3)
- Mobile Home District (SB 2 and SB 4)

##### Commercial and Industrial Districts

- Commercial District (C 1-13)
- Limited Commercial Industrial District (LCI-1)
- Industrial District (M 1-7)
- Restricted Industrial District (MR 1-2)
- Floodplain/Wetland District
- Watershed Protection District

#### **3.2 LOCATION OF DISTRICTS**

- 3.2.1 Said districts are hereby established as shown, located, defined and bounded on a map entitled "Town of Hudson, Massachusetts Zoning Parcels and Road dated August 2000", filed with the office of the Town Clerk, which map, together with all explanatory matter thereon, and amendments thereto, is hereby incorporated and made a part of this Bylaw.

#### **3.3 BOUNDARIES OF DISTRICTS**

- 3.3.1 Where the boundary lines are shown upon said map within the street lines of public and private ways, or utility transmission lines, the center lines of such ways or lines shall be the boundary lines, unless otherwise indicated.
- 3.3.2 Boundary lines located outside of such street lines or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines,

and such dimensions shown in figures placed upon said map between such boundary lines and transmission lines are the distances in feet of such boundary lines from such lines, such distances being measured at right angles to such lines unless otherwise indicated.

- 3.3.3 Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- 3.3.4 When the boundary lines are shown upon said map along the boundary of brooks and streams or in brooks and streams, the center line of said brooks and streams shall be the boundary line. Where the boundary line is along or in a body of water, the high water line shall be the boundary line.
- 3.3.5 Contour lines used as boundary lines are the elevation above the datum sea level as indicated by the U.S. Coast and Geodetic maps of the Town of Hudson on file in the offices of the Planning Board and Town Clerk of the Town of Hudson.
- 3.3.6 All areas not designated as any other district are General Residence (SB) Districts.
- 3.3.7 See 5.7.2 for the Floodplain/Wetland Protection District boundaries.
- 3.3.8 In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of said map.
- 3.3.9 In event of a conflict between the official Zoning Map and the zoning districts as they exist on the effective date of this by-law, the district as established by town meeting vote prior to the effective date of this by-law shall control until such time as they may be further amended by subsequent town meetings in accordance with Massachusetts General Laws Chapter 40A.

### **3.3.10 WATERSHED PROTECTION DISTRICT**

#### ***SECTION I Purpose of District***

- A. A Watershed Protection District is established in the Town of Hudson for the following purposes:
- 1) To preserve and protect the lakes, ponds, streams, brooks, rills, marshes, swamps, bogs, and other water bodies and water courses in the town;
  - 2) To protect, preserve and maintain the water table and water recharge areas within the town, so as to preserve present and potential sources of water supply for the public health and safety;
  - 3) To protect the community from the detrimental use and development of land and waters within the watershed protection district; and
  - 4) To conserve the watershed areas of the Town of Hudson for the health, safety, welfare, and enjoyment of its people.

#### ***SECTION II Establishment and Definition of District***

- A. The intent of the Watershed Protection District is to include lands lying adjacent to water courses and surface water bodies, as part of their natural drainage system. The district includes all areas designated on the Watershed Protection District Maps for the Town of Hudson, on file in the Office of the Town Clerk, which are hereby made part of the town zoning map(s), including all land lying within 25 feet of the normal highwater line of lakes, ponds, marshes, swamps, bogs, brooks, streams and rivers.
- B. The Watershed Protection District is an overlay district and shall be superimposed on the other districts established by these bylaws. Uses not permitted in the portions of the districts so overlaid shall not be permitted within the district.

Amendment to Watershed Protection District Map Art. 27 of ATM 5/5/97  
Amendment to Watershed Protection District Map Art. 17 of ATM 5/2/05

### **SECTION III Permitted Uses**

- A. The following uses are permitted within the watershed protection district, subject to Section IV, provided that all necessary permits, orders and approvals required by local, state, or federal law are also obtained:
- 1) conservation of soil, water, plants, and wildlife;
  - 2) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
  - 3) boat docks, landings, foot, bicycle and/or horse paths and bridges;
  - 4) proper operation and maintenance of existing dams splash boards, and other water control, supply and conservation devices;
  - 5) residential development, as permitted in the underlying district, with a maximum density of one unit per acre, provided that the average slope of each lot shall not exceed 12%;
  - 6) repair, maintenance and reconstruction of structures and uses lawfully existing prior to the adoption hereof may be continued as permitted pursuant to Chapter 40A of the Massachusetts General Laws. Existing dwellings may be expanded provided that the design of a new individual sewage disposal system not exceed 440 gallons of sewage per acre per day;
  - 7) farming, gardening, nursery, conservation, forestry, harvesting, and grazing.

### **SECTION IV Prohibited Uses**

- A. THE FOLLOWING USES ARE PROHIBITED WITHIN THE WATERSHED PROTECTION DISTRICT:
- 1) the location of landfills, sludge and septage landfilling and the storage of salt and road de-icing chemicals;

- 1.1) Landfills receiving only wastewater and/or septage residuals including those approved by the Department of Environmental Protection pursuant to M.G.L. c111 §17; M.G.L. c83 §6 and 7, and regulations promulgated thereunder.
- 2) any building, structure, land-disturbing activities, or excavations with 25 feet from the normal highwater line of all water bodies and courses within the watershed protection district;
- 3) any animal feedlot, pasture, confinement area or drainage from such activities within 25 feet from the seasonal highwater line of all water bodies and courses, and the storage of manure unless covered and contained in accordance with the specifications of the United States Soil Conservation Services;
- 4) the disposal of solid waste, other than brush;
- 5) The storage of liquid hazardous materials as defined in M.G.L. c21E, and liquid petroleum products, unless such storage is above ground and level; on an impervious surface; and either in container (s) or above ground container(s) within a building or; outdoors in covered containers(s) in above ground tank(s) in an area that has a containment system designed to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, which ever is greater.
- 6) the dumping of snow contaminated by de-icing chemicals which is brought in from outside the district;
- 7) Petroleum fuel oils and heating oil bulk stations and terminals including, but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and other subsequent amendments;
- 8) facilities that generate, treat, store or dispose of hazardous waste that are subject to Massachusetts General Law, Chapter 21 C and 310 CMR 30.00 except for the following: (i) very small quantity generators, as defined by 310 CMR 30.00; (ii) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390; (iii) waste oil retention facilities required by Massachusetts General Law, Chapter 21, Section 52A; and (iv) treatment works approved by the D.E.P. designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

- 9) automobile graveyards and junk yards, as defined in Massachusetts General Laws, Chapter 140B, Section 1;
- 10) the storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- 11) the storage of commercial fertilizers and soil conditioners, as defined in Massachusetts General Laws, Chapter 128, Section 64 unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- 12) the removal of soil, loam, sand, gravel, or any other mineral substances within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), unless the substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark, and except for excavations for the construction of building foundations or the installation of utility works;
- 13) land uses that result in the rendering impervious of more than fifteen (15) per cent or 2500 square feet of any lot, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality;
- 14) individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre or 440 gallons of sewage on any one acre, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design;
- 15) treatment works that are subject to 314 CMR 5.00 except the following:
  - a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
  - b) the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
  - c) treatment works approved by the Department designed for treatment of contaminated ground or surface water;



Any lawful building or structure or use of a building, structure or premises existing at the time this by-law is adopted, even if not in conformance with its provisions may be continued, rebuilt if damaged or destroyed.

#### **SECTION V   *Special Permit Uses***

- A.     The Board of Appeals may allow the following uses, subject to Section IV, within the Watershed Protection District, hereof and subject to any additional conditions the Board of Appeals may impose.
  - 1)     those commercial and industrial activities permitted in the underlying district, with a site plan review;
  - 2)     the construction of dams or other water control devices, including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning;
  - 3)     conditions under which ponds or pools or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements may be undertaken;
  - 4)     the application of pesticides for non-agricultural uses in combination with erosion and sedimentation control plans, provided that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water or the land within the watershed protection district as a result of such application. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water, or the use of pesticides having low solubility in water, the prevention of volatilization and redeposition of pesticides and the lateral displacement, of pesticides, such as a wind drift; and
  - 5)     the application of fertilizers for non-agricultural uses in combination with erosion and sedimentation control plans provided that such application shall be made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation;
  - 6)     residential construction upon a lot with an average slope exceeding 12%;

**SECTION VI Procedures for Issuance of Special Permit**

- A. Each application for a special permit shall be filed with the Board of Appeals and shall be accompanied by three (3) copies of the plan.
- B. Said application and plan shall be prepared in accordance with the data requirements of the proposed development, such as site plan review, erosion, and sedimentation control plan, etc.
- C. The Board of Appeals shall refer copies of the application to the Board of Health, the Conservation Commission, and Town Engineer/Department of Public Works. These boards and departments shall review, either jointly or separately, the application and shall submit written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed to constitute no opposition to the application.
- D. The Board of Appeals shall hold a hearing, in conformity with the provisions of the Massachusetts General Laws Chapter 40A, Section 9 within 65 days after the filing of the application and after the review of the aforementioned town boards and departments.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties in interest" as defined in the Massachusetts General Laws Chapter 40A, Section 11. The decision of the Board of Appeals and any extension, modification, or renewal thereof, shall be filed with the Board of Appeals and Town Clerk within 90 days following the closing of the public hearing.

Failure of the Board of Appeals to act within 90 days shall be deemed a granting of the permit. However, no work shall commence until a certification is recorded as required under said Section 11 of Chapter 40A.

- E. After notice and public hearing, and after due consideration of the reports and recommendations of the Board of Health, the Conservation Commission and Town Engineer/Department of Public Works; the Board

of Appeals may grant such a special permit provided that it finds that the proposed use:

- 1) is in harmony with the purpose and intent of this by-law and will promote the purpose of the Watershed Protection District;
- 2) is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
- 3) will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district; and
- 4) will not adversely affect an existing or potential water supply.

#### **SECTION VII *Limit of Authority***

Establishment of this district does not limit the existing authority of the Conservation Commission pursuant to Section 40 of Chapter 131 of the Massachusetts General Laws.

#### **SECTION VIII *Development Regulations***

All construction and land disturbing activities within the watershed protection district shall be designed or sited to minimize erosion and runoff by adhering to the practices outlined in a text entitled "Erosion and Sediment Control in Site Development the Massachusetts Conservation Guide" (U.S. Department of Agriculture Soil Conservation Service, Amherst, MA, copy right date September 1983) to include minimizing the construction period, slope stabilization, ditch maintenance, filtering, sedimentation basins, and revegetation.

#### **4.0 NEW CONSTRUCTION AND USES**

##### **4.1 *Use of Buildings or Structures***

- 4.1.1 For the purposes of this bylaw, any lawful buildings or structure or use of a building, structure or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which does not violate any section of this bylaw or any of the provisions of the bylaw or any of the provisions of the bylaws of the Town of Hudson.

##### **4.2 *Building Permits and Notice Respecting this Bylaw***

- 4.2.1 Any construction or use for which a building permit was legally issued prior to the first publication of notice of the Planning Board hearing respecting this bylaw or amendment thereto shall be permitted notwithstanding noncompliance with the requirements of this bylaw or amendments thereto, provided such construction was commenced within six (6) months after the issuance of the permit and in cases involving construction, such construction was continued through to completion as continuously and expeditiously as is reasonable.

##### **4.3 *Recorded Lots and Permitted Uses***

- 4.3.1 Requirements respecting lot area, frontage, width, yard or depth provided in this bylaw or amendments thereto shall be subject to the exemptions provided in section 6 of chapter 40A of the General Laws and shall not apply to a lot for single or two-family residential use which, at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements, and had less than the increased requirements but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

**4.4                    *Zoning Bylaw with Respect to Other Restrictions***

- 4.4.1                When this bylaw imposes a greater restriction of the use of buildings, structures or premises or on height of buildings, or requires larger yards, or open spaces than are imposed or required by any regulations, restrictions, permits, easements, covenants or agreements, the provisions of this bylaw shall control.

**5.0                    *USE REGULATIONS***

**5.1                    *General Conditions Pertaining to All Use in All Districts***

**5.1.1                *Compliance with Applicable State and Federal Laws***

- 5.1.1.1            For the purposes of conserving the public health; providing for adequate light and air; insuring provision for adequate supplies of water and treatment of sewerage; conserving the value of land and buildings and preserving and increasing the amenities of the Town of Hudson, compliance shall be required with all applicable laws and regulations of the Commonwealth and of the Federal government and its agencies.

**5.1.2                *District Boundary Line Dividing a Lot***

- 5.1.2.1            Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than one hundred (100) feet into the more restricted portion of such lot, provided the lot has frontage on a street, in the less restricted district, and provided the same is allowed by a special permit by the Board of Appeals subject to appropriate conditions or safeguards where such are deemed necessary.
- 5.1.3                Nothing in this bylaw shall prohibit, regulate or restrict the use of land or structure in any district for religious purposes or for education purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a non-profit educational corporation.
- 5.1.4                Activities accessory to activities otherwise permitted within the district as a matter

or right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same Parcel as activities permitted as a matter of right, may be permitted, subject to the provisions of Section 8.0 for a Special Permit granted by the Board of Appeals.

5.1 .5 Uses Prohibited in All Districts

5.1.6 Continuance of Existing Uses, Buildings and Structures

5.1.6.1 Any lawful use of a building, structure or premises, existing at the time of the adoption of this By-Law, even if not in conformance with its provisions, may be continued and if allowed by Special Permit of the Board of Appeals, may be enlarged or changed to a specific new use. Once changed, a non-conforming use loses its pre-existing status and cannot be changed again.

5.1.6.2 Any lawful building or structure other than one and two family dwellings, existing at the time of adoption of this By-Law, even if not in conformance with its provisions, may be continued, rebuilt if damaged or destroyed and if allowed by Special Permit of the Board of Appeals, may be enlarged provided that such enlargement does not increase the non-conforming nature of the building or structure.

5.1.6.3 A pre-existing one and two family dwelling existing at the time of adoption of this By-Law, even if not in conformance with its provisions, may be rebuilt if damaged or destroyed and may be altered, extended or structurally changed, provided that such alteration, extension or structural change does not increase the non-conforming nature of the building.

5.1.6.4 The conversion of seasonal non-conforming dwellings to year-round dwellings can be permitted only when adequate access on roads safe for travel year-round is provided; when adequate provision of water supply, sewerage, drainage, and the protection of natural resources from pollution is provided.

5.1.7 Discontinuance

5.1.7.1 When a non-conforming use is discontinued or is abandoned for a period of more than two (2) years, it shall not be re-established, unless a permit for a longer period of time has been granted by the Board of Appeals in conformance with Sections 14 and 15 of Chapter 40A, and any future use shall be in conformance

with this bylaw, provided that this section shall apply to use for agriculture, horticulture, floriculture or viticulture only as provided in Section 3 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

5.1.8 Temporary Moratorium on Medical Marijuana Treatment Centers and the Sale & Distribution of Drug Paraphernalia

5.1.8.1 Purpose

By vote at the State election on November 6, 2012, the voters of the Commonwealth of Massachusetts approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of Hudson and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises unique and complex legal, planning, and public health, safety and general welfare issues and the Town needs sufficient time to study and consider the regulation of Medical Marijuana Treatment Centers and the Sale and Distribution of Drug paraphernalia and address such issues, as well as to address the potential impact of the state regulations on local zoning and to undertake a concise and meaningful planning process to consider amending the Protective Zoning Bylaw regarding regulation medical marijuana treatment centers and other uses related to the regulation of medical marijuana as well as the sale and distribution of drug paraphernalia. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers and the sale and distribution of drug paraphernalia so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact Zoning By-Laws in a manner consistent with sound land use planning goals and objectives so as to encourage the appropriate use of the land.

5.1.8.2 Definitions

"Medical Marijuana Treatment Center" shall mean a "not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public



Health, that acquires, cultivates, possesses, processes (including the development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers."

"Drug Paraphernalia" shall be as defined under M.G.L Chapter 94C Section 1 as amended.

#### 5.1.8.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Protective Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center and for the Sale and Distribution of Drug Paraphernalia. The moratorium shall be in effect through June 30, 2014. During the moratorium period, the Town shall undertake a comprehensive planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding Medical Marijuana Treatment Facilities and related uses as promulgated, and shall consider adopting new Protective Zoning Bylaw provisions to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

## 5.2 RESIDENTIAL DISTRICTS

### 5.2.1 *General*

- 5.2.1.1 For safety and the general welfare all principal buildings designed or intended for residence purposes hereafter erected shall be in a location which fronts upon an accepted street or upon a public way of sufficient width to secure safety from fire and to provide adequate light and air, such width to be determined by the Board of Selectmen and approved by the Planning Board.

### 5.2.2 *Uses Permitted*

- a) Single family dwelling.
- b) Churches, schools, public libraries and parish houses.
- c) Municipal buildings, public parks, playgrounds and similar public buildings and purposes.
- d) Farm, poultry farm, garden or nursery, selling only produce or plants, the major portion of which are raised within the Town.

- e) Professional offices in private residences or buildings accessory thereto.
- f) Craft manufacture and customary home occupation if carried on by a resident on premises and involving not more than two (2) additional operatives.
- g) The taking of lodgers, not to exceed four (4) in number, excluding the occupant's family.
- h) Accessory uses customarily incidental to a permitted use on the same premises, and not detrimental to a residential neighborhood.
- i) Signs pertaining to
  - 1) The lease or sale of the property on which they are placed and not exceeding a total area of twelve (12) square feet;
  - 2) The use of occupancy of the property, not to exceed four (4) square feet and not to be illuminated by colored or flashing lights.
- j) "Family day care home", any private residence, which on a regular basis receives for temporary custody and care during part or all day, for children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed 10, including participating children living in residence. Also, must be a licensed family day care provider regulated by the Department of Early Education and Care and abide by their rules and regulations.

### **5.2.3 Uses Allowed by Special Permit**

5.2.3.1 The following uses when specifically approved as special exceptions by the Board of Appeals, which shall have found that the proposed use will not have an adverse effect on present and future dwellings in the vicinity, or create traffic hazards or volume greater than the capacity of the streets affected;

- a) A golf course, ski tow, or boat livery.
- b) A membership club, or an organized campground, not operated for profit.
- c) A cemetery operated by the Town of Hudson.
- d) A commercial greenhouse.
- e) A hospital, convalescent home, funeral home, or philanthropic institutions.
- f) A commercial riding stable on a lot containing at least ten (10) acres, and providing that no building nearer than one hundred (100) feet to any lot line shall be used for the housing of animals, or a veterinary hospital.
- g) A telephone exchange, or water or sewerage pumping station, providing that there is no service yard and that the design of the building is in harmony with the architectural characteristics of the district as determined by the Board of Appeals.
- h) The display and sales of Christmas trees and decorations, during the

months of November and December, provided a permit therefore is obtained from the Board of Selectmen.

- i) Conversion of a one (1) family dwelling existing at the time of the original adoption of the Protective Zoning Bylaws of the Town of Hudson into a two (2) family dwelling, provided that the exterior appearance is not changed from the character of a single family dwelling, excepting that the exterior of the building may be reconstructed to accommodate an exit from the second floor, when authorized by the Board of Appeals, subject to appropriate conditions-where such are deemed necessary.
  - 1) Under no condition shall the alteration, rebuilding or expansion of existing structure be allowed beyond the applicable setback requirements.
  - 2) One of the dwelling units shall be occupied by the owner of the property excepting for bona fide temporary absences.
- j) Multiple Dwelling or Office building as the adaptive reuse of former municipal buildings in existence at the time of the adoption of this section of the Protective Bylaws of the Town of Hudson.
- m) Sanitary landfill on private property for municipal purpose in the portion of the Single Residence District SA-8 bounded by the Stow Line on the north, Assabet River and Cox Street on the south, and Cemetery Road and old Stow Road on the west, upon compliance with the applicable General Laws or Local Bylaws, the removal of soil and/or gravel, part of which will be returned and used for covering of refuse as required by law.

#### **5.2.4 Uses Allowed by Special Permit in the Multiple Residence District SB-1**

- a) Uses that are permitted by Sections 5.2.2 and 5.2.3 above subject to the same minimum lot area requirements and related requirements of such district.
- b) Multiple dwellings, subject to the following conditions and requirements:
  - 1) The lot of land shall have a total area based on a minimum land area requirement of six thousand (6000) square feet for each dwelling unit to be located on the lot. The maximum coverage of the lot by all buildings and structures shall be twenty (20%) percent of the total lot area and the minimum landscaped area shall not be less than twenty-five (25%) percent of the lot area.
  - 2) No entrance to a building shall be further than one hundred (100)

feet from an access street or an access drive, or further than two hundred and fifty (250) feet from an off street parking area.

- 3) The maximum height of building shall be forty (40) feet.
- 4) No portion of any enclosing wall of any building and no portion of any permissible structure shall be nearer to the street line of an existing public or private way than fifty (50) feet nor nearer the side lot line than thirty (30) feet nor nearer the rear lot line than thirty (30) feet.
- 5) No building in a group shall be closer to any other building on the lot or adjacent lot than a distance of fifty (50) feet.
- 6) There shall be provided a permanent off-street parking area, indoors and/or outdoors sufficient in size to allow two and one-half (2.5) parking spaces for each dwelling unit to be accommodated.
- 7) There shall be submitted a plan to the Planning Board for approval before a building permit shall be issued of the proposed parking facilities on which shall be shown the design of the proposed project and a chart showing:
  - a) Area of lot.
  - b) Area of buildings.
  - c) Number of parking spaces to be provided, and their proposed layout including access, circulation and maneuvering space, safety precautions and surfacing material.
  - d) A topographical map, if required.
  - e) There shall also be shown on said chart additional information, if any, necessary for the Planning Board to determine compliance with this Bylaw.

#### **5.2.5 Additional Uses Allowed By Special Permit in the Mobile Home SB-2**

District subject to the following conditions:

**5.2.5.1 Mobile Home Parks, provided that**

- a) Mobile homes shall each be located on a lot with a minimum area of five thousand (5,000) square feet.
- b) Each individual mobile home lot shall have a minimum frontage of fifty (50) feet measured either at the front lot line or at the set back line.
- c) No mobile home or part thereof shall be erected or altered to within thirty (30) feet of the front lot line, except on a corner lot and in such case no mobile home or part thereof shall be erected or altered to within fifteen (15) feet of the front lot line nor within ten (10) feet from the interior lot line having the greatest dimension.
- d) No mobile home or part thereof shall be erected or altered to within ten (10) feet of the rear lot line.
- e) No mobile home or part thereof shall be erected or altered to within ten (10) feet of the side lot line.
- f) No mobile home shall have a floor area of less than three hundred fifty (350) square feet.

**5.2.6 Accessory Dwelling Units**

**5.2.6.1 Purpose and Intent:**

The intent of allowing accessory dwelling units is to:

1. Preserve the residential character of a neighborhood.
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Provide housing units for persons with disabilities;

**5.2.6.2 Definitions:**

1. Accessory Dwelling Unit (ADU): A self-contained housing unit incorporated within a single-family dwelling or existing detached structure that is clearly a subordinate part of the single-family dwelling and which complies with each of the use and dimensional regulation stated in section 5.2.6.4 below.
2. Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.
3. Building, Detached: A building having five feet or more of open space on all sides.
4. Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.
5. Dwelling Unit: One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. This definition does not include a trailer, however mounted.
6. Primary Domicile: That place where a person has his or her true, fixed, and permanent home and principal establishment, and to which he or she is never absent more than 6 months.
7. Temporary Absence: Absence of no more than 6 months.

**5.2.6.3 Procedural Requirements:**

1. An application for an Accessory Dwelling Unit Special Permit shall be filed with the Zoning Board of Appeals in accordance with its applicable filing requirements.
2. The Zoning Board of Appeals shall not grant any variances under this section except as noted in 5.2.6.4 (2).

**5.2.6.4 Use and Dimensional Regulations:**

1. The Zoning Board of Appeals as the Special Permit Granting Authority (SPGA) may issue a Special Permit authorizing the installation and use of an accessory dwelling unit in a single-family home or lot provided the following conditions are met:
  - (a) The accessory dwelling unit may be located in the primary domicile.
  - (b) The primary domicile to be altered to include an accessory dwelling unit shall maintain the appearance of a single-family structure.

- (c) The unit will consist of a complete, separate housekeeping unit containing both kitchen and bath.
  - (d) Only one accessory dwelling unit may be created within a single-family house or house lot.
  - (e) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
  - (f) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building as remote as possible from one another.
  - (g) The habitable floor area of the accessory unit shall not exceed twenty-five (25%) of the habitable floor area of the entire dwelling or 900 square feet, whichever is greater.
  - (h) An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two bedrooms.
  - (i) The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws and regulations.
  - (j) Sufficient and appropriate space for at least two (2) additional parking spaces shall be provided by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of material consistent with the existing driveway and shall have vehicular access to the driveway. Stacking of vehicles for the different dwelling units shall not be allowed. A separate driveway opening for the accessory dwelling unit shall not be allowed.
  - (k) The proposed use is determined to be in harmony with the intent and purpose of the Zoning By-Law.
2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the SPGA may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
  3. Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in 5.2.6.4 (4) & (5) below must be recorded in the Middlesex South County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.
  4. Prior to issuance of a special permit, the owner(s) must furnish an affidavit, sworn under the pains and penalties of perjury, stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.



5. When a structure, which has received a special permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Special Permit, must, within thirty (30) days of the purchase, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.
6. Prior to issuance of a special permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

#### **5.2.6.5 Administration and Enforcement**

1. It shall be the duty of the Building Commissioner as Zoning Enforcement Officer to administer and enforce the provisions of this Bylaw.
2. No building shall be changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health. Any building alteration shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or its agent.
4. The Building Commissioner shall have the authority to issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
5. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

#### **5.2.7 Bed and Breakfast**

#### 5.2.7.1 Purpose and Intent:

The intent in allowing Bed and Breakfasts to be operated within single family residences as an additional use is to:

1. Preserve the viability and encourage the long term maintenance of some of our Town's larger more significant historic properties;
2. Preserve the residential character of a neighborhood; and
3. Encourage tourism and provide seasonal and business travelers with alternative places to stay when visiting the area.

#### 5.2.7.2 Definitions:

1. Bed and Breakfast: A private owner-occupied single-family residence, several rooms of which are set aside for overnight guests whose paid accommodations include some form of breakfast.

#### 5.2.7.3 Procedural Requirements:

1. An application for a Special Permit to operate a Bed & Breakfast as an additional use within a single family dwelling shall be filed with the Zoning Board of Appeals in accordance with its applicable filing requirements;
2. The Zoning Board of Appeals shall not grant any variances under this section except as noted in 5.2.7.4 (2)

#### 5.2.7.4 Use and Dimensional Regulations:

1. The Zoning Board of Appeals as the Special Permit Granting Authority (SPGA) may issue a Special Permit authorizing the operation of a Bed & Breakfast as an additional use within any single family dwelling within all Residential Districts provided the following conditions are met:
  - a) the existing uses of the property on which the existing structure(s) is located conform to the requirements of this Zoning by-Law or are lawfully existing non-conforming uses;
  - b) the existing structure(s) on the property conform to the requirements of this Zoning By-Law;
  - c) the existing structure(s) including any attached additions that are considered by the Board of Appeals to be an integral part of the principle structure has a minimum floor area of 4,500 square feet or more, excluding any attic or basement areas or porches, decks or patios areas;
  - d) the existing detached structure(s) may be used for the purposes of this Section but shall not be included in the calculation of the minimum floor area of 4,500 square feet;
  - e) at least 80% of the existing structure(s) which will contain the special use to be allowed hereunder must be at least 50 years old or older;
  - f) the premises shall be the primary residence of the owner(s) and contains full living quarters for the property owner(s);

- g) the premises shall contain no more than seven (7) guest rooms;
  - h) there are no more than two (2) guest rooms sharing a single full bathroom, each having a minimum of a toilet, sink and shower;
  - i) each guest room must include a closet and be able to accommodate a full-size bed, a dresser and a night table;
  - j) there shall be at least one (1) off-street parking space per guestroom plus two (2) off-street spaces for the primary residence. Off-street parking for the single family and bed and breakfast uses shall comply with the provision for off-street parking (Section 7.1.4) of this By-Law. The creation of any new or the expansion of any parking area or facilities shall require Site Plan Approval pursuant to Section 7.1.7;
  - k) signage promoting the use and occupancy of the premises shall not exceed a total area of twelve (12) square feet and not be illuminated by colored or flashing lights;
  - l) the Bed and Breakfast shall be licensed by the town on an annual basis and shall specifically comply with all of the requirements of the Board of Health; and
  - m) non-residential staff shall be limited to four (4) full or part-time employees with one additional off-street parking space required for every two residential or non-residential staff members working within the premises.
2. In order to preserve the architectural integrity of the towns' historic homes and encourage their preservation and maintenance, the SPGA may allow reasonable deviation with respect to the installation of features that facilitate access and mobility for disabled persons.
3. Approval for a Special Permit for the operation of a Bed & Breakfast as an additional use within a single family dwelling requires that the owner occupy the dwelling as their primary residence. The zoning approval and the notarized letters required in Section 5.2.7.4(4) & (5) below must be recorded in the Middlesex South Country Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to commencing operations under the new permitted use.
4. Prior to issuance of a special permit, the owner(s) must furnish an affidavit, sworn under the pains and penalties of perjury, stating that the owner will occupy the premises as their primary residence, except for bona fide temporary absences.
5. When a structure, which has received a special permit for use and operation of a Bed and Breakfast, is sold, the new owners(s), if they wish to continue to exercise the Special Permit, must, within thirty (30) days of the purchase, submit a notarized letter to the Building Commissioner stating that they will occupy the premises as their primary residence, except for bona fide temporary absences.

6. Prior to issuance of a special permit, a site plan, as well as floor plans for the entire premises including detailed plans of all interior and exterior changes to be made to the premises must be submitted for review.

#### **5.2.7.5 Administration and Enforcement**

1. It shall be the duty of the Building Commissioner as Zoning Enforcement Officer to administer and enforce the provisions of this Bylaw.
2. No building shall be changed in use or configuration, until the Building Commissioner has issued a building permit. Any building alteration shall conform to all adopted state and town laws, bylaws, codes and regulations.
3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this Section or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals.
4. The Building Commissioner shall have the authority to issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this Section.
5. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this Section unless the construction or use is begun with a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

### **5.3 COMMERCIAL DISTRICTS**

#### **5.3.1 Uses Permitted**

- 5.3.1.1 Buildings, structures, and premises may be used for any use permitted in a Residence District and/or lawful business, service or public utility.

#### **5.3.2 Uses Allowed by Special Permit granted by the Board of Appeals**

- 5.3.2.1 The following uses when specifically approved as special exceptions by the Board of Appeals, which shall have found that the proposed use will not have an adverse effect on the present and future dwellings in the vicinity, or create traffic hazards or volume greater than the capacity of the streets affected, or other appropriate safeguards and conditions which the Board of Appeals deems necessary:
  - a) Multiple dwellings in ALL Districts except C-1, C-11, and C-12 subject to

the same conditions of Section 5.2.4 above and provided that the permit granting authority finds that the non-residentially zoned area would not be adversely affected by such residential use, and that permitted uses in the district are not noxious to a multi-family use.

**5.3.3 Uses Allowed by Special Permit in ALL Commercial Districts EXCEPT C-1**

- 5.3.3.1 Motor vehicle repair facilities, including those repairing, painting, or storing motor vehicles, provided the disabled vehicles are screened from abutting lots or exterior streets by a solid landscaped screen and/or fence at least five (5) feet but no more than seven (7) feet in height.
- 5.3.3.2 Junk yards, provided that outdoor storage areas are screened from view from abutting lots or exterior streets by a solid landscaped screen and/or fence at least five (5) feet but no more than seven (7) feet in height.
- 5.3.3.3 Drive-in theaters, provided that the moving picture images are directed away from existing dwelling units.

**5.4 LIMITED COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT**

**5.4.1 USES PERMITTED**

- 5.4.1.1 Retail sales and service occupations.
- 5.4.1.2 Computer sales and/or services.
- 5.4.1.3 Laundries, dry cleaning or dyeing establishments.
- 5.4.1.4 Distribution and storage of lumber, building material and fuel, provided no petroleum products are stored above ground in tanks exceeding ten thousand (10,000) gallons in capacity.
- 5.4.1.5 Undertakers' establishments.
- 5.4.1.6 Trucking garages and terminals.
- 5.4.1.7 Warehouses and food distributions centers.
- 5.4.1.8 Public utility building, or yards, contractor's offices and storage yards.
- 5.4.1.9 Hotels and motels.

- 5.4.1.10 Public garages including body repairs.
- 5.4.1.1 Bottling or packaging of previously prepared products.
- 5.4.1.12 Offices for executive and/or administrative services.
- 5.4.1.13 Manufacturing or assembly of precision instruments, tool and die, dental, medical, optical, pharmaceutical and health care equipment, electrical and electronic instruments.
- 5.4.1.14 Accessory uses customarily incidental to a permitted use.
- 5.4.1.15 Signs pertaining to a permitted use on the premises. No signs shall be illuminated in such a manner as to cause annoyance to existing dwellings.
- 5.4.1.16 Agriculture, horticulture, floriculture or viticulture, provided that such uses are located on parcels containing at least five (5) acres.

#### 5.4.1.17 USES ALLOWED BY SPECIAL PERMIT

- 5.4.1.17 Adult Entertainment Enterprises are subject to Special Permit approval in the Town of Hudson. Such a use may ONLY be permitted in the LCI District - provided that said premises has the required frontage and lot size for that district. This use shall also be subject to the following findings and conditions, and subject to such additional terms and conditions as the Board of Appeals may impose in granting the Special Permit: (1) No merchandise or services prohibited as obscene and/or indecent shall be disseminated or available therein; (2) No pictures, publications, videotapes, movies, covers, or other implements, items or advertising that fall within the definition of Adult Entertainment Enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in store windows or visible from areas used by the general public; (3) The permitted uses specifically exclude disseminating or offering to disseminate adult matter to minors, and allowance of minors to view the display or linger in the store shall be deemed evidence of violation of this section; (4) No Adult Entertainment Enterprise shall be located within the same block or within 300 feet of a residential zone, residential use, dwelling unit, school, place of worship, church, park, playground, youth center, or another Adult Entertainment Enterprises; (5) Signage for Adult Entertainment Enterprises shall not contain any moving, flashing or animated lights, or visible moving or movable parts, and shall identify the name of the establishment but shall contain no advertisement in addition to that; (6) No Adult Entertainment Enterprises may display flashing lights visible from outside the establishment; (7) Hours and days of operation shall be established by the Hudson Zoning Board of Appeals.A

special permit may only be issued pursuant to the applicable provisions of Massachusetts General Laws Chapter 40A, Section 9A, as amended, and following a public hearing held within sixty-five (65) days after the filing of an application with the Zoning Board of Appeals; a copy of which shall forthwith be given to the Town Clerk by the applicant. A special permit granted hereunder shall lapse within a specified period of time of not more than two (2) years and including such time required to pursue or await the determination of any appeal referred to in Section 17 of Massachusetts General Laws Chapter 40A, as amended, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a Permit for construction, if construction has not begun by such date except for good cause. If any paragraph, sentence, phrase or word contained in this By-Law is adjudicated by a Court of competent jurisdiction to be unconstitutional, illegal or otherwise unenforceable, then it is intended that the remaining provisions of this By-Law continue in full force and effect.

#### **5.4.2 USES SPECIFICALLY PROHIBITED**

- 5.4.2.1 Any use which may produce a nuisance or hazard from fire, explosion, toxic or noxious or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noises and vibrations, flashes, objectionable effluent or electrical interference, which may adversely effect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in the Limited Commercial Industrial District or in any contiguous district or zone located within the Town of Hudson.
- 5.4.2.2 Contamination of ground water, pollution of any stream or other atmospheric pollutant.

#### **5.4.3 CONDITIONS OF USE**

- 5.4.3.1 All permitted uses shall be conducted in enclosed buildings or structures except by permit of the Board of Appeals.

### **5.5 INDUSTRIAL DISTRICTS**

#### **5.5.1 USES PERMITTED**

- 5.5.1.1 Buildings, structures and premises for industry and manufacturing.
- 5.5.1.2 In the M-5 District, single family dwelling and accessory uses customarily incidental to a permitted use on the same premises, and not detrimental to a residential neighborhood.



- 5.5.1.3 Agriculture, horticulture, floriculture or viticulture, provided that such uses are located on parcels containing at least five (5) acres.
- 5.5.1.4 Any use permitted or allowed by special permit in a Residential or Commercial District subject to all the requirements and restrictions of that District except that multiple dwellings are prohibited.

## **5.6 OPEN SPACE RESIDENTIAL DEVELOPMENT**

### **Open Space Residential Development (OSRD)**

#### **Purpose and intent.**

- 1) The Primary Purposes for this bylaw are the following:
  - a) To allow for greater flexibility and creativity in the design of residential developments;
  - b) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
  - c) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
  - d) To minimize the total amount of disturbance on the site;
  - e) To further the goals and policies of the Town of Hudson Community Development Plan and Open Space and Recreation Plan;
  - f) To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
- 2) The Secondary Purposes for this bylaw are the following:
  - a) To preserve and enhance the community character;
  - b) To protect and enhance the value of real property;
  - c) To provide for a diversified housing stock;
  - d) To provide affordable housing to persons of low and moderate income.

### **5.6.1 Definitions**

- 1) **Basic Maximum Number** – The number of units that would be allowed on a site using the standard Zoning Bylaw Provisions and/or Subdivision Rules and Regulations as determined by a Yield Plan as described in 5.6.4 (a).
- 2) **Hard Stormwater Management Techniques** – Structural stormwater management techniques including, but not limited to, catch basins, subsurface piping, stormwater inlets, and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.
- 3) **Low-Income Household** – These households shall be defined as those in the “Very Low Income” affordability range as published annually by the Department of Housing and Urban Development (HUD).
- 4) **Major Residential Development**–Any new development that will create more than four (4) residential lots
- 5) **Moderate Income Household** – These households shall be defined as those in the “Low Income” affordability range as published annually by the Department of Housing and Urban Development (HUD).
- 6) **Soft Stormwater Management Techniques** – Non-structural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

#### **5.6.2 Applicability**

- 1) Any Major Residential Development may be permitted by issuance of a Special Permit from the Planning Board for OSRD in accordance with this bylaw.
- 2) Developments of 4 lots or smaller may also apply for an OSRD Special Permit subject to the following criteria:
  - a) **Contiguous Parcels.** To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are “contiguous” for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 5.6.1.
  - b) **Land Division.** To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, § 81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.

### **5.6.3 Pre-application**

- 1) **Conference.** The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Department of Public Works, Fire Chief, Police Chief and Building Commissioner. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. The Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for an OSRD Special Permit. An Applicant shall be required to pay for reasonable consulting fees to provide peer review of the OSRD application. Such fees shall be held by the Town in a separate account and used only for out-of-pocket expenses associated with the review of the OSRD application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and other professionals. Any surplus remaining after the completion of such review shall be returned to the Applicant forthwith.
- 2) **Submittals.** In order to facilitate review of the Special Permit at the pre-application stage, applicants are strongly encouraged to submit the following information:
  - a) **Site Context Map.** This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
  - b) **Existing Conditions/Site Analysis Map.** This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature nondegraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.
  - c) **Other Information.** In addition, applicants are encouraged to submit the information set forth in 5.6.5(1) in a form acceptable to the Planning Board.

- 3) **Site Visit.** Applicants are encouraged to request a site visit by the Planning Board and/or its Agents in order to facilitate pre-application review of the Special Permit. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Department of Public Works, Fire Chief, Police Chief and Building Commissioner.
- 4) **Design Criteria.** The design process and criteria set forth below in Sections 5.6.6 and 5.6.7 should be discussed by the parties at the pre-application conference and site visit.

#### **5.6.4 OSRD Application for Special Permit**

The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize an OSRD Special Permit pursuant to the procedures outlined below.

- 1) **Application.** An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board as most recently amended. Applicants for OSRD shall also file with the Planning Board 15 copies of the Concept Plan. The Concept Plan shall include a Yield Plan and a Sketch Plan [see Subsections 1a and 1b of this Section], prepared by a multidisciplinary team including a registered land surveyor, a registered professional engineer and a registered landscape architect. The applicant shall also submit both the Site Context Map and Existing Conditions/Site Analysis Map prepared according to Section 5.6.4 (2). above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.
  - a) **Yield Plan.** The Basic Maximum Number of allowable units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information:
    - i) Parcel boundaries, north point, date, legend, title "Yield Plan," and scale.
    - ii) The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan.
    - iii) The names, approximate location, and widths of adjacent streets.
    - iv) Existing topography at 2-foot contour intervals.
    - v) Map of soils using NRCS soils mapping.
    - vi) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Yield Plan.
    - vii) Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.

- viii) Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.
  - ix) If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.
- b) **Sketch Plan.** The Sketch Plan shall address the OSRD by taking into consideration the general features of the land, and shall give approximate configurations of the proposed lots, of unit placements if treated as a condominium, of open space, and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section 5.6.6 below, and the Design Standards, according to Section 5.6.7 below, when determining a proposed design for the development. In addition to those requirements for a Yield Plan listed in Section 5.6.5(1)a, a Sketch Plan shall contain the following information:
- i) The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
  - ii) The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Section 6.A. Proposals for all site features to be preserved, demolished, or altered shall be noted on the Sketch Plan.
  - iii) The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
  - iv) Proposed roadway grades.
  - v) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. However, a narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
  - vi) A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts onsite and to any abutting parcels of land. For example, the narrative will specify whether Soft or Hard Stormwater Management Techniques will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any

stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.

- vii) A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.
  - viii) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
  - ix) All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
  - x) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds or condominium documents, with an accompanying narrative explaining their general purpose.
  - xi) A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.
- c) **Procedures.** Whenever an application for an OSRD Special Permit is filed with the Planning Board, the Board shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Building Commissioner, Department of Public Works, Police Chief, Fire Chief, and the Town's Engineering Consultant for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
- d) **Site Visit.** Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- e) **Other Information.** The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for an OSRD Special Permit with the public hearing required for approval of a definitive subdivision plan.

#### **5.6.5 Design Process**

At the time of the application for the Special Permit, in conformance with Section 5.6.5(1), applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, including designation of all common areas and open space.

- 1) **Identifying Conservation Areas.** Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.
- 2) **Locating House Sites.** Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.
- 3) **Aligning the Streets and Trails.** Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- 4) **Lot Lines.** Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

#### **5.6.6 Design Standards.**

The following Generic and Site Specific Design Standards shall apply to all Sketch Plans for OSRD's and shall govern the development and design process:

##### **1) Generic Design Standards**

- a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel. A reduction in required pavement width shall be considered by the Planning Board.



- c) Mixed-use development, if allowed in the underlying district, shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.
- d) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- e) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

## 2) Site Specific Design Standards

- a) **Mix of Housing Types.** The OSRD may consist of any combination of single-family and two-family structures. Multifamily structures of not more than four (4) units may and two-family structures. Multifamily structures of not more than four (4) units may also be permitted by the Planning Board if they serve the purpose and intent of the OSRD Bylaw, as stated in Section 5.6.1.
- b) **Parking.** Each dwelling unit for single or two-family homes shall be served by two (2) off-street parking spaces per unit. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two bedrooms AND in structures containing four or more units, the applicant shall provide one and a half-(1.5) parking spaces per unit. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.
- c) **Drainage.** The Planning Board shall encourage the use of Soft Stormwater Management Techniques and other Low Impact Development techniques that reduce impervious surface and enable infiltration where appropriate.
- d) **Screening and Landscaping.** All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- e) **On-site Pedestrian and Bicycle Circulation.** Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- f) **Disturbed Areas.** Every effort shall be made to minimize the area of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state.

#### **5.6.8 Open Space Requirements**

- 1) **Open Space Requirement.** A minimum of fifty percent (50%) of the site shall be open space. The percentage of this open space that can be wetland shall not exceed the percentage of wetland for the entire site under existing conditions as shown on the Sketch Plan.
- 2) **Description of Restriction on Open Space.** Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a permanent Conservation or Agricultural Preservation Restriction in accordance with G.L. c. 184 § 31, approved by the Planning Board and Board of Selectmen and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and Board of Selectmen and enforceable by the Town.
  - a) The open space shall be contiguous. Open Space will still be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.
  - b) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable public access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.
  - c) Wastewater and stormwater management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- 3) **Ownership of the Open Space.** The open space shall, at the Planning Board's election, be conveyed to:
  - a) The Town or its Conservation Commission;
  - b) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

- c) A corporation, homeowners association or trust owned jointly or in common by the owners of lots or units within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.
  - d) A private owner for agricultural, horticultural or forestry.
- 4) **Maintenance of Open Space.** In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

#### **5.6.9 Reduction of Dimensional Requirements**

Applicant may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

- 1) **Frontage.** Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.
- 2) **Setbacks.** Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 20 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 0 feet, however the distance between structures shall be a minimum of 20 feet.

#### **5.6.10 Increases in Permissible Density**

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSRD Plan. The density bonus for the OSRD shall not, in the aggregate, exceed twenty percent (20%) of the Basic Maximum Number. Computations shall be rounded up to the next whole number. A density bonus may be awarded in the following circumstances:

- 1) For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of one (1) market unit may be added to the Basic Maximum Number. Calculations shall be rounded up to the nearest integer when determining this bonus.
- 2) For every two (2) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households, or for every one (1) dwelling unit restricted in perpetuity to occupancy by Low-Income Households, one (1) market rate dwelling unit may be added to the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development or its successor. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.
- 3) For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

#### **5.6.11 Decision of the Planning Board**

- 1) **Criteria for Approval.** The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, section 9. The Board may approve the Plan with or without conditions. The Board shall disapprove the plan only if it finds that either the OSRD Development (Sketch Plan) is not a good faith design, or that the Plan does not conform to the requirements of the Bylaw. The Board may grant a Special Permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:
  - a) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;
  - b) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;
  - c) That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
  - d) That the OSRD reduces the total amount of disturbance on the site;
  - e) That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Open Space and Recreation Plan, and EO418 Community Development Plan;

- f) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
  - g) That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.
  - h) That the proposed design does not create undo risk to public health, safety and welfare.
- 2) **Relationship between Concept Plan and Definitive Subdivision Plan.** Any Special Permit for OSRD that is granted a Special Permit and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:
- a) An increase in the number of building lots and/or units;
  - b) A significant decrease in the open space acreage;
  - c) A significant change in the lot layout or unit placement;
  - d) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
  - e) Significant changes to the stormwater management facilities; and/or
  - f) Significant changes in the wastewater management systems.

#### **5.6.12 Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

### **5.7 FLOODPLAIN/WETLAND DISTRICT**

#### **5.7.1 PURPOSE**

5.7.1.1 The purposes of this District are:

- a) To provide that lands in the Town of Hudson, subject to seasonal or periodic flooding as described hereinafter, shall not be used for residence or other purposes in such a manner as to endanger the health, safety or

welfare of the occupants thereof, or of the public generally, or so as to burden the public with costs resulting from unwise individual choices of land use.

- b) To protect, preserve and maintain the water table and water recharge areas within the Town as to preserve present and potential water supplies for the public health and safety of the Town.
- c) To assure the continuation of the natural flow pattern of the water courses within the Town, in order to provide adequate and safe flood water storage capacity to protect persons and property against the hazards of flood inundation.

#### **5.7.2 Floodplain District Boundaries and Base Flood Elevation and Floodway Data**

5.7.2.1 The Floodplain District is an overlay district as specified in Section 5.7.3.1. The District includes all special flood hazard areas within the Town of Hudson designated as Zone A and AE, on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Hudson are panel numbers 25017C0337F, 25017C0338F, 25017C0339F, 25017C0341F, 25017C0343F, 25017C0344F, 25017C0363F, 25017C0476F, 25017C0477F, 25017C0481F and 25017C0482F dated July 7, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Commissioner, Conservation Commission and the Assessor's office.

#### **5.7.2.2 Base Flood Elevation and Floodway Data**

5.7.2.2.1 Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways that would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

5.7.2.2.2 Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

5.7.2.2.3 In Zones AE, along watercourses within the Town of Hudson that have a regulatory floodway designated on the Middlesex County's FIRMs encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

### **5.7.3 Use Regulations**

5.7.3.1 The Floodplain/Wetlands District shall be considered as over lying other districts. Any uses permitted in the portions of the districts so overlaid shall be permitted, subject to all the provisions of this section.

5.7.3.2 In the Floodplain/Wetlands District no new buildings shall be erected or constructed, no existing structure shall be enlarged or moved, no dumping, filling or earth transfer or relocation shall be permitted, and no land, building or structure shall be used for any purpose except:

- a) Conservation of water, plants and wildlife.
- b) Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted but excluding building structures.
- c) Non-commercial signs (as permitted in the Residential District), wildlife management areas, foot, bicycle and/or horse paths and bridges provided such uses do not affect the natural flow pattern of any water course.
- d) Grazing and farming, including truck gardening and harvesting of crops.
- e) Forestry and nurseries.
- f) Temporary non-residential structures used in connection with fishing or growing, harvesting, storage or sale of crops raised on the premises.
- g) A dwelling lawfully existing prior to the adoption of these provisions but not including improvements which increase ground coverage.

h) Off-street parking.

5.7.3.3 The portion of any lot within the area delineated in Section 5.7.2 above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated, provided that portion does not exceed one hundred (100) percent of the minimum lot area.

5.7.3.4 All subdivision proposals must be designed to assure that:

- a) such proposals minimize flood damage;
- b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- c) adequate drainage is provided to reduce exposure to flood hazards.

#### **5.7.4 USES PERMITTED BY THE BOARD OF APPEALS**

after notice and public hearing

5.7.4.1 Any use permitted in the underlying district in which the land is situated, including erection or construction of buildings, enlargement or movement of structures, and dumping, filling or earth transfer or relocation, subject to the same use and development regulations as may otherwise apply thereto, provided that the Board shall find that the proposed use will not significantly conflict with the purposes set forth in Section 5.7.1 and that such use is designed, placed and constructed to offer a minimum obstruction to the flow of water and, where appropriate, is firmly anchored, and is not in the floodway.

5.7.4.2 Any use permitted in the underlying district in which the land is situated, subject to the same use and development regulations as may otherwise apply thereto, provided that the land designated as being within the Floodplain/Wetland District is found by the Board not, in fact, to be subject to flooding, and is not in the floodway.

#### **5.7.4.3 PROCEDURE FOR REVIEW BY THE BOARD OF APPEALS**

- a) Any person who desires to use land within the Floodplain/Wetland for a use not permitted by Section 5.7.3 shall submit a written application for a permit to the Board of Appeals with copies of all relevant material to be



sent at the same time to the Planning Board, Board of Health and Conservation Commission. Each such application shall be accompanied by the following submissions:

- 1) A written statement prepared by a Registered Professional Engineer or a Registered Land Surveyor detailing the proposed work, the history of flooding at the subject premises and the calculations of the volume of water which will be displaced.
  - 2) Development plans, including specific topographic details within the Floodplain, meeting, to the extent applicable, the requirements set forth for a definitive Plan in the Rules and Regulations of the Planning Board Governing the Subdivision of Land.
  - 3) Such additional information as the Board may require .
- b) The Planning Board, Board of Health and Conservation Commission shall submit to the Board of Appeals written recommendations including at least:
- 1) An evaluation of the proposed use, including its probable effect or impact upon the Town's water supply, the quality of water in the area, the natural flow pattern of water courses, nearby or pertinent floodwater storage areas or other areas subject to seasonal or periodic flooding and the general health, safety and welfare of the inhabitants of the Town; and
  - 2) A recommendation as to whether the permit should be granted and whether any restrictions should be imposed upon the proposed use as conditions of such permit.
- c) The Planning Board, Board of Health and Conservation Commission shall submit such written recommendations to the Board of Appeals within thirty (30) days of the filing of the original application. If, at the Board of Appeals public hearing such written recommendations have not been received from the Planning Board, Board of Health or Conservation Commission, and the said thirty (30) days have elapsed, the Board of Appeals may proceed and may render a decision without such absent written recommendations.
- d) If a permit is granted, the Board of Appeals shall impose such conditions and safeguards as public safety, welfare and convenience may require. The Board shall give due consideration to the reports of the Planning Board, Board of Health and Conservation Commission and, where the decision of the Board differs from the recommendations in said reports, the reasons

therefore shall be stated in writing.

#### **5.7.5 Notification of Watercourse Alteration**

In a riverine situation, the Conservation Commission Administrator/Agent shall notify the following of any alteration or relocation of a watercourse:

Adjacent Communities including Marlboro, Sudbury, Stow, Bolton and Berlin

NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation or its successor  
251 Causeway Street, Suite 800  
Boston, MA 02114-2104

NFIP Program Specialist  
Federal Emergency Management Agency, Region 1 or its successor  
99 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

#### **5.7.6 Other Regulations**

All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with all applicable State and Federal regulations.

To the extent applicable, any variances granted to the local requirements contained herein, shall not constitute variances as to other State and Federal regulations. Any variances from the provisions and requirements of the applicable State regulations may only be granted in accordance with the required variance procedures of applicable state regulations.

### **5.8 RETIREMENT COMMUNITY OVERLAY DISTRICT**

#### **5.8.1 PURPOSE**

5.8.1.1 The purpose of the Retirement Community Overlay District is to provide people over fifty-five (55) years of age the opportunity to live in a residential neighborhood designed specifically for their needs, equipped with the appropriate amenities and located within reasonable proximity to shopping and services.

### **5.8.2 ALLOWED USES**

5.8.1.2 Besides those uses permitted in the underlying districts, a retirement community shall be allowed in a Retirement Community Overlay District by special permit of the Board of Appeals pursuant to section 8 of these by-laws, and subject to the following conditions:

- a) A retirement community shall consist of structures constructed expressly for use as housing for persons fifty-five or over, on one parcel or on contiguous parcels of land totaling at least thirty acres.
- b) No building shall be more than two and one-half stories in height.
- c) Each building shall face either upon an existing street or upon a public or private way constructed within said retirement community, and shall have a minimum front yard of no less than 20 ft. from the edge of the paved way to the closest point of the structure, and a sideyard of no less than 10 ft. from the edge of the paved way to the closest point of the structure. Each building, whether principal or accessory, shall be at least 20 ft. distant from any other building by air line distance between the nearest points of the buildings.
- d) No dwelling shall contain less than 1,000 sq. ft. of living area or more than 2,400 sq. ft. of living area. At least 66% of the living area in each unit shall be located on the first floor.
- e) All dwelling units shall be detached from the others or attached only along sidewalls in the so-called "townhouse" style.
- f) The lot or lots on which a retirement community is located shall contain at least 5,000 sq. ft. per unit in the retirement community.
- g) No part of any principal building shall be within 25 ft. of any exterior lot line, or less than 50 ft. from the side line of a public way.
- h) Each dwelling unit shall have its own attached yard area.
- i) Required off street parking for each dwelling unit shall be adjacent thereto. Each unit shall be required to provide one parking space inside a garage and an additional space in front of a garage, said garage to be attached to said unit.
- j) Maximum lot coverage in a retirement community shall not exceed 50% of the total lot size, excluding from lot size any land which, prior to development of

the site as a retirement community, would be defined as a freshwater wetland as that term is defined in Mass. General Laws Ch. 131 sec. 40.

- k) Each lot or contiguous lots upon which a retirement community is located shall have frontage on or access to a public way.
- l) The Board of Appeals may, as a permit condition, require that all proposed condominium by-laws or similar binding retirement community regulations which may be relevant to the issuance of the permit, including but not limited to by-law provisions prohibiting the presence of children residing in the retirement community and limiting or prohibiting the presence in the retirement community of boats, boat trailers, or recreational vehicles, be made a part of the special permit, and that any change to or failure to enforce said provisions shall be a violation of said special permit.

5.8.1.3 Any applicant for a special permit shall, prior to said application, obtain site plan approval from the Planning Board pursuant to the provisions of sec. 7.1.7 of these by-laws.

## **5.9 WIRELESS COMMUNICATION FACILITIES**

### **Section 5.9.1 PURPOSE**

The Wireless Communication Facility (WCF) Overlay District is established for the purpose of minimizing the adverse impacts of wireless communication facilities; to promote the shared use of wireless communication facilities; to guide sound development and to encourage the most appropriate use of the land.

### **Section 5.9.2 SITE SELECTION PREFERENCES**

These regulations are written for the purpose of indicating that the Town of Hudson's preferences for facility locations are as follows in descending order of preference:

1. On or in existing structures such as buildings, communications towers, smokestacks, utility structures, etc. in any Zoning District provided that said WCF is camouflaged through location, design, color, or other means to resemble a compatible architectural feature or other element of the primary structure.
2. New Towers in Industrial Districts (M-1 through M-7) and the Limited Commercial and Light Industrial (LCI) District
3. The following parcels of land owned by the Town of Hudson, however no new towers shall be constructed unless all available positions on existing towers have been utilized and preferences 1 & 2 have been exhausted:

Assessor's Map/Lot No.

Location/Description

Map 44, Lot 26	Murphy Water Tank (located off Murphy Road)
Map 54, Lot 163	Lakeview Water Tank (off Saratoga Drive)
Map 40, Lot 74	Pope's Hill Water Tower (off Princeton Road and Mildred Road)

### **Section 5.9.3 USES ALLOWED BY SPECIAL PERMIT BY THE BOARD OF APPEALS**

All Wireless Communications Facilities require a Special Permit to be issued by the Board of Appeals subject to the following conditions and requirements:

1. Applicants shall first obtain Site Plan Review from the Hudson Planning Board as provided in Section 7.1.7 of the Protective Zoning by-laws of the Town of Hudson;
2. All new towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten year period) as technically practicable;
3. All wireless communication facilities shall not exceed 120 feet above ground level (AGL) in overall height;
4. Lots upon which towers are located must have a minimum width and length equal to twice the height of the tower, with the tower located in the center of the lot such that a radius equal to the height of the tower "the fall zone" is fully contained within the boundaries of the lot;
5. Existing on-site vegetation shall be preserved to maximum extent possible;
6. All network interconnections from the wireless communication facility shall be via underground land lines to the extent feasible;
7. All wireless communication facilities shall minimize, to the extent feasible, any adverse visual effects on the environment;
8. Although not an accessory use as defined by the By-Law, a WCF may be sited on a lot which already accommodates a lawful principal use;
9. If the facility is abandoned or no longer operable, it shall be removed within 6 months of its abandonment;
10. The applicant shall provide written authorization from the property owner of the proposed site;
11. The applicant shall provide evidence of contractual authorization from the Town of Hudson to conduct wireless communications services if located on municipally owned land;
12. The applicant shall provide material describing a plan for a "balloon" or similar test, including the date and time as well as a rain date and time for inclusion in the legal notice;
13. The Board of Appeals may impose reasonable conditions including, but not limited to, painting and lighting standards;

14. The Board of Appeals is authorized to grant the Special Permit if it finds the proposal is not contrary to the best interests of the inhabitants of the Town of Hudson, is in accordance with Section 8.2 of the Protective Zoning by-laws of the Town of Hudson, is in harmony with the general purpose and intent of the protective zoning by-law, and does not constitute a substantial detriment to the public good.

#### **Section 5.9.4 EXEMPTIONS**

1. Amateur radio towers or antennas used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the towers or antennas are not used or licensed for any commercial purpose.
2. Towers or antennas used for the purposes set forth in Massachusetts General Laws Chapter 40A, Section 3, as amended;
3. Digital Satellite System (DDS) and television antennas for the purpose of enhancing television reception.

#### **Section 5.9.5 SEVERABILITY**

If any paragraph, sentence, phrase or word contained in this by-law is adjudicated by a Court of competent jurisdiction to be unconstitutional, illegal or otherwise unenforceable, then it is intended that the remaining provisions of this by-law continue in full force and effect.

#### **Section 5.9.6 PREEMPTION**

No portion of this by-law is intended to supersede or preempt any other State or Federal Law or regulation to the extent applicable to wireless communication towers as specified herein. In the event of conflict between the provisions of this by-law and preemptive provisions of State and Federal law, then such State and Federal law shall supersede the provisions of this by-law.

### **5.10.0 Adaptive Re-Use Overlay District**

#### **5.10.1 Purpose**

The purpose of this Section 5.10.0 is to establish the provisions applicable to the Adaptive Re-Use Overlay District ( "AROD") adopted by the Town to encourage the reuse of existing buildings and mixed use development. Land within the AROD may be developed, redeveloped, and used in accordance with the provisions of the Hudson Protective Zoning By-Laws otherwise applicable to such land, or may be developed, redeveloped and used as provided in this section. In general, the objectives of this Section 5.10.0 are to:

- 5.10.1.1 Foster a range of housing opportunities closely integrated, where appropriate, with complementary commercial, civic and other uses, promoting compact design, preservation and enhancement of open space and utilization of a variety of transportation options, including pedestrian and bicycle accessibility;
- 5.10.1.2 Promote the health, safety and welfare by encouraging a diversity of housing opportunities;
- 5.10.1.3 Provide for a full range of housing choices for households of all incomes, ages and sizes in order to meet the goal of preserving community character and diversity;
- 5.10.1.4 Increase the production of a range of housing unit types to meet existing and anticipated housing needs;
- 5.10.1.5 Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing; and
- 5.10.1.6 Establish reasonable development and urban design standards and guidelines for new development to promote context-sensitive design and site planning, and ensure predictable and cost-effective development review and permitting.

## **5.10.2 Definitions**

All capitalized terms used in Section 5.10.0 shall be defined as set forth in this subsection 5.10.2. Words not defined in this subsection shall be interpreted with reference to their definition in the Plan Approval Authority Regulations and the Zoning By-Laws. Where the meaning of a word or provision cannot be established in this fashion, it shall be interpreted as having the meaning consistent with its customary usage that best furthers the purpose of this Section.

- 5.10.2.1 *Administering Agency* – A housing authority, regional non-profit agency or corporation, or other qualified housing entity designated to enforce an Affordable Housing Restriction.

- 5.10.2.2 *Affordable Homeownership Unit* – An Affordable Housing unit that is subject to an Affordable Housing Restriction requiring its sale to an Eligible Household.
- 5.10.2.3 *Affordable Housing* – Housing that is affordable to and occupied by Eligible Households. Affordable Housing units created within the AROD meeting the standards set forth in the Code of Massachusetts Regulations at 760 C.M.R. 45.03 shall count as low-or moderate-income units on the Town's Subsidized Housing Inventory, in accordance with the rules of the Department.
- 5.10.2.4 *Affordable Housing Restriction* – A deed restriction providing for Affordable Housing units on a Building Lot that meets the requirements of this Section and the statutory requirements of Massachusetts General Laws Chapter 184, Section 31.
- 5.10.2.5 *Affordable Rental Unit* – An Affordable Housing unit that is subject to a restriction requiring its rental to an Eligible Household.
- 5.10.2.6 *Build-to Zone* – That area of a lot located between a line a specified distance from and parallel to the front lot line within which a specified percentage of the façade of the principal structure on such lot shall be located.
- 5.10.2.7 *Department* – The Massachusetts Department of Housing and Community Development.
- 5.10.2.8 *Eligible Household* – A household whose annual income is equal to or less than eighty percent (80%) of the area median income for the smallest geographical area including the entire area of the Town as determined by the United States Department of Housing and Community Development ("HUD"), adjusted for household size, with income computed using HUD's rules for the attribution of income to assets.
- 5.10.2.9 *Live-Work* – The use of a dwelling unit for both residential and work-related purposes, provided that the work space is integrated into the dwelling unit is principally used by one or more of the residents of the dwelling unit, and that the activities conducted in or outside the unit do not entail the production of noise, odor, vibration, light or other effect that are observable outside the dwelling unit of a nature or to an extent, taking account of the time of day, duration, and frequency of the effect, that would be offensive to a reasonable person in a residential setting. Subject to the foregoing, this definition is intended to encompass those professional offices, craft manufacture and customary home occupation uses that would be permitted under Section 5.2.2 of the Zoning By-law.



- 5.10.2.10 *Mixed-Use Development* – A Project containing a mix of Multi-Family Residential together with commercial, civic or other non-residential uses.
- 5.10.2.11 *Multi-Family Residential* – Apartment, condominium or townhouse units in buildings that contain or will contain three (3) or more such units.
- 5.10.2.12 *Plan Approval* – The procedure by which a proposed Project within the AROD is subject to review by the Plan Approval Authority under the provisions of this Section.
- 5.10.2.13 *Plan Approval Authority* – the Planning Board of the Town of Hudson is authorized to approve an application for Plan Approval to implement a Project under this Section 5.10.0.
- 5.10.2.14 *Project* – A residential or Mixed-use Development undertaken within the AROD and in accordance with this Section 5.10.0 and subject to Plan Approval.
- 5.10.2.15 *Project Proponent* – A person or persons, including, without limitation, a corporation, limited liability company, realty trust or similar legal entity, proposing approval of a Project in the AROD.
- 5.10.2.16 *Town* – The Town of Hudson, Massachusetts.
- 5.10.2.17 *Zoning By-Laws* – The Protective Zoning By-Laws of the Town of Hudson, as most recently amended.
- 5.10.2.18 *Zoning Map* – The map entitled “Town of Hudson, Massachusetts, Zoning Parcels and Road dated August 2000 or as most recently amended,” filed with the office of the Town Clerk, together with all explanatory matter thereon, and amendments thereto.

### **5.10.3      *Applicability***

- 5.10.3.1 *Establishment* - The AROD is an overlay district, the boundaries of which are shown on the Adaptive Re-Use Overlay District Map dated February 2007 on file in the office of the Town Clerk, and which has a land area of approximately 53 acres in size.
- 5.10.3.2 *Relationship to Underlying Zoning* - The AROD is an overlay district adopted by the Town, along with the provisions of this Section 5.10.0 to provide an alternative for the development, redevelopment and use of the land within the AROD. On any parcel of land within the boundaries of the AROD, a developer may elect either to develop a Project in accordance with the

requirements of this Section or to develop a project in accordance with the underlying requirements of the Protective Zoning By-law.

- 5.10.3.3 *Option Available; Exclusivity; Exceptions* - A Project Proponent for a Project located within the AROD may seek Plan Approval in accordance with the standards and guidelines of this Section 5.10.0 and the regulations of the Plan Approval Authority concerning Plan Approval. Such application shall not be subject to any of the provisions, standards or procedures of the Zoning By-Laws except as and to the extent such provisions are specifically incorporated by reference into this Section.

#### **5.10.4 Permitted Uses**

- 5.10.4.1 Any project filed under the AROD must be a mixed-use development incorporating both residential and commercial uses.

- 5.10.4.2 The following uses shall be permitted as-of-right in the AROD:

- (a) Re-use Density: Multi-Family Residential use at an average density using the following formula: **# units = total net usable square footage exclusive of basement area – building footprint/1000**
- (b) New Construction Density: Multi-Family Residential use at an average density of not more than ten (10) units per developable land acre;
- (c) Live-Work use,
- (d) Licensed family day care;
- (e) Public parks, playgrounds, churches, schools or libraries and similar facilities that are proposed as part of a Project by a Project Proponent and authorized in a Plan Approval;
- (f) Off-street parking facilities,
- (g) Utilities in whole or part serving uses within the AROD;
- (h) Any of the following uses, as long as located on the ground floor at specified locations and subject to limitations of size, as set forth in a Plan Approval for a Project: retail sales, retail service, restaurant, business office, professional office, bank branch including automated teller, health club, music, art or craft studio; and

- (i) Uses customarily accessory to the Multi-family use, whether on the same lot or not.

#### **5.10.5 Project Phasing**

At the request of the Project Proponent, the Plan Approval Authority, as a condition of any Plan Approval, may allow the construction of a Project to be phased over a period of such time as the Plan Approval Authority may deem appropriate in light of the size of the Project, and the reasons for the phasing request.

#### **5.10.6 Housing and Housing Affordability**

- 5.10.6.1 *Marketing Plan* - Prior to obtaining Plan Approval for any Project proposing the construction of housing units within the AROD, the Project Proponent shall submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, households including individuals with disabilities, and seniors. These documents, to be submitted with an application for Plan Approval, shall include details about the location and construction of units within the Project that are accessible to the disabled.
- 5.10.6.2 *Affordable Units Required* - At least fifteen percent (15%) of the housing units constructed in a Project that is approved under this section within the AROD shall be Affordable Housing units. For purposes of calculating the number of Affordable Housing units required within a Project, any fractional remainder shall be deemed to constitute a whole unit. A Project shall not be segmented in order to reduce the number of Affordable Housing units required for the intended development.
- 5.10.6.3 *Affordability Standards* - All Affordable Housing units located in the AROD shall comply with the following requirements:
  - (a) For an Affordable Rental Unit, the monthly rental payment for the unit, including utilities and charges for parking, if any, shall not exceed thirty percent (30%) of the maximum monthly income for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rental limits approved by the Department shall apply.
  - (b) For an Affordable Homeownership Unit, the monthly housing payment for the unit, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowners' association fees, insurance and off-street parking charges, if any, shall not exceed thirty percent (30%) of the maximum monthly income for an Eligible

Household, assuming a family size equal to the number of bedrooms in the unit plus one.

- (c) Affordable Housing units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

5.10.6.4 *Design and Construction* - Affordable Housing units created under this Section shall be finished housing units, shall be dispersed throughout the Project of which they are part and shall have exteriors that are equivalent in design and materials to the exteriors of other housing units in the Project, although the interior amenities of Affordable Housing units need not be identical to a Project's market rate units. The total number of bedrooms in the Affordable Housing units shall be proportionate to the total number of bedrooms in all the units of the Project of which the Affordable Housing units are a part.

5.10.6.5 *Affordable Housing Restriction* - Each Project in which Affordable Housing unit(s) are required shall be subject to an Affordable Housing Restriction pursuant to Massachusetts General Laws c. 184 as amended to be recorded and/or filed with the Middlesex County (South) Registry of Deeds or the Land Court Registry District thereof, as applicable, containing the following provisions:

- (a) Specification of the term of the Affordable Housing Restriction, which shall be perpetuity;
- (b) Name and address of the Administering Agency for the Affordable Housing Restriction, with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- (c) Description of the unit(s) of Affordable Housing by address, unit number (if applicable) and number of bedrooms;
- (d) Reference to a housing marketing and resident selection plan, to which the Affordable Housing unit(s) are subject, which includes an affirmative fair housing marketing program, including provisions for public notice and a fair resident selection process. The housing marketing and resident selection plan shall provide for preferences in resident selection for Hudson residents to the extent consistent with applicable law, and said plan shall designate the household size appropriate for each Affordable Housing unit with respect to bedroom size and provide that the preference for such unit shall be given to a household of the appropriate size;
- (e) Requirement that residents will be selected at the initial rental or sale and upon all subsequent rentals and sales from a list of Eligible Households

compiled in accordance with the housing marketing and resident selection plan;

- (f) Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of an Affordable Homeownership Unit to a commercial lender in an amount less than the maximum resale price may have priority over the Affordable Housing Restriction if required by the then current practice of commercial mortgage lenders in Massachusetts;
- (g) Requirement that only an Eligible Household may reside in an Affordable Housing unit and must be owner-occupied;
- (h) Provision of effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;
- (i) Provision that the restriction on Affordable Homeownership Unit(s) shall run in favor of the Administering Agency and the Town, in a form approved by the Town's counsel, limiting initial sale and re-sale to and occupancy by an Eligible Household;
- (j) Provision that the restriction on Affordable Rental Unit(s) shall run in favor of the Administering Agency and the Town, in a form approved by the Town's counsel, limiting rental and occupancy to an Eligible Household;
- (k) Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report with the Administering Agency, in a form specified by that agency, certifying compliance with the provisions of the Affordable Housing Restriction and containing such other information as may be reasonably necessary in order to ensure affordability; and
- (l) Requirement that residents in Affordable Housing unit(s) provide such information to the Administering Agency as said agency may reasonably request under law to ensure affordability.

5.10.6.6 *Administering Agency* - The Administering Agency for the Affordable Housing Restriction shall be designated by the Plan Approval Authority. In a case where the Administering Agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Plan Approval Authority or, in the absence of such timely designation, by an entity designated by the Department. In any event, the Administering Agency shall ensure that:

- (a) Prices of Affordable Homeownership Unit(s) and rentals of Affordable Rental Unit(s) are properly computed;
- (b) Income eligibility of households applying for Affordable Housing units is properly and reliably determined;
- (c) The housing marketing and resident selection plan conforms to all legal requirements and is properly administered;
- (d) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- (e) Affordable Housing Restriction(s) meeting the requirements of this Section are recorded and/or filed with the Middlesex County (South) Registry of Deeds or the Land Court Registration Section thereof, as applicable.

5.10.6.7 *Housing Marketing and Resident Selection Plan* - The housing marketing and resident selection plan may provide for the payment by the Project Proponent or owner to the Administering Agency of reasonable costs to develop, advertise and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half percent (0.5%) of the amount of rents of Affordable Rental Unit(s) (payable annually) or one percent (1%) of the sale or resale price(s) of Affordable Homeownership Unit(s), as applicable.

5.10.6.8 *Phasing* - For Projects developed in phases, the proportion of Affordable Housing units constructed within each phase that contains residential units shall be consistent with the overall proportion of Affordable Housing units in the approved Project.

5.10.6.9 *Computation* - Prior to the issuance of any Building Permit for the housing component of any Project, the applicant for such building permit shall demonstrate, to the satisfaction of the Plan Approval Authority, that the method by which the rents or purchase prices of Affordable Housing units are computed is consistent with Department or HUD guidelines for affordability applicable to the Town.

5.10.6.10 *No Waiver* - The Plan Approval Authority may not waive the provisions of Section 5.10.6.

### 5.10.7 **Dimensional and Density Standards**

5.10.7.1 *Table of Dimensional and Density Standards* – New construction projects in the AROD shall be subject to the following dimensional and density standards:

Minimum Density	See section 5.10.4.2
Minimum Lot Frontage	60 feet
Maximum Building Height	60 feet
Build-to Zone: At least 75% of the front façade of the principal building shall be located within the referenced range from the front lot line	0 to 10 feet
Minimum Side Yard Width	0 feet
Minimum Rear Yard Depth	20 feet
Maximum Lot Coverage	80%
Minimum Usable Open Space per residential unit	500 square feet
Maximum Floor Area Ratio	N/A

5.10.7.2 *Usable Open Space Requirement* -Reduction in the amount of usable open space required for a project may be permitted at the discretion of the Plan Approval Authority after finding that the Project will include a significant public benefit through the provision of open space, recreation area(s) and/or structures to be used in whole or part for community purposes by the general public.

### 5.10.8 **Parking and Loading Standards**

5.10.8.1 *Minimum Parking Ratios* - Parking for automobiles shall be provided in each Project in the AROD as follows:

- (a) A minimum of one (1) parking space shall be required for each residential unit with one (1) bedroom. A minimum of two (2) parking spaces shall be required for each residential unit with two (2) or more bedrooms. With respect to live-work use of a Residential Unit, an additional one (1) space

per each four (4) employees or the nearest multiple thereof shall be provided.

- (b) Parking for non-residential uses shall be provided in accordance with the following calculation: (i) a minimum of two (2) per 1,000 gross square feet; and (ii) not less than one (1) space for any non-residential use covering less than 500 gross square feet. With respect to retail uses, an additional one (1) space per each four (4) employees or the nearest multiple thereof shall be provided.
- (c) Further reduction in the number of required parking spaces may be permitted at the discretion of the Plan Approval Authority after a finding that the Project has other offsite or public parking facilities or will be adequately served by public transportation.
- (d) Shared parking is strongly encouraged. The total number of spaces required for a designated group of uses within a Project may be reduced below the minimum requirements, based on credible evidence to satisfy the Plan Approval Authority that the uses in question have peak parking demands that do not coincide, and that the accumulated parking demand for those uses at any particular time shall not exceed the number of spaces available for those uses at that time. Such evidence shall take into account the peak parking demand of residents, employees, customers, visitors, and any other users on weekends and weekdays, and during all times of the day and night.

5.10.8.2 *Location and Design of Parking Areas and Spaces* - Parking areas and spaces shall be located and designed in accordance with the following standards:

- (a) Where feasible, parking ingress and egress shall be from side streets or alleys.
- (b) No surface parking lot shall exceed one (1) acre in size.
- (c) Where feasible, surface lots shall not be located between a building containing non-residential use and a street.
- (d) Surface parking lots with more than thirty (30) spaces shall be divided into separate areas by landscaped areas of at least ten (10) feet in width. A minimum of fifteen percent (15%) of all surface lots shall be landscaped. No row of parking shall be more than ten (10) spaces wide without being interrupted by a landscaped area. Each landscaped area shall have at least one (1) tree.
- (e) Landscaped areas should be planted with low-maintenance, salt tolerant plants capable of withstanding extreme weather conditions.



- (f) Surface lots shall be screened along all sidewalks by a landscaped buffer of not less than six (6) feet, or three foot walls or fencing compatible with the adjacent architecture.
- (g) Surface parking lots shall provide pedestrian walkways and connections to the sidewalk system.
- (h) On-street parking shall be permitted where it will not interfere with safe ingress and egress from and through the Project.
- (i) Parking structures shall have well-designed and marked pedestrian walkways and connections to the sidewalk system.
- (j) Parking structures shall be designed to be compatible with adjacent buildings and architecture.

5.10.8.3 *Loading Standards* - Berths shall be provided for loading and unloading of stock, merchandise, equipment, supplies, and other usual business commodities for each building in a Mixed-use Development Project containing the commercial uses below. For combinations of uses, the Plan Approval Authority shall determine the required number and amount of space required as part of the Plan Approval.

- (a) Retail Store / Service Establishment: A minimum of one (1) berth shall be required for each retail store, or service establishment with a gross area of from five thousand (5,000) to ten thousand (10,000) square feet, and at least one (1) berth shall be required for each additional ten thousand (10,000) square feet or nearest multiple thereof.
- (b) Offices and Banks: A minimum of one (1) berth shall be required for each office building with a gross area of from ten thousand (10,000) to twenty-five thousand (25,000) square feet, and at least one (1) berth shall be required for each additional fifty thousand (50,000) square feet or nearest multiple thereof.
- (c) Further reduction in the number of required loading spaces may be permitted at the discretion of the Plan Approval Authority after a finding that the Mixed-use Development Project will be adequately served.

5.10.8.4 *Location and Design of Loading Berths* - The design standards set forth in Section 5.10.8.2 shall also govern off-street loading berths except that:

- (a) Required loading berths shall be of the following dimensions: forty (40) feet in length, twelve (12) feet in width and fourteen (14) feet in height.

- (b) Minimum turning radii for interior driveways, for single unit trucks only, shall be sixty (60) feet, but for tractor trailer combinations minimum turning radii shall be one hundred and twenty (120) feet.
- (c) A maximum profile gradient of three (3) percent for a distance of one hundred and fifty (150) from the nearest edge of an intersecting roadway or drive shall be required.

#### **5.10.9 Design Standards and Guidelines**

The Plan Approval Authority shall adopt design standards and guidelines for the AROD or any portion(s) thereof addressing the following substantive areas of urban and building design after due notice and hearing:

- 5.10.9.1 *Streetscapes* - The design of streetscapes within the AROD shall be subject to guidelines regarding the width and placement of sidewalks, street trees and utilities.
- 5.10.9.2 *Site Design and Building Orientation* - Buildings and landscape elements in the AROD shall be subject to site design and building orientation guidelines regarding the alignment of building faces and taller landscape elements within the Build-to Zone, accessibility of required open space, buildings at corners and garage entries facing streets.
- 5.10.9.3 *Building Character and Design* - New and redeveloped buildings in the AROD shall be subject to building character and design guidelines regarding primary entrance orientation, interior living space orientation and visual access, building façade articulation, window spacing, exterior building materials, building cornice lines, front doors, ground floor transparency and structured parking openings and street frontages.
- 5.10.9.4 *Signage* - All signs in the AROD shall be subject to standards regarding height, size and design.
- 5.10.9.5 *Demolition* - The demolition of any building within the AROD shall be subject to guidelines regarding review procedures.

#### **5.10.10 Application for Plan Approval**

- 5.10.10.1 *Pre-application* - Before submitting an application for Plan Approval for a Project, a Project Proponent may (but is not required to) submit a "Concept Plan" to the Town Planner to help guide the development of the final plan

that will be submitted for Plan Approval. A Concept Plan should reflect the following elements:

- (a) Overall building envelope areas;
- (b) Open space, natural resource areas and public spaces;
- (c) General site improvements, groupings of buildings and proposed land uses;
- (d) Proposed project mitigation and phasing; and
- (e) Location and size of traveled ways, pedestrian and bicycle circulation network.

The Concept Plan is intended to be used as a tool for both the Project Proponent and the Town Planner to ensure that the proposed Project design will be consistent with the design standards and other standards and guidelines of the AROD.

- 5.10.10.2 *Form and Fees* - An application for Plan Approval shall be submitted to the Plan Approval Authority on the form provided by the Plan Approval Authority, along with the application fees that are set forth in the PAA Regulations.
- 5.10.10.3 *Full Buildout Required* - An application for Plan Approval shall show the proposed full buildout of the Project, whether the Project will be constructed in phases or not.
- 5.10.10.4 *Required Submittals* - An application for Plan Approval shall be accompanied by such plans and documents as shall be required and set forth in the PAA Regulations. All landscaping, site and building plans shall be prepared by a certified architect, landscape architect and/or civil engineer registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or greater, or at a scale approved in advance by the Plan Approval Authority or otherwise specified in this Section. The contents of an application for Plan Approval shall include each of the following for the entire area included within the Project, unless the inclusion of an item or items is waived in writing by the Plan Approval Authority or by the Town Planner acting as its agent:
  - (a) Location map at a scale of 600 feet per inch.
  - (b) Existing conditions survey indicating property boundaries, metes and bounds, existing structures, locations of all easements, rights-of-way, grades at intervals of three (3) feet, utilities and the presumed owner(s) of the

property within the Project area and of all abutting lots and wetland areas within 100 feet of the property boundaries.

- (c) Photographs eight (8) inches by ten (10) inches in sufficient quality and detail to indicate the environmental features of the site, including, but not limited to, topography, views of adjacent or nearby open space and adjacent structures and/or uses of land.
- (d) Schematic design plans including:
  - (i) Site plans accurately locating all existing and proposed buildings and structures with their proposed uses as well as gross and usable floor areas, existing and proposed streets, parking areas, loading facilities, driveways, driveway openings, service areas, usable open space, sidewalks, ramps, landscaped areas and the proposed treatment thereof (including fences, walls, planting areas and walks), all facilities for storm drainage, sewerage, refuse, other waste disposal and other utility systems, snow storage, hydrants,.
  - (ii) Ground floor plan indicating major dimensions, gross and net floor area, proposed uses of interior areas in appropriate scale, access points for pedestrians and service areas.
  - (iii) Typical floor plan indicating major dimensions, gross and net floor area, proposed uses and vertical circulation for upper level floors.
  - (iv) Data enabling the Plan Approval Authority to determine the amount and frequency of traffic volumes generated and the extent of compliance with parking standards.
  - (v) Sign plan indicating location, size, illumination and design of all signs proposed for the Project site.
  - (vi) Lighting plan indicating the lighting proposed for the site and the method of illumination and control of any overflow onto adjacent property.
  - (vii) A circulation plan showing the street system and circulation patterns within and adjacent to the Project including any special engineering features, such as, but not limited to, median strips, overpasses and underpasses and major pedestrian paths.
  - (viii) Building elevations defining heights, proposed entrances, fenestration, signage and exterior materials, finishes, colors and features of the entire Project.

- (e) Documentation of the Project's compliance with the standards of Section 5.10.6 regarding affordability.
- (f) Documentation of the Project's ability to accommodate a range of ages and family sizes in the proposed residential units.
- (g) Any plan for phasing the Project including a reasonable time for the completion of each phase.
- (h) A description of any required public improvements associated with the Project, and how such improvements are to be integrated into the Project.
- (i) A project narrative prepared with the assistance of such licensed professional engineers and other specialists as appropriate, addressing the potential for any significant adverse offsite impacts from the proposed development and as applicable, identifying mitigation measures that are proposed as part of the Project to address such impacts.
- (j) A traffic study describing the traffic anticipated in connection with the Project and any potential impacts on the Town and the properties in the vicinity of the Project.

#### **5.10.11 Plan Approval Procedures**

An application for Plan Approval shall be processed by the Plan Approval Authority according to the following procedures:

- 5.10.11.1 *PAA Regulations* - The Plan Approval Authority Regulations shall be promulgated to further implement this Section and shall be consistent with this Section. They shall be kept on file in the Office of the Town Clerk. Along with this Section, they shall govern the filing and processing of Plan Approval applications for the AROD.
- 5.10.11.2 *Filing* - A Project Proponent shall file the application and required number of copies for Plan Approval on the required form with the other required submittals as set forth in the PAA Regulations with the Plan Approval Authority, with a copy of the application filed forthwith the Town Clerk.
- 5.10.11.3 *Circulation to Other Town Boards* - Upon receipt of an application for Plan Approval, the Plan Approval Authority shall immediately provide a copy of the application materials to the Board of Health, the Conservation Commission, the Fire Department, the Police Department, the Building Commissioner, the Department of Public Works, Hudson Light & Power and the Historic District Commission. Each such board, agency or officer shall provide any written comments within forty-five (45) days of their receipt of a copy of the application.

- 5.10.11.4 *Hearing and Decision* - The Plan Approval Authority shall hold a public hearing for which notice has been given as provided in Massachusetts General Laws Chapter 40A, Section 11. The decision of the Plan Approval Authority shall be made, and a written notice of the decision filed with the Town Clerk, within one hundred twenty (120) days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Project Proponent and the Plan Approval Authority, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the Plan Approval Authority to take action within said one hundred twenty (120) days or extended time, if applicable, shall be deemed to be an approval of the application for Plan Approval.
- 5.10.11.5 *Peer Review* - A Project Proponent shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application. Such fees shall be held by the Town in a separate account and used only for out-of-pocket expenses associated with the review of the Plan Approval application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and other professionals. Any surplus remaining after the completion of such review shall be returned to the Project Proponent forthwith.

**5.10.12 Decision**

An application for Plan Approval shall be decided upon by the Plan Approval Authority according to the following standards:

- 5.10.12.1 *Waivers* - Upon the request of the Project Proponent, the Plan Approval Authority may waive or vary any of the standards or requirements of this Section, with the exception of the Affordable Housing Requirements set forth in Section 5.10.6, in the interests of design flexibility and overall Project quality, upon a finding that such waiver or variation will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section and will otherwise be consistent with the overall purpose and objectives of the AROD.
- 5.10.12.2 *Plan Review* - An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review shall be construed as an as-of-right review and approval process.
- 5.10.12.3 *Plan Approval Standards; Conditions*
- (a) Standards

Plan Approval shall be granted unless the Plan Approval Authority finds that:

- (1) The Project Proponent has not submitted the required fees and necessary information as set forth in this Section and the PAA Regulations;
- (2) The Project and application for Plan Approval fails to meet an applicable requirement or standard of this Section and does not qualify to have that standard waived or varied; or
- (3) Significant adverse impacts of the Project on nearby properties have been identified that is not possible to mitigate by means of suitable conditions established by the Plan Approval Authority.

(b) Conditions

The Plan Approval Authority may condition its approval of a Project, but only with such conditions as are necessary:

- (1) To ensure substantial compliance of the Project with the requirements of this Section; or
- (2) To mitigate any significant adverse impacts of the Project on nearby properties.

5.10.12.4 *Plan Disapproval* - Where a Plan Approval application has been denied, the Plan Approval Authority shall specify in its written denial how the Plan Approval application failed to satisfy the standards for approval, including an identification of any fee, information item, requirement, standard or significant adverse impacts that were used as the basis for the denial.

5.10.12.5 *Form of Decision* - The Plan Approval Authority shall issue to the Project Proponent a copy of its decision on an application for Plan Approval containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Plan Approval Authority. If twenty (20) days have elapsed after the decision has been filed in the office of the Town clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If an application for Plan Approval is approved by reason of the Plan Approval Authority failing to timely act, the Town Clerk shall make such certification on a copy of the application.

5.10.12.6 *Recording* - A copy of the decision or application bearing such certification shall be recorded and/or filed with the Middlesex County (South) Registry of Deeds or the Land Court Registration Section thereof, and indexed in the grantor index under the name of the owner of record or filed and noted on the owner's certificate of title, as applicable. The fee for recording or filing shall be paid by the Project Proponent. Proof of the recording shall be submitted by the Project Proponent to the Plan Approval Authority forthwith.

5.10.12.7 *Expiration* - Any Plan Approval granted in accordance with this Section shall lapse within two (2) years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not commenced by such date except for good cause.

**5.10.13 Change in Plans after Approval by Plan Approval Authority**

5.10.13.1 *Minor Change* - After Plan Approval, a Project Proponent may, with the approval of the Plan Approval Authority, make minor changes such as adjustments to utility locations, or other site details or changes to the non-residential use component of an approved Project that do not significantly change building envelopes, reduce the amount of open space, change the number or mix of housing units, or housing affordability features, change the configuration of parking areas or materially change the location, design or extent of approved Project improvements and site features. Such minor changes shall be depicted on redlined prints of the plans that were the subject of the Plan Approval and submitted to the Plan Approval Authority accompanied by such forms as may be provided by the Plan Approval Authority. The Plan Approval Authority may authorize such changes at a scheduled public meeting without needing to provide notice or hold a public hearing, and may generally authorize the Town Planner as its agent to approve specific categories of minor changes on its behalf in the field, subject to subsequent ratification by the Board. Any decision concerning the approval or denial of a request for minor change shall be documented in writing with a copy provided to the applicant and filed with the Town Clerk.

5.10.13.2 *Major Change* - Project changes that do not qualify as minor changes because of their nature or extent in relation to the Project approved by the Plan Approval shall be processed as either a new Plan Approval application or as a modification to the existing approved Plan Approval, under all of the applicable procedural and substantive provisions of this Section.

**5.10.14 As-Built Plans**

As-built plans for a Project receiving Plan Approval shall be filed with the Building Commissioner and the Plan Approval Authority after completion of Project construction of the Project and prior to the issuance of a Certificate of Occupancy.



## **5.11 MEDICAL MARIJUANA TREATMENT CENTERS OVERLAY DISTRICT**

### **Section 5.11.1 PURPOSE**

The purpose of the Medical Marijuana Treatment Centers Overlay District (MMOD) is to provide for the establishment of Medical Marijuana Treatment Centers in certain zoning districts as they are authorized pursuant to state regulations set forth in 105 CMR 725.000 entitled, Implementation of an Act for the Humanitarian Medical Use Marijuana. In that Medical Marijuana Treatment Centers shall be limited in number and regulated by the Massachusetts Department of Public Health and the local Board of Health, this by-law is intended to permit such facilities where there is access to regional roadways, where they may be readily monitored by law enforcement for health and public safety purposes and where they will not impact the public health and safety and the character of residential neighborhoods, business districts and educational institutions.

### **Section 5.11.2 DEFINITIONS**

*Medical Marijuana Treatment Center* - a "not-for-profit entity, as defined by Massachusetts Law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including the development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers."

*Marijuana* - all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes Marijuana Infused Products except where the context clearly indicates otherwise.

*Special Permit Granting Authority (SPGA)* – for the purposes of the provisions of this by-law, the SPGA shall mean the Hudson Zoning Board of Appeals.

### **Section 5.11.3 LOCATION**

The location and boundaries of the MMOD shall be delineated to include the following:

1. Limited Commercial and Light Industrial District (LCI) as shown on the Zoning Map of the Town, and more specifically shown on the Medical Marijuana Overlay District Map.

**Section 5.11.4      PROCEDURAL REQUIREMENTS**

1. An Application for Special Permit shall be filed with the Special Permit Granting Authority in accordance with its applicable filing requirements as specified in the Zoning Board of Appeals promulgated Rules and Regulations.
2. All Applicants must be properly registered with the Massachusetts Department of Public Health and shall provide the Special Permit Granting Authority with a copy of said registration.
3. Applicants shall first obtain Site Plan Review from the Hudson Planning Board as provided in Section 7.1.7 of the Protective Zoning by-laws of the Town of Hudson.
4. Applicants must be permitted by the Town of Hudson Board of Health prior of issuance to any Occupancy Permit.

**Section 5.11.5      USE REGULATIONS**

1. A Medical Marijuana Treatment Center shall be located only in a building and not within a mobile facility;
2. A Medical Marijuana Treatment Center shall be located at least 2,000 feet from any school, daycare center, or library;
3. A Medical Marijuana Treatment Center shall be located at least 300 feet from a residential zoning district;
4. A Medical Marijuana Treatment Center shall not directly abut any formally created outside exercise area, i.e. a rail trail or walking path; however, municipal sidewalks shall be excluded;
5. A Medical Marijuana Treatment Center shall not be located inside a building containing residential units including transient housing such as motels and dormitories;
6. Applicants shall provide the Special Permit Granting Authority with proposed security measures for the Medical Marijuana Treatment Center, including lighting, fencing, gates, and alarms, etc., to ensure the safety of persons and to protect the premises from theft;
7. No smoking, burning or consumption of any product containing marijuana or marijuana related products shall be permitted on the premises of a Medical Marijuana Treatment Center;
8. Signage for the Medical Marijuana Treatment Center shall include the following language "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height;
9. Medical Marijuana Treatment Centers shall provide the Hudson Police Department, The Hudson Board of Health and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment and they shall immediately be notified of any change of information;
10. The hours of operation of Medical Marijuana Treatment Centers shall be set by the Special Permit Granting Authority, but in no event shall said Centers be open and/or operating between the hours of 8:00 PM and 8:00AM;

11. The applicant shall provide written authorization from the property owner of the proposed site;
12. The Special Permit Granting Authority may impose reasonable conditions including, but not limited to, painting and lighting standards;
13. A special permit granted under this section shall be explicit to the ownership of the Applicant. Any transfer of Special Permit will require an approval of the Special Permit Granting Authority in the form of a Special Permit modification.
14. The Special Permit Granting Authority is authorized to grant the Special Permit if it finds the proposal is not contrary to the best interests of the inhabitants of the Town of Hudson, is in accordance with Section 8.2 of the Protective Zoning by-laws of the Town of Hudson, is in harmony with the general purpose and intent of the protective zoning by-law, does not constitute a substantial detriment to the public good and the Center is designed to minimize any adverse visual or public safety impacts on abutters and other parties of interest; the Center demonstrates that it has met the permitting requirements of all applicable state agencies; and the Applicant has satisfied all the conditions and requirements herein.

**Section 5.11.6 ANNUAL REPORTING**

Each Medical Marijuana Treatment Center permitted under this bylaw shall as a condition of its Special Permit file an Annual Report to and appear before the Special Permit Granting Authority and the Board of Health no later than January 31<sup>st</sup>, providing a copy of all current applicable state licenses for the Center and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

**Section 5.11.7 ABANDONMENT OR DISCONTINUANCE OF USE**

1. A Medical Marijuana Treatment Center shall be required to remove all material, plants, equipment and other paraphernalia:
  - a. Prior to surrendering its state issued licenses or permits; or
  - b. Within six months of ceasing operations; whichever comes first.
2. The Applicant shall post a performance bond at the time of Building Permit application to cover the reasonable costs of removal of the Medical Marijuana Treatment Center in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all items noted in Section 5.11.6 (1) and properly clean the facility and prevailing wage.

**Section 5.11.8 SEVERABILITY**

If any paragraph, sentence, phrase or word contained in this by-law is adjudicated by a Court of competent jurisdiction to be unconstitutional, illegal or otherwise unenforceable, then it is intended that the remaining provisions of this by-law continue in full force and effect.

**Section 5.11.9      *PREEMPTION***

No portion of this By-law is intended to supersede, preempt or conflict with any other State or Federal law or rule or regulation to the extent applicable to Medical Marijuana Treatment Centers, or the humanitarian medical use of marijuana as contained in Chapter 369 of the Acts of 2012 as specified herein.

**6.0                    INTENSITY OF USE REGULATIONS**

**6.1                    *GENERAL***

- 6.1.1                No building or structure shall be built which does not comply with the provisions of this section except that Area Requirements shall not apply to individual parcels of land now in single ownership by deeds or record in the Middlesex County South District Registry of Deeds, which do not meet these requirements, and except that these requirements shall not apply against owners of lots, or groups of lots, in any subdivision, the plan of which is now recorded in Middlesex County South District Registry of Deeds. In such latter case, no building may be erected on less than two (2) lots of total minimum area of which shall not be less than ten thousand (10,000) square feet, nor more than the minimum lot size required by the District in which the lots lie. In cases where they may lie in more than one Zoning District then the conditions of Section 5.1.2 govern.

**6.2                    *AREA REQUIREMENTS***

- 6.2.1                No building shall be erected unless in conformity with the requirements on Table 1, Intensity Schedule, except that:
- 6.2.1.1              Eaves, sills, steps, cornices, belt cornices, chimneys, fences, walls, screening or uncovered patios and similar features may project into the specified yards.
- 6.2.1.2              In any District where a front yard is required, no structure, fence or planting shall be maintained between a plane three and one-half (3 1/2) feet above curb level and a plane seven and one-half (7 1/2) feet above curb level in order to afford traffic visibility across the corner within that part of the required front or side yard which is within a triangle bounded by the street lot line and straight line drawn between points on each such lot line twenty-five (25) feet from the intersection of said lots or extensions thereto.

**6.2.1.3 TABLE 1 - INTENSITY SCHEDULE**

District	Minimum		Minimum Lot		Minimum Lot		Minimum Side		Minimum Rear	
	Area in Square Feet	Frontage In Feet	Yard in Feet	Yard in Feet	Yard in Feet	Yard in Feet	Yard in Feet	Yard in Feet	Open Space In Percent	Open Space In Percent
SA - 5	60,000	180	10	10	30	30	NA	NA	NA	NA
SA - 7***	30,000	150	10	10	30	30	NA	NA	NA	NA
SA - 8	40,000	150	10	10	30	30	NA	NA	NA	NA
SB	15,000	100	10	10	30	30	NA	NA	NA	NA
SB - 1*	15,000	100	10	10	30	30	NA	NA	NA	NA
SB - 2**	5,000	50	10	10	10	10	NA	NA	NA	NA
M - 6	60,000	150	20	20	20	20	35%	35%	35%	35%
M - 1, 2, 3 4, 5, 7	30,000	150	20	20	20	20	35%	35%	35%	35%
C - 2 thru C - 13	15,000	150	20	20	30	30	15%	15%	15%	15%
LCI	30,000	150	20	20	30	30	35%	35%	35%	35%

\* See Section 5.2.4 for qualifications (uses allowed by Special Permit in the Multiple Residence District SB - 1)  
\*\* See Section 5.2.5 for qualifications (additional uses allowed by Special Permit in the Mobile Home SB - 2 District)  
\*\*\* For a Dwelling

#### 6.2.1.4 SIGNS

Purpose: To ensure that signage does not contribute a visual blight upon the landscape and the character of the Town of Hudson; maintain and enhance the aesthetic environment and to enable fair and consistent enforcement of these regulations.

<u>DISTRICT</u>	<u>SET BACKS FROM ALL PROPERTY LINES *</u>	<u>MAXIMUM HEIGHT**</u>
C1 - C13, LCI, M1 - 7	10 feet	20 feet

Business and Residences which are located in the Historic District of the C1 District are subject to the requirements of the Historic District Commission.

RESIDENTIAL: See Section 5.2.2 (i)  
 REAL ESTATE SIGNS: See Section 5.2.2 (i)

\* On corner lots, see Section 6.2.1.2

\*\* All signs, 10' to 15' back from the property line shall have four (4) feet of clearance; measured from the surrounding finished grade to the bottom of the sign. All solid signs, up to 36" tall, are exempted from the 4 foot clearance requirement. Any sign placed more than 15' back from the property line are exempted from the 4 foot clearance requirement.

OFF PREMISES SIGNS: Signs whose content does not relate exclusively to the premises on which they are located, or to products, accommodations, services or activities on those premises, shall only be allowed by a Special Permit by the Board of Appeals. Such signs shall not exceed 48 square feet or a height of twelve feet. Provisions shall not apply to the Town of Hudson and any government agency thereof.

LIGHTING: All signs shall be non-flashing, non-blinking, and also not designed to attract attention by a change in light intensity or by repeated motion. All lighting shall be either internal or illuminated by an indirect method. All external lighting shall be ground based and confined to the area of the sign. The lighting of all signs shall not interfere with traffic visibility.

COMPLIANCE: Any existing sign(s) which requires repair\* of 50% or more, or is being replaced, shall be subject to these regulations. Abandoned property, for two (2) years or more, shall meet these regulations when the property is utilized.

\* Repair does not refer to those signs whose configuration, size, or presentation changes from the original.

PROHIBITED: Roof top signs and billboards are not allowed.

MAINTENANCE: All signs shall be maintained by the owner in a clean, safe, and sanitary condition, The Building Commissioner may order removal of any sign(s) that are not maintained or erected in accordance with the provisions of this section.





## **6.2.2 SETBACK**

- 6.2.2.1 No building, or part thereof, except the outside steps shall be erected or altered, so as to be nearer than thirty (30) feet to the street line except that houses may be erected to conform with, but not nearer, the street line than either adjoining house provided that either adjoining dwelling or structure is not more than one hundred (100) feet from the nearest side lot line. In case of a corner lot this same setback requirement shall apply on both streets. The owner may select on what street the building shall face.

## **6.3 Accessory Buildings and Swimming Pools**

- 6.3.1 Accessory buildings and swimming pools shall be located in the side or rear yard and shall not be closer than three (3) feet to the rear lot line or ten (10) feet from the side lot line. In case of a corner lot both side and rear setback shall be ten (10) feet.

## **6.4 BUFFER ZONES FOR COMMERCIAL AND INDUSTRIAL DISTRICTS** (Boarding on Thoroughfares or Residential Districts)

- 6.4.1 There shall be a front yard of not less than thirty (30) feet in depth on each street on which the lot abuts a Residential District.
- 6.4.2 There shall be a side yard on each side lot of not less than thirty (30) feet in width at each boundary on which the lot abuts a Residential District.
- 6.4.3 There shall be a rear yard of not less than thirty (30) feet in depth at each boundary on which the lot abuts a Residential District.

## **7.0 GENERAL PROVISIONS AFFECTING ALL DISTRICTS**

### **7.1 OFF-STREET PARKING AND LOADING AREAS**

#### **7.1.1 General**

7.1.1.1 It is the intention of this Bylaw that all structures and land use shall have a sufficient amount of off-street parking to meet the needs of persons employed at, or making use of, such structures or land uses. No permit shall be issued for the development of land use unless off-street parking facilities have been laid out in a plan in accordance with the appropriate requirements for the structures and uses as set forth in this section and approved by the Inspector of Buildings. If, at the time of application, the exact use of land or buildings in subsections 7.1.5 and 7.1.6 following is not specified, then the requirement for off-street parking and loading of the use or class of uses most typical or nearest in type to the proposed use shall be met as determined by the Planning Board.

7.1.1.2 In all District there shall be provided facilities for off-street parking for every building hereafter constructed, substantially altered, or enlarged, for commercial, industrial, or multiple dwelling purposes.

#### **7.1.2 EFFECT ON EXISTING USES**

7.1.2.1 Structures and land uses in existence at the time this section becomes effective, or structures and uses for which building permits have been approved at the time this section becomes effective, shall not be subject to the requirements set forth in this section provided that any parking facilities now existing to serve such structures or uses shall not in the future be reduced, except where they exceed the requirements in which case they may not be reduced below such requirements.

#### **7.1.3 APPLICATION TO THE C-1 DISTRICT**

7.1.3.1 These regulations shall not apply to the Commercial District C-1.

#### **7.1.4 Design Regulations**

7.1.4.1 There shall be no parking spaces within ten (10) feet of the street lot line. The first ten (10) feet in each yard depth except for driveways shall be unpaved and planted and maintained with grass, trees, shrubs or other suitable vegetation indigenous to the area.

- 7.1.4.2 All parking areas shall be graded and have a minimum of twenty (20) feet as a means of access and a minimum of twenty (20) feet as a means of egress where separate means are provided and to be otherwise adapted to the parking of vehicles and shall be kept available therefore. Where only one (1) means for both access and egress is provided, the width of the means shall be a minimum of thirty (30) feet.
- 7.1.4.3 A parking stall for one (1) vehicle shall not be less than one hundred and eighty (180) square feet (two hundred (200) square feet preferable) plus space for maneuvering. There shall be bumper guard or wheel stops at the head of each stall.
- 7.1.4.4 At least two (2) percent of the parking spaces but not less than one (1) space, shall be two (2) feet wider, but not less in area than normally designed, to be provided for the handicapped. Sidewalk ramps adjacent to these spaces shall also be provided.
- 7.1.4.5 Interior driveway and service roads shall have minimum dimensions as follows:
- ONE-WAY TRAFFIC - fifteen (15) feet  
TWO-WAY TRAFFIC - - thirty (30 ) feet  
TURNING RADII - twenty (20) feet
- 7.1.4.6 Maximum profile gradient of driveways and service roads shall be no more than three (3) percent for a distance of at least fifty (50) feet from the nearest edge of an intersecting roadway or drive.
- 7.1.4.7 A snow storage area shall be designated on the plan of the proposed facility, located off the pavement area and shall be equal in area to at least five (5) percent of the gross paved parking area. The snow storage area shall be located with regard to adequate and safe drainage where the storage of snow will not interfere with the flow of traffic, the line of vision or the preservation of landscaping.

## **7.1.5 PARKING REGULATIONS BY USE**

- 7.1.5.1 Board and Rooming Houses: One (1) space for each sleeping room.
- 7.1.5.2 Multiple Dwellings: Two and one-half (2.5) spaces for each dwelling
- 7.1.5.3 Hospitals: One (1) space for each one thousand five hundred (1,500) square feet gross floor area.
- 7.1.5.4 Retail Business: At least two (2) spaces for each establishment or one (1) space for each two hundred (200) square feet of floor space devoted to retail sales, whichever is larger, plus one (1) space for each three (3) employees or the nearest multiple thereof.
- 7.1.5.5 Offices and Banks: One (1) space for each two hundred and fifty (250) square feet of floor area.
- 7.1.5.6 Theaters, Funeral Homes and Places of Assembly, Excluding Churches, Public and Parochial Schools: One (1) space for each four (4) seats.
- 7.1.5.7 Hotels and Motels: One (1) space for each two (2) sleeping accommodations plus one (1) space for each four (4) employees. Each double bed to be considered two (2) sleeping accommodations.
- 7.1.5.8 Restaurants and other Establishments Serving Food or Beverage: One (1) space for each four (4) seats plus one (1) for each three (3) employees.
- 7.1.5.9 Bowling Alleys: Four (4) spaces per alley.
- 7.1.5.10 Industrial, Manufacturing and Wholesale uses: One (1) space for each three (3) employees based on the maximum number of employees the plant is designed to employ.
- 7.1.5.11 Accessory Home Occupation in a Residence District, Roadside Stands, Medical or Dental Centers or Professional Offices: Four (4) spaces plus one (1) space for each two (2) non-resident employees. If more than one (1) professional office, or business, shall be conducted in the structure, the above requirements shall apply to each office.
- 7.1.5.12 Non-Residential Use: In all other cases of non-residential uses in a Residence District there shall be provided at least one (1) space for each three (3) employees or one (1) space for each three hundred (300) square feet of gross floor area of the non-residential use, whichever is larger.

## **7.1.6      LOADING REGULATIONS BY USE**

- 7.1.6.1      Berths shall be provided for the loading and unloading of stock, merchandise, equipment, supplies, and other usual business and industrial commodities for each building containing the uses listed below. For combinations of uses, the Planning Board shall determine the amount of space required.
- a)      Retail Stores and Service Establishments: For each retail store, or service establishment, with a gross area of from five thousand (5,000) to eight thousand (8,000) square feet at least one (1) berth, and at least one (1) berth for each additional eight thousand (8,000) square feet or nearest multiple thereof.
  - b)      Office Buildings and Banks: For each office building with a gross floor area of from eight thousand (8,000) to twenty thousand (20,000) square feet at least one (1) berth shall be provided and one (1) additional berth for each forty thousand (40,000) additional square feet or fraction thereof occupied by such use.
  - c)      Manufacturing Industrial and Similar Uses: For manufacturing and industrial plants and similar uses with gross floor area of eight thousand (8,000) square feet or more, at least one (1) berth shall be provided. For larger floor areas additional berths shall be provided as required by the Planning Board.
- 7.1.6.2      The design regulations of Section 7.1.4.1 shall also govern off-street loading except that :
- a)      Required loading berths shall be of the following dimensions: forty (40) feet in length, twelve (12) feet in width and fourteen (14) in height.
  - b)      Minimum turning radii for interior driveways, for single unit trucks only, shall be sixty (60) feet, but for tractor trailer combinations minimum turning radii shall be one hundred and twenty (120) feet.
  - c)      A maximum profile gradient of three (3) percent for a distance of one hundred and fifty (150) feet from the nearest edge of an intersecting roadway or drive shall be required.

## **7.1.7 SITE PLAN APPROVAL**

### **7.1.7.1 Purpose**

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town of Hudson by providing for a procedure for the review of plans of structures and uses that may have significant impacts on traffic, municipal and public services and utilities and environmental and visual quality; as well as encouraging a desirable and compatible character of development within the Town while complying with all zoning requirements.

### **7.1.7.2 Applicability**

The following circumstances shall require a Site Plan review and approval by the Planning Board:

- a) Construction or exterior expansion of any structure which is ten (10%) percent or more of the original structure, provided however that single and two family residential structures are exempt from this provision.
- b) The creation or expansion of a parking area or facility. Any construction or change of use that causes 3 or more parking spaces to be eliminated other than single and two family residential structures.
- c) Substantial alteration to areas for parking, loading or vehicular access, including a change in the layout or location of parking spaces, an increase in pavement area or any relocation, addition or change of driveways other than single or two family residential structures. Resurfacing shall not be construed as a substantial alteration.
- d) Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan or earth removal permit.
- e) The subdivision of an existing building, which contains a business or businesses on a specific floor, into additional businesses the result of which is the creation of insufficient parking spaces for each business in the building.
- f) A change of use from commercial to industrial or any change of commercial or industrial use which would generate or result in the reception of hazardous waste and/or create toxic, noxious or corrosive fumes, gas, smoke or odors.

### **7.1.7.3 Procedures**

- a) Prior to filing an application for Site Plan Review with the Planning Board, the Applicant must first submit an application and receive initial plan approval from the Internal Traffic Committee (ITC). The ITC will provide the Planning Board recommendations in writing regarding the proposed plan. The recommendations may be in the form of Meeting Minutes.

- b) Applications for site plan review shall be submitted in accordance with the Planning Board's Rules and Regulations. Copies of which are available at the Town Clerk's Office.
- c) The Planning Board shall hold a public hearing on the application for Site Plan review. Written notice of the time and place of the public hearing shall be given to the applicant and to all parties in interest as defined in Chapter 40A, Section 11 of the Massachusetts General Laws, as amended. A hearing shall be held within sixty (60) days of the receipt of the application.
- d) In considering an application, it shall be assured that, 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 it is located, that there is adequate:
  - 1) Protection of the adjoining property against detrimental or offensive uses on the site.
  - 2) Convenience and safety of vehicular traffic and pedestrian movement within the site and in relation to adjacent streets, property and improvements.
  - 3) Methods of disposal of sewage, refuse and other wastes resulting from uses permitted or permissible on the site and methods of drainage for surface water.
  - 4) Space for off-street parking, loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of uses permitted or permissible.
  - 5) Control of lighting, sound emissions and odor emanating from the site and any other condition not in harmony with the intent and purpose of the By-Law.

#### **7.1.7.4 Plans**

- a) The Plan shall be prepared by a professional engineer, land surveyor, architect or landscape architect registered to practice in the State of Massachusetts and submitted in accordance with the Planning Board's submittal requirements and with the associated filing fee.
- b) All Site Plans shall indicate the following:
  - 1) Proper heading, containing the project title, name and address of the owner of the property, name of the developer, location of the project by street and number, plate and parcel, Assessor's Maps, zoning district, proposed use, name of the designer, seal, signature and discipline.

- 2) North arrow, existing and proposed topography using USC&G Datum, bench marks and turning points.
- 3) Lot completely dimensioned, showing front, rear and side dimensions and square footage of the lot, all easements on the site, existing and proposed.
- 4) All existing and proposed buildings on the site along with all dimensions and square footage. Also, all sill and floor elevations.
- 5) All street lines abutting the site, all interior drives and access lanes, entrances and exits to the site, parking spaces and pedestrian walkways indicating dimensions of same.
- 6) Indicate all utilities in the public way abutting the site including all hydrants within 500 feet of the site.
- 7) All handicapped parking spaces and handicapped walkways and ramps with all dimensions.
- 8) All snow storage areas, at least 5% of all paved areas, and method of removal if necessary.
- 9) All wetlands and aquifer areas on the site and within 100 feet of the property boundaries.
- 10) All fences, walls, trees, screening and other devices to be erected on the site.
- 11) All lighting to be utilized on the site and method of illumination and control of any overflow on to adjacent property.
- 12) Size, height and type of illumination of all signs to be installed on the site.
- 13) All required fire lanes, indicating type of material to be used for surfacing and width of same. Show all hydrants to be installed on the site.
- 14) Identify and show all utilities entering the site showing separation of domestic and fire services. Also identify all utilities entering any building.
- 15) All loading and unloading facilities, service roads and service areas.
- 16) Type of surfacing to be used for all drives, parking areas, fire lanes and pedestrian walkways, also, show all berms.
- 17) All required open space, (green area) giving the percentage of the site allocated to same.
- 18) Plantings, landscaping, buffers and screening.
- 19) Adequate method of disposal of sewage and potential pollutants emanating from uses on the site including all catch basins, manholes and traps.
- 20) Adequate means of disposal of all storm water runoff by means of retention ponds, storm drains, or by means of natural water courses available to the site. Indicate type and size of pipe to be used and provided all necessary calculations when required. Indicate elevations of inverts, outlets and spillways.
- 21) Adequate means of disposal of all solid waste generated on the site along with the type of waste receptacles and method of screening the same from the view of the public and abutters.
- 22) Indication of necessary ground water protection such as limitations of products used to control ice and snow and those to remove oil and grease from surface runoff.



- 23) A list of all permits required from the state and or local governmental bodies for street and sidewalk excavation, sewer extension, septic, driveway and conservation.
- 24) Compliance with the Americans with Disabilities Act (ADA).
- 25) Adequate provisions on the site plan for the signatures of the Director of Public Works, the Fire Chief, the Police Chief, the Zoning officer and the Planning Board.

#### **7.1.7.5 Compliance and Impact Statement**

Each site plan review application submitted for approval under this Section, shall include a statement explaining how compliance with each sub-section has or will be achieved. The statement shall also describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review. Identify all significant positive and adverse impacts and propose acceptable prevention or mitigation of adverse impacts. The impacts should include but not be limited to traffic and environmental.

#### **7.1.7.6 Waivers**

- a) The Planning Board may in its administrative discretion, upon written request, and in the public interest waive any of the requirements of sections 7.1.7.4 and 7.1.7.5 where the project involves minor development plans.
- b) The Planning Board may waive the requirement of submission of a site plan for review provided that it determines, at a duly held meeting, with notice to abutters: That the proposed project does not generate any additional parking, and does not have a significant impact on the property upon which the proposed project is to be located, and has no adverse impact to abutters.

#### **7.1.7.7 Approval**

- a) The Planning Board shall approve an application based on its review, if the Board finds that the proposed development is in conformance with this By-Law. The Planning Board may impose reasonable conditions at the expense of the Applicant to promote the intent and purpose of the By-Law.
- b) Any decision issued by the Planning Board shall be recorded at the Middlesex South Registry of Deeds within 20 days of issuance and proof of recording shall be returned to the Planning Board. No Building Permit will issue without proof of recording.

#### **7.1.7.8 Performance Guaranty**

As a condition of site plan approval and in conjunction with the intent and purpose of this by-law provision, the Planning Board may require a performance bond or cash security to be posted with

the Town to guarantee completion of site improvements in compliance with plans submitted and approved hereunder, or for land restoration not having to do with construction of site improvements. The amount of security shall be determined by an estimate from the applicant's engineer, which may be verified or increased by the Planning Board or its Agent with due consideration of inflationary costs and conformance with the provisions of site plan review and approval. The Town may use the secured funds for their stated purpose in the event that the proponent does not complete all improvements in a manner satisfactory to the Planning Board as provided in the approval.

#### **7.1.7.9 Changes**

Any and all changes to any approved site plan must be first submitted through the same procedure as the original site plan for review and approval prior to incorporation.

#### **7.1.7.10 Administration**

- a) The Planning Board may establish and may periodically amend rules and regulations relating to the administration of this section.
- b) The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section including technical review fees. No application shall be considered complete unless accompanied by the required fees.
- c) The Planning Board or its Agent shall be responsible for deciding the meaning and intent of any provision of this section which may be unclear or in dispute.

#### **7.1.7.11 Validity**

The actions allowed by the Site Plan Approval are authorized for a two year period from the date of granting of final approval. Thereafter if substantial use thereof has not commenced such approval shall be deemed to have lapsed and a new application with notice and hearing will be required. Said approval, for good cause, may be extended in writing by the Planning Board upon written request of the applicant prior to expiration.

#### **7.1.7.12 Severability**

In the event that any portion of this by-law is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, then it is intended that the remaining portions hereof remain in full force and effect.

## **7.2 HAZARDOUS WASTE FACILITY**

7.2.1 To provide an acceptable siting design and operation, safe access and transit so that the dangers to the public safety, water supply, quality of the air, shall receive adequate protection for the residents of the Town, hazardous waste facilities are permitted in the Restricted Industrial District only and after issuance of a Special Permit by the Board of Appeals in accord with the following provisions:

### **7.2.2 DESIGN REQUIREMENTS**

7.2.2.1 The site shall have a lot area of at least three hundred (300) acres.

7.2.2.2 No part of the facility shall be located within five hundred (500) feet of any public way or body of water or abutting land.

7.2.2.3 Access to the facility over Town roads shall be minimized or where feasible limited to State highways.

### **7.2.3 PROCEDURES FOR APPROVAL**

#### **7.2.3.1 FILING OF APPLICATION**

- A) An application for the granting of a special permit by the Board of Appeals to approve a Hazardous Waste Facility shall be filed with the Board, with a copy filed forthwith with the Town Clerk, and shall be accompanied by six (6) copies of a preliminary plan for the entire tract under consideration prepared by appropriate designers and engineers.

#### **7.2.3.2 CONTENTS OF APPLICATION**

- a) An analysis of the site including topographic, geological and soil conditions, climate, surface water and groundwater hydrology, including water runoff and runoff characteristics, wetlands and flooding conditions, drinking water supplies, and compliance with applicable statutes, regulations, judicial decisions regarding the protection of air, water and land resources;
- b) A description of the type of hazardous wastes the developer proposes to accept for treatment, processing and disposal at the facility;
- c) A description of the technology and procedures the developer proposes to use to treat, process, and dispose of hazardous waste at the facility;

- d) A description of the present suitability of the site, and of what additional measures, if any, will be required to make the site suitable for the purpose of constructing, maintaining and operating a facility;
- e) Preliminary specifications and architectural drawings of the proposed facility;
- f) An environmental impact statement for the proposed facility at the site and surrounding area;
- g) A summary of the impact of the facility on the surrounding area.

7.2.3.3 Review of other Boards

- a) Before acting upon the application, the Board shall submit it with the plan to the following Boards which may review it jointly or separately: the Board of Health, the Conservation Commission, Department of Public Works, Chief of the Fire Department. Any such Board or Agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Board of Appeals and the applicant.

7.2.3.4 Public Hearing

- a) After the opportunity for review by other boards has taken place, the Board of Appeals shall hold a hearing under this section, in conformity with the provisions of General Laws Chapter 40A, Section 9, of this Zoning Bylaw.

7.2.3.5 Findings of the Board

- a) In any application for a Special Permit under this section, the Board of Appeals, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
  - 1) The use requested is permitted in the district and is in harmony with the general purpose and interest of this bylaw.
  - 2) The requested use will not impair the integrity or character of the neighborhood nor be detrimental to the health, morals or welfare of the same.
  - 3) Requested use will not impair the integrity of the public and private water supplies.

7.2.3.6 Bonding Requirement

- a) Before granting any Special Permit, the Board may require a bond in favor of the Town sufficient to assure financial responsibility in the event of damages resulting from accidents, negligence, misconduct, or malfunctioning in the construction, maintenance and operation of the facility, or from any other circumstances reasonably foreseeable occurring during or after construction or in the course of the maintenance and operation of hazardous waste facilities.

## **8.0 ADMINISTRATION AND ENFORCEMENT**

### **8.1 Building Permits**

- 8.1.1 No construction for a building or structure shall be started, and no building or structure shall be erected, moved or added to until a building permit for the proposed work or addition shall be applied for and granted by the Inspector of Buildings.
- 8.1.2 No permit shall be granted for the construction, alteration, relocation or use of any building, structure or premises in violation of any provision of this Bylaw. Whenever any permit is refused because of some provision of this Bylaw, the reason therefore shall be clearly stated in writing.
- 8.1.3 An application for a building permit for a new or altered use of land or of a structure, or for construction, addition, reconstruction or relocation of a building shall be made by the owner or his duly authorized agent, in writing in a manner and form approved by the Inspector of Buildings.
- 8.1.4 A record of the application herein referred to, and the action taken thereon, shall be kept on file with the Inspector of Buildings.
- 8.1.5 The procedures and requirements for obtaining a building permit are contained in the Building Code of the Town of Hudson and shall be enforced by the Inspector of Buildings.

### **8.2 SPECIAL PERMIT GRANTING AUTHORITY**

- 8.2.1 The Special Permit granting authority will issue permits in accordance with the procedure and provisions of Section 9 of Chapter 40A.
- 8.2.2 Unless otherwise specified in this Bylaw, the Special Permit granting authority is the Board of Appeals.
- 8.2.3 Any approval which has been granted by the Special Permit Granting Authority

under the provisions of paragraph 8.2.1 above, shall lapse within two (2) years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

### **8.3 BOARD OF APPEALS**

8.3.1 There is hereby established a Board of Appeals of five (5) members and three (3) associate members to be appointed by the Selectmen, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this Bylaw in the manner prescribed in Chapter 40A of the General Laws.

8.3.2 The Board of Appeals shall have the following powers:

8.3.2.1 To hear and decide appeals in accordance with Section 8 of Chapter 40A.

8.3.2.2 To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A.

8.3.2.3 To hear and decide applications for those uses of which approval of the Board of Appeals is required in accordance with the provisions of this Bylaw and for Special Permits when not otherwise specified.

8.3.2.4 To hear and decide applications for expansions of non-conforming uses in accordance with the provisions of Sections 5.1.5 and 5.1.6 of this Bylaw.

8.3.3 In exercising the powers granted by paragraph 8.3.2 above, the Board of Appeals shall act in accordance with the provisions of Section 11, 14, 15, and 16 of Chapter 40A of the General Laws.

### **8.4 ENFORCEMENT**

8.4.1 If a violation shall be determined by the Inspector of Buildings by an investigation of the fact and inspection of the premises, a written notice thereof shall be transmitted to the owner or his duly authorized agent. Such notice shall order that any use or condition of the premises contrary to the provisions of this Bylaw shall cease immediately. A copy of such notice shall also be delivered to the Board of Selectmen by the Inspector of Buildings.

8.4.2 If after such notice the premises continue to be used or remain in a condition contrary to the conditions of this Bylaw, the Board of Selectmen shall institute appropriate legal proceedings to enforce the provisions of this Bylaw.

8.4.3 Any person violating any of the provisions of this Bylaw may be fined not more

than one hundred (\$100.00) dollars for each offense. Each day that such violation continues shall constitute a separate offense.

- 8.4.4 If the Building Inspector is requested in writing to enforce the provisions of this Bylaw against any person allegedly in violation of this Bylaw and the Building Inspector declines to act he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

8.5 **VALIDITY**

- 8.5.1 The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision hereof.

8.6 **AMENDMENT**

- 8.6.1 This Bylaw may from time to time be changed by amendment, addition or repeal in the manner provided in Section 5 of Chapter 40A of the General Laws.

**9.0 C-1 Zoning District**

9.1 **Purpose**

In furtherance of the general purposes of Section 2.0, the C-1 Zoning provisions are intended to facilitate and regulate the mix of uses appropriate to Hudson. The secondary purpose of this section is to broaden the array of the town's housing options by permitting multiple dwellings within the C-1 District and to maintain and improve parking and circulation for vehicles, bicycles and pedestrians.

9.2 **Permitted Uses**

The provisions of Section 5.1 (General Conditions Pertaining to All Uses in All Districts) shall apply to all uses in the C-1 District.

Notwithstanding other provisions of the Zoning Bylaw Section 5.0, only the following uses are permitted in accordance with this Section 9.0 and the C-1 District Use Table.

**Uses Allowed By Right**

The following uses are allowed by right; site plan review is required where noted in Table 2: Use Schedule, C-1 Zoning District.

9.2.1.

Uses exempt in accordance with M.G.L. chapter 40A section 3, subject to reasonable height, bulk and site planning requirements as determined by the Hudson Zoning Enforcement Officer for uses within existing buildings and by the Planning Board through Site Plan Review in the event the Zoning Enforcement Officer deems necessary for projects involving site plan changes, increased parking requirements or new construction.

9.2.2.

Seasonal display and sales of Christmas trees and decorations during the months of November and December provided a permit therefore is obtained from the Board of Selectmen.

9.2.3.

Nursery or Garden Center

9.2.4.

Single Family Dwelling

9.2.5.

Housing for the Elderly aged 62 or older

9.2.6.

Hotel or Motel

9.2.7.

Multiple Family Housing Units on upper floors subject to the following provisions

- a) Multiple dwellings shall be permitted in new or existing buildings on upper floors by right provided that in each instance not more than 8 units are proposed (where projects are to be phased, the units anticipated in all phases shall be counted, regardless of time for construction);
- b) Residential units shall have a minimum floor area of 500 square feet of living space;
- c) The Zoning Enforcement Officer determines that adequate overnight parking to serve residential tenants is available within 500 feet of the building in which the units are located.

9.2.8.

Bed and Breakfast located within existing single family homes



- 9.2.9. Public School Building
- 9.2.10. Educational, Religious, or Philanthropic Uses
- 9.2.11. Nursing Home or Nursing Care Facility
- 9.2.12. Assisted Living Facility
- 9.2.13. Lodge or Membership Club (not for profit)
- 9.2.14. Child Care Facility
- 9.2.15. Adult Day Care Facility
- 9.2.16. Municipal Use - Municipal buildings, public facilities or utilities, including public parks or playgrounds provided their location is complementary to the neighboring uses and structures
- 9.2.17. Underground utility
- 9.2.18. Home Occupation
- 9.2.19. Market or Grocery store not exceeding 25,000 sf
- 9.2.20. Retail Sales and Service not exceeding 25,000 sf
- 9.2.21. Personal Service Shop, such as a beauty salon, barber, nail salon
- 9.2.22. Funeral Home/Undertaker
- 9.2.23. Repair Shop /Building Trade with no outside storage

9.2.24. Indoor Amusement such as a movie theater, arcade, etc.

9.2.25. Laundry or dry cleaner

9.2.26. Restaurant including coffee shops or cafes

9.2.27. Take out Retail such as sub or pizza shop, not including drive through

9.2.28. Bank

9.2.29. Professional and Business Offices

9.2.30. Research Facility

9.2.31. Assembly or Light manufacturing not involving heavy trucking and including bottling or packaging of previously prepared products or parts, Manufacturing or assembly of precision instruments, tool and die, dental, medical, optical, pharmaceutical and health care equipment, electrical and electronic instruments.

9.2.32. Vehicular dealership for vehicles weighing less than 4 tons

9.2.33. Parking Facility

9.2.34. Accessory Uses customarily incidental to a permitted use above

**Uses Allowed By Special Permit**

The following uses are allowed by special permit granted by the Board of Appeals except in only Section 9.2.38 in which the Planning Board is indicated as the Special Permitting Authority.: Use Schedule, C-1 Zoning District.

9.2.35. Accessory Dwelling Unit

9.2.36. Two Family Dwelling Conversion from a single family home

9.2.37. Two Family Dwelling (new construction)

9.2.38. Multiple Family Housing Units at street elevation/ground floor and/or greater than 8 units on upper floors, subject to the following provisions.

- a) More than 8 units may be permitted by special permit issued by the Planning Board if the Planning Board determines such density of residential use is in keeping with the purpose and intent of the C1 district and complements the uses in the surrounding neighborhood (where projects are to be phased, the units anticipated in all phases shall be counted, regardless of time for construction);
- b) Residential units shall have a minimum floor area of 500 square feet of living space;
- c) The Zoning Enforcement Officer determines that adequate overnight parking to serve residential tenants is available within 500 feet of the building in which the units are located.

9.2.39. Above Ground Utility

9.2.40. Wireless Communications Facility

9.2.41. Amateur Radio Tower

9.2.42. Grocery Store greater than 25,000 sf but less than 80,000 sf

9.2.43. Retail Sales and Service greater than 25,000 sf but less than 80,000 sf

All other uses prohibited.

### **9.3 Dimensional and Parking Standards**

There shall be no specified dimensional requirements for lot area, front, side or rear yard setbacks. However, all new construction shall reflect a front yard setback consistent with other buildings in the immediate neighborhood (within 300 feet of locus)

Building height shall be limited to four stories and a maximum of 48 feet as measured from the grade of the street level.

The amount of or the location of open space, landscaping, patios, pedestrian amenities, sidewalks and public or private gathering places, these amenities shall be incorporated into a plan for new construction or redevelopment.

Effort shall be given to comply with the off street parking requirements of section 7.1.5; however, the Planning Board shall have the authority to waive such requirements, without need for variance, where the applicant reasonably demonstrates i) that peak and off-peak parking demands of the various uses allows for shared parking, ii) public parking is available within a reasonable distance (500 feet), and /or iii) the proposed use has a realistic parking demand lower than that stated in section 7.1.5. Where feasible, applicants may also identify a reserve area for future parking, in the event that parking demand increases above expectations.

#### **9.4 Application Procedure / Site Plan Review**

All proposals for a new use in an existing building, a renovation, expansion or new building or for expansion or redevelopment of parking lots in the shall be reviewed by the Hudson Building Commissioner to determine whether permitting in addition to a building permit or certificate of occupancy is required.

All new construction, expansion, conversion to residential use or more intense use shall be subject to Site Plan review by the Planning Board and approval in accordance with sections 7.1.7.3 – 7.1.7.8.

#### **9.5 Design Review**

In considering a site plan for new uses within existing structures, building expansions, new buildings, or parking lot expansion or reconstruction, the Planning Board shall consider the following in addition to any provisions of existing or future Rules and Regulations and/or Design Guidelines adopted by the Planning Board.

- 9.5.1 The ability of the proposal to improve parking, vehicular, bicycle and pedestrian circulation and amenities.
- 9.5.2 Incorporation of aesthetically pleasing and functional green spaces, landscaping, buffer plantings, patios and outdoor gathering places.
- 9.5.3 Building setbacks from the street that complement the neighborhood and other structures in the vicinity.

- 9.5.4 For new construction, Parking, loading and service areas shall be limited to rear yards only. For renovation or redevelopment of an existing building, parking loading and service areas may be located in side or front yards if sufficient landscape barriers are provided.
- 9.5.5 Exterior lighting fixtures shall be arranged so that they do not unreasonably distract residents or interfere with traffic on any public way. Fixtures shall be hooded so as to prevent direct light from shining onto adjacent streets or properties and to limit light intrusion into residential units.
- 9.5.6 New structures shall be compatible with existing buildings and the character of the historic district (if applicable) in terms of architectural detail, massing, building materials and placement on the lot.
- 9.5.7 The Planning Board is authorized to promulgate Rules and Regulations to carry forth the provisions of this Zoning By-law Section 9.0.

**TABLE 2: USE SCHEDULE for C-1 ZONING DISTRICT**

	Allow	Prohibit	Special Permit
<b>EXTENSIVE USES</b>			
<b>EXEMPT USES-</b> all uses below that meet the exemptions definition in Chapter 40A; all uses that do not meet the definition are prohibited unless otherwise stated	<b>X</b>		
• Forestry			
• Agriculture			
• Greenhouse			
• Earth Removal			
• Conservation Use			
• Public or Private Recreation (indoor) e.g. bowling, health club			
• Public or Private Recreation (outdoor) e.g. golf, ski, riding stable			
• Christmas tree sales	X		
• Nursery or Garden Center	X		
<b>RESIDENTIAL USES</b>			
Single Family Dwelling	X		
Accessory Dwelling Unit			X
Two Family Dwelling (Conversion from single family home)			X
Two Family Dwelling (New)			X
Cluster Development		X	
Planned Residential Development		X	
Housing for Elderly	X		
Hotel or Motel	X		
Multiple Family Housing Units (upper floors, existing building)	X		
Multiple Family Housing Units (upper floors, new building)	X		
Multiple Family Housing Units (ground floor, existing or new building)			X
Taking of lodgers (up to 4)	X		
Mobile home (individual or park)		X	
Bed and Breakfast	X		

	Allow	Prohibit	Special Permit
<b>INSTITUTIONAL USES</b>			
Public School Building	X		
Educational	X		
Religious	X		
Philanthropic	X		
Nursing Home	X		
Nursing Care Facility	X		
Assisted Living Facility	X		
Lodge or Membership Club (not for profit, e.g. Veteran's Lodge)	X		
Cemetery		X	
Child Care Facility	X		
Adult Day Care Facility	X		
<b>GOVERNMENTAL AND PUBLIC SERVICES</b>			
Municipal Use	X		
Aviation		X	
Underground Utility	X		
Above Ground Utility			X
Wireless Communications Fac.			X
Amateur Radio Towers			X
<b>BUSINESS USES</b>			
Home occupation/office	X		
Market/Grocery store <25,000 s.f.	X		
Grocery Store 25,000-80,000 s.f.			X
Supermarket >80,000 s.f.		X	
Commercial Warehouse Club > 80,000 sf		X	
Department Store >80,000 s.f.		X	
Retail Sales & Service <25,000 s.f.	X		
Retail Sales & Service >25,000 s.f. but < than 80,000 s.f.	X		
Personal Service Shop	X		
Funeral Home / Undertaker	X		
Repair Shop /Building Trade	X		
Indoor Amusement (movie theater, arcade, etc.)	X		
Laundry, dry cleaner	X		
Adult Entertainment		X	

Restaurant	X		
	<b>Allow</b>	<b>Prohibit</b>	<b>Special Permit</b>
Take Out Retail	X		
Bank	X		
Professional and Business Offices	X		
Research Facility	X		
Assembly/Light Manufacturing	X		
Auto Service Station (gas with or without repair)		X	
Motor vehicle repair facility		X	
Auto Body Shop		X	
Retail or Wholesale of New or Rebuilt Auto Parts		X	
Vehicular Dealership	X		
Parking Facility	X		
<b>INDUSTRIAL USES</b>			
Warehouse or Distribution center		X	
Mini-Storage Facilities		X	
Lumber Yard		X	
Contractor's Storage Yard or Open-air Sales		X	
Heavy Manufacturing		X	
Heavy Vehicular Dealership		X	
Trucking garages and terminals		X	
Junk Yards		X	
<b>OTHER USES</b>			
Accessory uses customarily incidental to a permitted use	X		



## AMENDMENTS

### TOWN OF HUDSON ZONING ADOPTED MARCH 4, 1957

#### ZONING BY-LAW AMENDMENTS FROM 3/58 TO PRESENT

<u>Art #</u>	<u>VOTED</u>	<u>A G APPROVAL</u>	<u>USE</u>
32	3/3/58	3/14/58	Change portion of SA to M-5
44	3/3/58	3/14/58	Change portion of SB to M-5
1	12/8/58	12/12/58	Change portion of SB to C-1
52	3/7/60	3/30/60	Change portion of SB to SA-5
62	3/7/61	6/22/61	Lot Area SA-5, SA, SB
66	3/7/61	6/22/61	Addition to C-6
67	3/7/61	6/22/61	Change SB to SB-1
68	3/7/61	6/22/61	SB Multiple Dwellings by ZBA
69	3/7/61	6/22/61	Change portion of SB to M-5
70	3/7/61	6/22/61	Change portion of SB to M-1
71	3/7/61	6/22/61	Change portion of M-5 to SB
22	3/5/62	8/15/62	Area Regulations all Districts
23	3/5/62	8/15/62	Change portion of SB to M-6
24	3/5/62	8/15/62	Change portion of SB to SA-5 & Area
25	3/5/62	8/15/62	MR-1 and MR-2 & Use Regulations
8	6/8/62	8/20/62	New SA-6, SA-7 & SA-8
51	3/25/63	10/1/63	New C-12
52	3/25/63	10/1/63	New C-10
53	3/25/63	10/1/63	New C-11
21	3/25/65	4/28/65	New MR-3, Area & Frontage M-6
49	3/22/65	4/28/65	Frontage & Area M-6
52	3/22/65	4/28/65	Addition to C-11
53	3/22/65	4/28/65	Addition to C-4
5	6/7/65	6/22/65	Addition to SA-8
6	6/7/65	6/22/65	Addition to M-6
7	6/7/65	6/22/65	Addition to M-6
8	6/7/65	6/22/65	Addition to SA-5
9	6/7/65	6/22/65	Addition to SA-8
10	6/7/65	6/22/65	Addition to M-1
10	3/28/66	6/8/66	Use Regulations Residential
11	3/28/66	6/8/66	Use Regulations Multiple Dwellings

12	3/28/66	6/8/66	Use Regulations Commercial
13	3/28/66	6/8/66	New C-5 Description
14	3/28/66	6/8/66	Use Regulations Industrial
5	1/23/67	2/10/67	M-3 Addition
36	3/28/67	6/9/67	New LCI District
37	3/28/67	6/9/67	New Use Regulation Residential
38	3/28/67	6/9/67	Corner Traffic Visibility
39	3/28/67	6/9/67	Aux Bldgs & Pool Setback
6	10/23/67	11/1/67	C-4 Correction
5	10/23/67	11/1/67	C-11 Addition from SA-7
2	1/22/68	1/24/68	Change portion of SA-8 to M-6
32	3/25/68	5/24/68	Comm & Ind Off-Street Parking
34	3/25/68	5/24/68	New Addition to C-1
35	3/25/68	5/24/68	Change portion of SA-7 to M-7
36	3/25/68	5/24/68	Change portion of M-1 to C-13
37	3/25/68	5/24/68	Definitions
38	3/25/68	5/24/68	Add to Sec III-F Apartments
7	12/9/68	1/17/69	Change portion of SB to C-2
8	12/9/68	1/17/69	Change portion of SB to C-6
34	3/24/69	7/24/69	Use Regulations III-F(b)
38	3/24/69	7/24/69	Use Regulations Add to III-B
39	3/24/69	7/24/69	Use Regulations Apartments
41	3/24/69	7/24/69	New Description SA-6
12	3/23/70	7/9/70	Buffer Zones Comm & Ind Zones
1	12/2/70	12/21/70	Change portion of M-5 to C-9
2	12/2/70	12/21/70	New Frontage Requirement
4	12/2/70	12/21/70	New Setback Requirement
20	12/9/70	5/13/71	SB-2 Mobile Home District
16	3/23/71	5/13/71	New Multiple Dwelling Setback
17	3/23/71	5/13/71	Delete Section III-D Dist Bldg
11	6/8/71	8/24/71	Establish SB-3 Multiple Dwelling Zone
9	11/15/71	1/14/72	Exception for Public Housing Authority
35	4/5/72	7/6/72	Five Member Appeals Board
6	11/19/73	12/6/73	Add Section IV-J Boundary Lines
7	11/19/73	12/6/73	Delete Sec SA 1.2.3,4 Lot Area
8	11/19/73	12/6/73	Delete Sec SA 1,2,3,4 Descriptions
10	11/18/74	1/8/75	Recodification of Zoning By-Laws
12	11/18/74	1/8/75	Portion of SB district to C-1 District
23	5/5/75	7/22/75	Flood Plain/Wetland District
24	5/5/75	7/22/75	Family Day Care
42	5/6/75	7/22/75	Retail Sales
18	11/15/76	2/1/77	Sanitary Landfill in SA-6 District
20	11/15/76	2/1/77	Increase M-4 Ind District
32	11/15/76	2/1/77	SB-4 Mobile Home District
33	11/15/76	2/1/77	Prohibit Self-serve Gas Stations

40	5/2/77	8/8/77	Change SA-6 to SA-8
41	5/2/77	8/8/77	Intensity Schedule for Comm & Ind
42	5/2/77	8/8/77	Residential & Intensity in M-5
44	5/2/77	8/8/77	Zoning conform to Ch 808 of Acts 1975
14	11/21/77	2/2/78	Conversion of 1 family into 2 family
39	5/1/78	8/1/78	Limited Comm & Light Ind Uses
2	6/21/78	9/21/78	Extend C-12 District
3	6/21/78	9/21/78	Floodplain/Wetland Off-Street Parking
20	11/20/78	4/19/79	Increase M-1 District
21	11/20/78	4/19/79	Increase M-1 District
22	11/20/78	4/19/79	Extend C-11 District
23	11/20/78	4/19/79	Change portion of M-6 to SA-5
4	11/26/79	2/29/80	District Delineation Floodplain/Wetland
5	11/26/79	2/29/80	Intensity Schedule M1-M7
21	11/26/79	2/29/80	Extend M-6 into SA-8
24	11/26/79	2/29/80	Extend SB-4 into M-1 and LCI-1
14	5/5/80	8/25/80	Definitions and Continuance of Uses
15	5/5/80	8/25/80	Amendments to Floodplain/Wetland District
27	11/16/81	3/3/82	Hazardous Waste Facility
36	11/16/81	3/3/82	Reuse of municipal buildings
38	11/16/81	3/3/82	C-4 District to SB Residential
41	11/16/81	3/3/82	Extend SB-4 Mobile Home Court
25	11/15/82	1/11/83	Uses Permitted in Comm Districts
26	11/15/82	1/11/83	Extend C-1 into M-2
27	11/15/82	1/11/83	Multi Residence Lot Requirements
5	11/21/83	1/18/84	Uses Permitted in Comm Districts
10	3/11/85	5/13/85	Multi Residence Lot Requirements
11	3/11/85	5/13/85	Intensity Schedule SA-7 & SA-8
22	3/11/85	5/13/85	Prohibit Towers over 195 feet
30	5/6/85	6/20/85	Extend M-6 into SA-8 and C-12
63	5/5/86	5/30/86	Change portion of M-6 to SA-8
65	5/5/86	5/30/86	Prohibit multi dwellings in C-11 & C-12
32	5/4/87	8/13/87	New M-3 Industrial Description
34	5/4/87	8/13/87	Adopt Watershed Protection District
35	5/4/87	8/13/87	Intensity Schedule M-6
36	5/4/87	8/13/87	Intensity Schedule SA5
8	6/1/87	9/16/87	New Zoning Booklet
18	11/16/87	12/3/87	Change MR-1 and MR-2 to M-6
24	11/16/87	12/3/87	Allow Self-Service Gas Stations
49	5/2/88	8/25/88	Extend SA-8 into M-6 and M-6
21	11/21/88	12/23/88	Special Permits Watershed Protection Dist
19	11/20/89	2/16/90	Open Space Definition
20	11/20/89	2/16/90	Add Open Space to Intensity Schedule
28	5/7/90	7/31/90	Add LCI to Intensity Schedule
29	5/7/90	7/31/90	Rezone portion of Tower St M-3 to SA7

32	11/19/90	2/1/91	New Description C-12 District
33	11/19/90	2/1/91	New Description M-6 Ind District
34	11/19/90	2/1/91	Amend 7.1.5.4 Retail Parking
35	11/19/90	2/1/91	Amend 7.1.5.5 Office/Bank Parking
36	11/19/90	2/1/91	Amend Intensity Schedule C2-C13
19	5/6/91	6/3/91	Amend Uses in Watershed Protection Dist
20	5/4/92	6/2/92	Site Plan Approval
7	11/15/93	7/26/94	Amend Site Plan
18	11/15/93	7/26/94	Permitted Uses 5.2.2.j Family Day Care
24	5/2/94	6/14/94	Continuance of Existing Uses
17	11/21/94	1/31/95	Delete Restricted Ind. Districts
25	5/1/95	7/27/95	Amend Site Plan Approval
26	5/1/95	7/27/95	Amend 7.1.5.12 Parking Non Res. Use
11	11/20/95	11/27/95	Amend 5.2.3.1.e Funeral Homes
13	11/20/95	11/27/95	Amend Watershed Protection District
11	11/18/96	1/2/97	Amend 5.1.5.2 – Tower Height
12	11/18/96	1/2/97	New 2.1.1.2.2 Definition of Billboards
13	11/18/96	1/13/97	New 6.2.1.4 – Sign By-Law
25	5/5/97	6/12/97	Format of Definitions changed
26	5/5/97	6/12/97	Adult Entertainment in LCI
27	5/5/97	6/12/97	Extend Watershed Protection District
29	5/5/97	6/12/97	Wireless Communication Towers in LCI
14	11/17/97	Court Adjudication	Retirement Community Overlay District
17	11/16/98	2/8/99	Amend 7.1.5.2 Multiple Dwelling Parking
18	11/16/98	2/8/99	Amend 7.1.5.5 Office & Bank Parking
19	11/16/98	2/8/99	Waiver of Site Plan Review
14	5/1/00	8/4/00	Wireless Comm Overlay District
9	11/20/00	2/20/01	District Descriptions Appendix “A”
14	11/19/01	2/22/02	Amend Watershed Protection District
23	5/5/03	5/15/03	Amend Retirement Overlay Requirements and create new District (Hillside)
18	5/3/04	5/17/04	Retirement Overlay District (Sauta)
17	5/2/05	7/6/05	Amend Watershed Protection District
19	5/7/07	8/13/07	New 5.2.6 Accessory Dwelling Unit
20	5/7/07	8/13/07	New 5.6 (OSRD) Open Space Residential Development
21	5/7/07	8/13/07	New 5.10 (AROD) Adaptive Re-Use Overlay District
29	5/5/08	6/12/08	Amend Floodplain/Wetland District delete 5.7.2, add new 5.7.2 add new 5.75 - Notification of Watercourse alteration, add new 5.76 - Other regulations
21	5/3/10	11/5/10	Amend Floodplain/Wetland District delete 5.7.2.1 and new section 5.7.2.1,

			In section 5.7.2.1 in the first line delete words A1-30, and add new section 5.7.2.2.3.
25	5/3/10	11/5/10	Add new section 5.2.7 "Bed and Breakfast".
11	11/15/10	2/22/11	Delete section 7.1.7 in it's entirety and add new section 7.1.7 Site Plan Approval
12	11/15/10	2/22/11	Delete section 5.9 in it's entirety and add a new section 5.9 Wireless Communication
7	11/21/11	1/4/12	Amend Zoning By-Laws: Uses Prohibited in All Districts delete section 5.1.5.2 in it's entirety.
21	5/7/12	6/20/12	Amend Zoning By-Laws: Wireless Communication Facilities
18	5/6/13	8/20/13	Amend Zoning By-Laws: Moratorium
29	5/5/14	8/8/14	Amend Zoning By-Laws: Medical Marijuana Treatment Centers Overlay District.
30	5/5/14	8/8/14	Delete section 5.7.2.1 and add new section 5.7.2.1 amend Zoning By-Laws: FloodPlain/Wetlands District. Add new section 5.7.3.4
9	11/16/15	1/25/16	Delete section 5.2.2.j and add a new section 5.2.2.j
24	5/2/16	8/9/16	Amend Zoning Map – C-1 Zoning District M-3
25	5/2/16	8/9/16	Amend Zoning By-Law C-1 District New section 9.0 C-1 Zoning District; Changes to sections 2.0 and 5.3.4 and Delete Section 5.3.4 Uses allowed by A special permit in the C-1 District.

**TOWN OF HUDSON**  
**PROTECTIVE ZONING BY-LAWS**

**"Appendix A"**

Descriptions of Zoning Districts as shown, located,  
defined and bounded on map entitled  
"Town of Hudson, Massachusetts  
Zoning Parcels and Roads

***Dated August 2000"***

A True Copy ATTEST:

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Town Clerk

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**SINGLE RESIDENCE**

**SA-5 (I)**

Beginning at a point on the Marlboro-Hudson line and on the westerly side of Parmenter Road;  
Thence westerly by the Marlboro-Hudson line to a point on the easterly side of Causeway Street;  
Thence by the easterly side of Causeway Street northerly and westerly to a point on the easterly side of Old North Road;  
Thence northerly by the easterly side of Old North Road to a point on the easterly side of Forest Avenue;  
Thence northerly by the easterly side of Forest Avenue to a point on the southerly side of Main Street;  
Thence easterly by the southerly side of Main Street to a point on the easterly side of Brook Street, said point being the intersection of southerly side of Main Street with the easterly side of Brook Street;  
Thence southerly by the easterly side of Brook Street to a point at land of Vincenzo Sauta and Mary C. Sauta, also known as Camilla M. Sauta;  
Thence southerly, easterly and southerly by Sauta Land to a corner at land now or formerly of Norman R. Underwood, Jr. and Marion M. Underwood;  
Thence S 02° 30' 45" E 369.69' to a drill hole;  
Thence S 02° 13' 32" E 501.84' to a drill hole;  
Thence S 02° 22' 44" E 326.43' to a drill hole;  
Thence N 83° 03' 38" E 1505.57' to a point;  
Thence N 05° 38' 54" W 720.21' to a point 2,000' southerly from the Boston and Maine Railroad;  
Thence southeasterly 2,000' from and parallel to said railroad to a point on the westerly side of Parmenter Road;  
Thence southerly by the westerly side of Parmenter Road to the point of beginning.

SINGLE RESIDENCE

**SA-7 (I)**

Beginning at a point on the Hudson-Berlin line at the end of Chapin Road;  
Thence southwesterly by the Hudson-Berlin line to a point on the easterly side of Dudley Road;  
Thence southerly by the easterly side of Dudley Road to a point on the northerly side of River Road;  
Thence southwesterly by the northerly side of River Road to a point on the easterly side of Interstate Route 495;  
Thence southerly by the easterly side of Route 495 to a corner on the Marlboro-Hudson line;  
Thence easterly by the Marlboro-Hudson line to a corner at Residence District SA-8, said point being 200' westerly of Washington Street;  
Thence northerly 200' from and parallel to Washington Street and along District SA-8 to a point at the intersection of the Rio-Kerdok property line extended;  
Thence westerly by said property line extension to a point being 300 feet west of Washington Street;  
Thence northerly 300 feet from and parallel to Washington Street; to a point on the southerly side of formerly Hudson Street;  
Thence northeasterly along formerly Hudson Street to the intersection of the SA-8 zone, said intersection being 200' westerly of Washington Street;  
Thence northerly 200' from and parallel to Washington Street by the SA-8 zone to a point on the southerly side of Washington Street at the intersection of Commercial District C-11;  
Thence southwesterly by District C-11 to a corner at the Boston and Maine Railroad;  
Thence northerly by said railroad 1700' to a point;  
Thence still in a northerly direction 700' to a corner;  
Thence northeasterly to a point on the westerly side of Washington Street; said point being 415' northerly of the Boston and Maine Railroad;  
Thence northerly by the westerly side of Washington Street to a point on the southerly side of Brigham Street;  
Thence westerly by the southerly side of Brigham Street to a point at the intersection Brigham Street and the westerly side of Park Street;  
Thence still by the northerly side of said Brigham Street southwesterly to a point at District SB-1, said point being 1,000' westerly of Chapin Road;  
Thence northerly by District SB-1 to a corner at the Assabet River;  
Thence northeasterly by the Assabet River 1,000' to a corner on the westerly side of Chapin Road;  
Thence northerly by the westerly side of Chapin Road to the point of beginning.

SINGLE RESIDENCE

**SA-7 (II)**

Beginning at a point on the west side of Tower Street, about 2275' north of Main Street and at the property line between R. J. Curley, Jr. and Littlebrook Limited Partnership;  
Thence southwesterly about 980' by said property line and its extension to District SB;  
Thence northerly by District SB to a point 150' east of the easterly side of Cox Street;  
Thence northerly and easterly 150' from and parallel to Cox Street by District SB to a point 900' east of the easterly side of Tower Street;  
Thence southerly 900' from and parallel to Tower Street, by District SB, 1221.48' to a corner;  
Thence westerly by District SB; N 72° 12' 26" W, 530.20';  
Thence N 74° 17' 22" W, 162.15';  
Thence N 79° 31' 30" W, 208.94' to the easterly side of Tower Street;  
Thence westerly crossing Tower Street;  
Thence southerly by Tower Street to the point of beginning.

SINGLE RESIDENCE

**SA-8 (I)**

Beginning at a point at the intersection of the easterly side of Wheeler Road and the southerly side of Forest Avenue;  
Thence southerly by the easterly side of Wheeler Road 350' south of Forest Avenue;  
Thence 350' from and parallel to the southerly side of Forest Avenue to a point on the extension of the easterly property line of John Krysa;  
Thence in a northerly direction along said extension and property line to the southerly side of Forest Avenue;  
Thence westerly along the southerly side of Forest Avenue to the point of beginning.

SINGLE RESIDENCE

**SA-8 (II)**

Beginning at a point on the southerly side of Forest Avenue, said point being at the intersection of the southerly side of Forest Avenue and the easterly side of Marlboro Street;

Thence easterly by Forest Avenue and District M-5 to a point 150' westerly from Woodrow Street;

Thence in a general northerly direction 150' from and parallel to Woodrow Street and along District M-5 and C-9 to a point on the northerly side of Main Street;

Thence easterly along Main Street to a point on the northerly side of Wilkins Street;

Thence northeasterly by Wilkins Street to a point on the Hudson-Stow line;

Thence southerly and easterly by the Hudson-Stow line to a corner on the easterly side of Chestnut Street and District M-6;

Thence southerly by the easterly side of Chestnut Street to a corner on the southerly side of Main Street;

Thence westerly by the southerly side of Main Street to a point on the easterly side of Forest Avenue;

Thence southwesterly by the easterly side of Forest Avenue to a point on the easterly side of Old North Road;

Thence southeasterly and southerly by the easterly side of Old North Road to a point on the northerly side of Causeway Street;

Thence southeasterly by the northerly side of Causeway Street to a point 100' westerly of Lake Shore Drive;

Thence southerly 100' from and parallel to Lake Shore Drive to a point 250' northerly from the shore of Fort Meadow Reservoir;

Thence westerly and southerly 250' from and parallel to Fort Meadow Reservoir to a point on the Marlboro-Hudson line;

Thence westerly along the Marlboro-Hudson line to a point 1700' from the easterly side of Washington Street ;

Thence northerly 1700' from and parallel to the easterly side of Washington Street to a point on the M-6 District line;

Thence easterly to a point on the easterly side of Reed Road, said point being located 700' northwesterly from Marlboro Street;

Thence southerly and easterly by the easterly side of Reed Road and M-6 District to a point on the easterly side of Marlboro Street;

Thence in a general northerly direction by the easterly side of Marlboro Street to the point of beginning.

SINGLE RESIDENCE

**SA-8 (III)**

Beginning at a point on the southerly side of formerly Hudson Street 200' from the westerly side of Washington Street;  
Thence northeasterly to the westerly side of Washington Street;  
Thence northerly by the westerly side of Washington Street to a point of curvature;  
Thence westerly by a curve to the intersection of SA-7 and C-11 Districts;  
Thence southerly 200' from and parallel to Washington Street to the point of beginning.

SINGLE RESIDENCE

**SA-8 (IV)**

Beginning at a point on the Hudson-Bolton Town line and 250' west of Bolton Street;  
Thence in a southeasterly direction 250' from and parallel to Bolton Street to a point on the northerly side of Central Street;  
Thence southeasterly crossing Central Street along District M-1 to a point at the Boston and Maine Railroad and at District LCI-1;  
Thence easterly by the Railroad and District M-1 to a corner at District C-13;  
Thence northerly at a right angle by District C-13 to a point on the northerly side of Central Street;  
Thence easterly along the northerly side of Central Street, Packard Street, and Cox Street to a point on the easterly side of Palmeiri Drive at District C-4;  
Thence northerly along Palmeiri Drive by District C-4 to a point 350' north of Cox Street;  
Thence easterly 350' from and parallel to Cox Street along District C-4 to Manning Street;  
Thence southerly by Manning Street and District C-4 350' to the northerly side of Cox Street;  
Thence easterly by the northerly side of Cox Street to Old Stow Road;  
Thence still along Cox Street to the Assabet River and District M-5;  
Thence easterly along the Assabet River and District M-5 to the Hudson-Stow line;  
Thence southerly along the easterly side of District M-5 to Wilkins Street;  
Thence northeasterly along the northerly side of Wilkins Street to the Hudson-Stow line;  
Thence northerly along the Hudson-Stow line to an angle;  
Thence northwesterly along the Hudson-Stow line to a point at the Hudson-Stow-Bolton line;  
Thence westerly along the Hudson-Bolton line to an angle;  
Thence southwesterly along the Hudson-Bolton line to the point of beginning.

SINGLE RESIDENCE

**SA-8 (V)**

Beginning at a point on the easterly side of Broad Street at the intersection of Broad Street and Reed Road (1977 layout);  
Thence northerly along Broad Street and District C-6 to a corner on the southerly side of Giasson Street extended.  
Thence westerly by Giasson Street to a corner; at Walnut Street;  
Thence northerly partly by Walnut Street to a corner;  
Thence easterly crossing Walnut Street, Broad Street and District C-8 and along Wheeler Road to a corner at District M-6 said point being 350' easterly from the easterly side of Broad Street;  
Thence southerly 350' from and parallel to Broad Street and along District M-6 to a corner at the Forestvale Cemetery;  
Thence easterly along the Forestvale Cemetery and District M-6 to a corner;  
Thence southerly along the Forestvale Cemetery and District M-6 to a point on the northerly side of Reed Road, (1977 layout);  
Thence westerly by the northerly side of Reed Road, (1977 layout) to the point of beginning.



SINGLE RESIDENCE

SA-8 (VI)

Beginning at a point forming a corner by the intersection of the Hudson-Marlboro-Sudbury Town lines;  
Thence westerly by the Marlboro-Hudson line to the westerly side of Parmenter Road;  
Thence northerly by the westerly side of Parmenter Road to the corner of the SA-5 Zone being a point 2000' from and parallel to the Boston and Maine Railroad;  
Thence northwesterly by the SA-5 Zone to its intersection with the extension of the Catineau property line;  
Thence N 59° 34' 07" W 582.80' to a point;  
Thence N 23° 20' 52" W 350.30' to a drill hole at land now or formerly of the Trustee of Brent Drive Realty Trust;  
Thence N 62° 41' 59" E 159.82' to a drill hole;  
Thence N 64° 55' 32" E 57.09' to a point;  
Thence N 58° 50' 43" E 14.31' to a point;  
Thence N 62° 29' 17" E 97.68' to a point;  
Thence N 45° 37' 12" E 110.70' to a drill hole;  
Thence N 45° 29' 05" E 98.89' to a drill hole;  
Thence N 45° 28' 14" E 167.49' partly by land now or formerly of Addressograph Farrington, Inc. to a drill hole;  
Thence N 45° 59' 41" E 169.26' to a drill hole;  
Thence N 50° 40' 26" E 192.05' to a point;  
Thence N 50° 13' 43" E 221.94' to a drill hole;  
Thence N 49° 45' 56" E 237.30' to a drill hole;  
Thence N 49° 43' 29" E 171.53' to land now or formerly of the Boston and Maine Railroad;  
Thence S 60° 37' 50" E 16.87' to a point;  
Thence S 15° 30' 19" E 208.56' to a drill hole;  
Thence N 74° 53' 20" E 171.34' to a drill hole;  
Thence N 69° 11' 52" E 80.96' to a point;  
Thence S 66° 19' 05" E 1009.96' to a point on the westerly side of Parmenter Road;  
Thence S 04° 06' 20" E 231.32' by the westerly side line of Parmenter Road to a point;  
Thence westerly 57.18' by a curve to left having a radius of 30.00' by land now or formerly Tennis International, Inc. to a point;  
Thence S 66° 41' 39" W 567.05' to a point;  
Thence southerly 50.64' by a curve to the left having a radius of 40.00' to a point of reverse curvature;  
Thence southerly 25.00' by a curve to the right having a radius of 60.00' to a point of non tangency;  
Thence S 07° 32' 06" E 368.30' to a point at land of Catineau;  
Thence easterly by said Catineau property to the Johnson property line;  
Thence northerly by Johnson to a corner;  
Thence easterly by Johnson to the westerly side of Parmenter Road;

Thence southerly by the westerly side of Parmenter Road to a point 1,300' northerly from the Hudson-Marlboro Town line;

Thence crossing Parmenter Road in an easterly direction to a point 290.40' northwest of White Pond Road;

Thence northeasterly and parallel with White Pond Road, 450' to an angle;

Thence more northerly 383.66' to the Boston and Maine railroad at a point 271.20' westerly of White Pond Road;

Thence northwesterly by the Boston and Maine railroad to a point 811.87' before the easterly side of Parmenter Road;

Thence S 10° 08' 02" E, 74.00' to a point;

Thence N63° 22' 05" W, 766.10' to a point;

Thence N 18° 58' 00" E, 17.64' to a point;

Thence N 15° 51' 30" E, 282.36' to a point on the southerly side of the Boston and Maine Railroad;

Thence northerly by the easterly side of Parmenter Road to a point on the southerly side of Main Street;

Thence easterly by the southerly side of Main Street to a point on the Hudson-Stow line;

Thence southeasterly by the Hudson-Stow line to a point on the shore of White Pond;

Thence southerly, southeasterly, easterly and northerly by White Pond to a point on the Hudson-Stow line;

Thence southeasterly by the Hudson-stow line to a corner formed by the intersection of the Hudson-Stow and Sudbury town lines;

Thence southerly by the Hudson-Sudbury line to a corner formed by the intersection of the Hudson-Sudbury and Marlboro Town lines, said point being the point of beginning.

SINGLE RESIDENCE

**SA-8 (VII)**

Beginning at a point on the westerly side of Washington Street and at the Hudson-Marlboro Town Line;  
Thence westerly along the Hudson-Marlboro Town Line to a point 200' westerly of Washington Street;  
Thence northerly 200' from and parallel to Washington Street to a point at the Rio-Kerdok property line extended;  
Thence easterly the Rio-Kerdok property line to a point on the westerly side of Washington Street;  
Thence southerly by the westerly side of Washington Street to the point of beginning.

**MULTI-FAMILY DISTRICT**

**SB-1**

Beginning at a point on the northerly side of Brigham Street and the westerly side of Chapin Road;  
Thence southwesterly by the northerly side of Brigham Street 1,000' to a corner;  
Thence northwesterly to a point at the Assabet River 1,000' west of the westerly side of Chapin Road;  
Thence northeasterly by the Assabet River 1,000' to a point on the westerly side of Chapin Road;  
Thence southeasterly by the westerly side of Chapin Road to the point of beginning.

**MOBILE HOME COURTS**

**SB-2**

Beginning at a point 200' south of Central Street at Industrial District M-1;  
Thence westerly along District M-1 to Hudson-Berlin town line;  
Thence southerly along the Hudson-Berlin line a distance of 1,500'  
Thence northerly to a point 150' northwest of Still Drive and 150' southwest of Meadowbrook Road;  
Thence northerly 150' and parallel to Meadowbrook Road and Davis Road to a point 150' north of Davis Road;  
Thence northeasterly to a point 150' east of Davis Road;  
Thence southerly 150' from and parallel to Davis Road to a point 100' north of Meadowbrook Road;  
Thence easterly 900' to a point southwest of Florence Street;  
Thence northerly to the point of beginning.

And by adding thereto and making a part thereof the following Use Regulations:

LOT AREA: A minimum of five thousand (5,000) square feet.  
FRONTAGE: A minimum of fifty (50) feet; this frontage requirement to be measured either at the street line or at the set back line.  
SIDE YARDS: There shall be a side yard between a dwelling structure and the side lot lines; no dwelling structure or part thereof shall be erected or altered so as to be nearer than ten (10) feet from the side lot line.  
FRONT YARD: No building or structure or part thereof shall be placed so as to be nearer than thirty (30) feet to the street line, except on a corner lot and in such case no dwelling or structure shall be placed so as to be nearer than fifteen (15) feet nor less than ten (10) feet from the interior lot line having the greatest dimension.  
SIZE  
LIMITATIONS: Each dwelling structure shall not be less than three hundred fifty (350) square feet in area.  
GROUP  
LIMITATIONS: This District shall be limited to the installation of so-called Trailers and/or Mobile Homes resting on a permanent foundation.  
REAR YARD: There shall be rear yard having a minimum of ten (10) feet.

**MULTI-FAMILY DISTRICT**

**SB-3**

Beginning at a point on the southerly side of Coolidge Street at Central Street and at land of Murphy now or formerly on the westerly side of a private way and running southwesterly along said private way 287' plus or minus to a point;  
Thence still southwesterly 109' plus or minus to a corner;  
Thence southeasterly 266' plus or minus to a corner;  
Thence northeasterly 105' plus or minus to the southerly side of a proposed street;  
Thence northeasterly along the southerly side of said proposed street 50' plus or minus to a corner;  
Thence northeasterly across said proposed street and along the westerly side of Elm Drive 302' plus or minus to a corner on the southerly side of Central Street;  
Thence by the southerly side of Central Street northwesterly 276' plus or minus to a corner at the easterly side of said first mentioned private way;  
Thence still by the southerly side of Central Street and Coolidge Street across said private way 16' plus or minus to the point of beginning.

**MOBILE HOME COURT**

**SB-4**

Beginning at the point of intersection of the easterly side of Highland Park Avenue and a line 300' southerly from and parallel to the southerly side of Coolidge Street;  
Thence northwesterly along said line 300' from and parallel to the southerly side of Coolidge Street to its intersection with a line 200' northwesterly from and parallel to the easterly side of Highland Park Avenue;  
Thence along said line and its straight line extension southwesterly to the intersection of said line as extended and the Hudson-Berlin Town Line;  
Thence southeasterly along said Town Boundary to a point 2500' northwesterly from the corner Hudson-Berlin Town Bound;  
Thence northeasterly, along a straight line joining said point and the point on the southerly side of Coolidge Street 2000' easterly from the intersection of the southerly side of Coolidge Street and the easterly side of Highland Park Avenue, to the point of intersection of said line and a line 300' from and parallel to the southerly side of Coolidge Street;  
Thence westerly along said line to the point of beginning.

LOT AREA: A minimum of five thousand (5,000) square feet.

FRONTAGE: A minimum of fifty (50) feet; this frontage requirement to be measured either at the street line or at the set back line.

SIDE YARDS: There shall be a side yard between a dwelling structure and the side lot lines; no dwelling structure or part thereof shall be erected or altered so as to be nearer than ten (10) feet from the side lot line.

FRONT YARD: No building or structure or part thereof shall be placed so as to be nearer than thirty (30) feet to the street line, except on a corner lot and in such case no dwelling or structure shall be placed so as to be nearer than fifteen (15) feet nor less than ten (10) feet from the interior lot line having the greatest dimension.

**SIZE**

LIMITATIONS: Each dwelling structure shall not be less than three hundred fifty (350) square feet in area.

**GROUP**

LIMITATIONS: This District shall be limited to the installation of so-called Trailers and/or Mobile Homes resting on a permanent foundation.

REAR YARD: There shall be rear yard having a minimum of ten (10) feet.

**COMMERCIAL DISTRICT**

**C-1**

Beginning at a point 175± feet north of the northerly side of Vila Do Porto Blvd and the intersection of the westerly side of Grove Street extended;

Thence southerly by the westerly side of Grove Street extended to the northerly side of Boston and Maine Railroad, Fitchburg branch;

Thence by said railroad westerly and southerly to the Assabet River;

Thence westerly following the Assabet River to point 150± feet from the westerly side of Washington Street;

Thence following the Assabet River to point 260± feet;

Thence continuing northwesterly to a point 80± feet; thence going southwesterly for 15± feet;

Thence northwesterly for 65± feet; thence northeasterly for 95± feet; thence continue northeasterly for 12± feet;

Thence northeasterly for 77± feet to a point on the southerly side of Central St;  
Thence easterly along the southerly side of Central St. for 45± feet;

Thence northeasterly for 100± feet to a point on the northern side of Lincoln St; thence northwesterly along Lincoln Street for 220± feet to a point on the easterly side of Lincoln St.; thence northeasterly for 95± feet;

Thence southeasterly for 200± feet; thence northeasterly for 100± feet; thence easterly for 180± feet to a point on the easterly side of Felton St.;

Thence easterly for 310± feet to a point on the easterly side of Pope St.; thence following along the easterly side of Pope St. northerly for 500± feet; thence easterly for 245± feet to a point on the westerly side of Church St.;

Thence southerly for 40± feet along the westerly side of Church St.; thence easterly for 220± feet to a point on the southerly side of the Central Maine RR;

Thence following southerly for 40± feet; thence easterly for 365± feet; thence southerly for 420± feet; thence easterly for 280± feet;

Thence northerly for 30± feet; thence easterly for 300± feet to a point on the easterly side of High St.; thence following the easterly side for High St. for 20± feet;

Thence easterly for 150± feet; thence southerly for 120± feet; thence easterly for 135± feet to the point of beginning.



COMMERCIAL DISTRICT

**C-2**

Beginning at a point on the easterly side of Washington Street and the southerly side of the Assabet River and at District C-1;  
Thence easterly by the southerly side of the Assabet River and District C-1 to a corner at District M-2;  
Thence southerly by District M-2 to the southeasterly corner of School Street and Bellevue Street;  
Thence westerly along the south side of School Street to a point 150' west of Bellevue Street;  
Thence southerly along a line parallel to and 150' from Bellevue Street to a point 150' south of School Street;  
Thence westerly along a line parallel to and 150' south of School Street to a point 400' east of Washington Street;  
Thence southerly along a line parallel to and 400' from Washington Street to a point 700' south of School Street;  
Thence westerly along a line parallel to and 700' from School Street to the easterly side of Washington Street;  
Thence northerly by the easterly side of Washington Street to the Assabet River and the point of beginning.

COMMERCIAL DISTRICT

C-3

Beginning at a point on the westerly side of Carter Street said point being 100' from the northerly side of Apsley Street;  
Thence easterly 100' from and parallel to Apsley Street to a point 100' east of the easterly side of Warner Street;  
Thence southerly 100' from and parallel to Warner Street to a point 100' from the southerly side of Apsley Street;  
Thence westerly 100' to Warner Street;  
Thence northerly by Warner Street to a point on the northerly side of Apsley Street;  
Thence westerly by the northerly side of Apsley Street to a point on the westerly side of Carter Street;  
Thence northerly by the westerly side of Carter Street to the point of beginning.

COMMERCIAL DISTRICT

**C-4 (I)**

Beginning at a point on the northerly side of Cox Street and the easterly side of Palmieri Drive;  
Thence northerly by the easterly side of Palmieri Drive to a point 350' north of Cox Street;  
Thence easterly 350' from and parallel to Cox Street to a point on the westerly side of Manning Street;  
Thence southerly by the westerly side of Manning Street to a point on the northerly side of Cox Street;  
Thence westerly by the northerly side of Cox Street to the point of beginning.

COMMERCIAL DISTRICT

**C-4 (II)**

Beginning at a point on the northerly side of Apsley and the intersection of land of Lamson & Larkin Lumber Company;  
Thence northerly by land of Lamson to a point at the intersection of land of Lamson, land of Wright, and land of Lucci & Queen;  
Thence westerly by land of Lucci & Queen to a point on the easterly side of Lake Street;  
Thence southerly by the easterly side of Lake Street to the northerly side of Apsley Street;  
Thence easterly by the northerly side of Apsley Street to the point of beginning.

COMMERCIAL DISTRICT

**C-5**

Beginning at a point on the easterly side of Washington Street and the northerly side of the Boston and Maine Railroad;  
Thence northerly by the easterly side of Washington Street to a point; said point being 100' south of the southerly line of Houghton Street;  
Thence in a northeasterly direction 100' from and parallel to Houghton Street 1,000' to a point;  
Thence southeasterly at a right angle to the last mentioned line to a point at the Boston and Maine Railroad;  
Thence southwesterly by the Boston and Maine Railroad to the point of beginning.

COMMERCIAL DISTRICT

**C-6**

Beginning at a point on the westerly side of Broad Street and the southerly side of Giasson Street;  
Thence westerly by the southerly side of Giasson Street and crossing Giasson Street to a point at the Boston and Maine Railroad;  
Thence southwesterly by the Boston and Maine Railroad to a point on the easterly side of Washington Street;  
Thence in a general southerly direction by the easterly side of Washington Street to a point on the westerly side of Broad Street;  
Thence northerly by the westerly side of Broad Street to the point of beginning.

COMMERCIAL DISTRICT

**C-7**

Beginning at a point on the Marlboro-Hudson line and on the westerly side of Causeway Street;  
Thence westerly by the Marlboro-Hudson line to a point on the easterly side of Hill Top Road;  
Thence northerly by the easterly side of Hill Top Road to a point on the northerly side of Middle Road extended;  
Thence easterly by the northerly side of Middle Road extended to a point on the westerly side of Causeway Street;  
Thence southerly by the westerly side of Causeway Street to the point of beginning.

COMMERCIAL DISTRICT

**C-8**

Beginning at a point on the easterly side of Broad Street and the northerly side of Wheeler Road;  
Thence northerly by Broad Street to a point on the southerly side of Loring Street;  
Thence easterly by the southerly side of Loring Street 200' to a corner;  
Thence southerly 200' from and parallel to Broad Street to a point on the northerly side of Wheeler Road;  
Thence westerly by the northerly side of Wheeler Road to the point of beginning.



COMMERCIAL DISTRICT

**C-9**

Beginning at a point on the southerly side of Main Street and at the northwest corner of District SA-8;  
Thence in a southerly direction 150' from and parallel to Woodrow Street to a point 650' south of Main Street;  
Thence westerly in a straight line 650' from and parallel to Main Street to the Assabet River and District M-4;  
Thence northerly and easterly by District M-4 and the Assabet River to Main Street;  
Thence easterly by the southerly side of Main Street to the point of beginning.

COMMERCIAL DISTRICT

**C-10**

Beginning at a point on the northerly side of Main Street and the easterly side of Tower Street;  
Thence northerly by the easterly side of Tower Street to a point at the Boston and Maine Railroad;  
Thence easterly by the Boston and Maine Railroad to a point on the westerly side of Priest Street;  
Thence southerly by the westerly side of Priest Street to a point on the northerly side of Main Street;  
Thence westerly by the northerly side of Main Street to the point of beginning.

**COMMERCIAL DISTRICT**

**C-11**

Beginning at a point on the westerly side of Washington Street, 415' north of the Boston and Maine Railroad;

Thence southwesterly at a right angle to Washington Street 415' to a corner;

Thence southerly 415' from and parallel to Washington Street to a point on the Boston and Maine Railroad;

Thence in a general southerly direction by said Railroad 1,700' to a point;

Thence northeasterly to a point on the southerly side of Washington Street; said point being the intersection point of Districts SA-7 and SA-8 at Washington Street;

Thence in a northwesterly direction by the westerly side of Washington Street to the point of beginning.

**COMMERCIAL DISTRICT**

**C-12 (I)**

Beginning at a point at the intersection of Washington Street and Technology Drive;  
Thence easterly and northerly by the northerly side of Technology Drive to a point at the  
intersection of Technology Drive and Reed road (1977 layout);  
Thence westerly by the southerly side of Reed Road (1977 layout) to a point on the  
easterly side of Broad Street;  
Thence southerly by the easterly sides of Broad Street and Washington Street, to the point  
of beginning.

## COMMERCIAL DISTRICT

### C-12 (II)

Beginning at a point at the intersection of Washington Street and Route 290 Extension;  
Thence southerly by the westerly side of Washington Street to a point at the intersection  
of the Rio-Kerdok property line;  
Thence westerly by the Rio-Kerdok property line and the Rio-Kerdok property line  
extended to a point 300' westerly of the westerly side of Washington Street;  
Thence northerly 300' from and parallel to Washington Street to a point on the southerly  
side of Route 290 Extension;  
Thence easterly by the southerly side of Route 290 Extension to the point of beginning.

**LIGHT INDUSTRIAL AND COMMERCIAL DISTRICT**

**LCI-1**

Beginning at a point on the Hudson-Berlin Line at the intersection of District LCI-1 and District SB-4 said point being 200' northwesterly from the easterly side of Highland Park Avenue extended;

Thence northwesterly by the Hudson-Berlin line to a corner formed by the intersection of the Hudson, Berlin-Bolton Town lines;

Thence northeasterly by the Hudson-Bolton line to a point at the Boston and Maine Railroad;

Thence easterly by the Boston and Maine Railroad to a corner on the westerly side of the proposed Route #85 relocation;

Thence southerly by District M-1 to a point at the intersection of District SB-4, said point being on a line 200' from and parallel to the easterly side of Highland Park Avenue and extension thereof;

Thence westerly by District SB-4 to the point of beginning.

**INDUSTRIAL DISTRICT**

**M-1**

Beginning at a point on the Hudson-Bolton line on the northerly side of the Boston and Maine Railroad;

Thence northeasterly by the Hudson-Bolton line to a point 250' westerly from the westerly side of Bolton Street;

Thence in a general southeasterly direction 250' from and parallel to Bolton Street to a point on the northerly side of Central Street;

Thence southeasterly crossing Central Street to a point at the Boston and Maine Railroad and at District LCI-1;

Thence easterly by the Boston and Maine Railroad to a point at the southerly side of Blaine Street extended;

Thence by the southerly side of Blaine Street extended northeasterly to a point on the easterly side of Central Street;

Thence southeasterly by the easterly side of Central Street to a point on the northerly side of Apsley Street;

Thence easterly by the northerly side of Apsley Street to a point on the easterly side of Wilson Street;

Thence northerly by the easterly side of Wilson Street to a point on the southerly side of Blaine Street;

Thence easterly by the southerly side of Blaine Street to a point on the westerly side of Howe Street;

Thence southerly by the westerly side of Howe Street to a point 100' north of the northerly side of Apsley Street;

Thence easterly 100' from and parallel to Apsley Street to a point on the westerly side of Carter Street;

Thence southerly by the westerly side of Carter Street to the southerly side of Apsley Street;

Thence easterly by the southerly side of Apsley Street to a point on the westerly side of Cottage Street;

Thence southerly by the westerly side of Cottage Street to a point at the Boston and Maine Railroad;

Thence westerly by the Boston and Maine Railroad to a point of intersection of the Harrity-Ulrich property line extended;

Thence southerly along said extension and property line to a point on the northerly side of Central Street;

Thence westerly by the northerly side of Central Street to a point at the intersection of the Boston and Maine Railroad and Central Street;

Thence southerly crossing Central Street to a point on the southerly side of Coolidge Street said point being 2000' easterly from the intersection of the southerly side of Coolidge Street and the easterly side of Highland Park Avenue;

Thence southwesterly, along a line joining said point and a point 2500' northwesterly from the corner Hudson-Berlin Town Bound, to a point of intersection of said line and a line 300' from and parallel to the southerly side of Coolidge Street;

Thence westerly parallel to and 300' from Coolidge Street to a point 200' west of the easterly side of Highland Park Avenue at District SB-4;

Thence southerly along a line 200' from and parallel to the easterly side of Highland Park Avenue and extension thereof to a point at the intersection of District LCI-1, said point being on a line from a point on the Hudson-Berlin Town line 2500' westerly from the Town marker on River Street and a corner on the westerly side of the Proposed Route #85 relocation;

Thence northerly by LCI-1 District to a corner on the westerly side of the proposed Route #85 relocation at the Boston and Maine Railroad;

Thence westerly by the Boston and Maine Railroad to the point of beginning.



## INDUSTRIAL DISTRICT

### M-2

Beginning at a point on the Boston and Maine Railroad and the westerly side of Broad Street;  
Thence southerly by the westerly side of Broad Street to a corner at the Assabet River;  
Thence westerly by the Assabet River to a point at the Boston and Maine Railroad;  
Thence southerly by the Boston and Maine Railroad 250' to a corner;  
Thence westerly to a corner 82.5' west of the westerly side of Houghton Street;  
Thence northerly 82.5' from and parallel to Houghton Street to a corner on the northerly side of School Street;  
Thence westerly by the northerly side of School Street 400' to a corner at District C-2;  
Thence northerly by District C-2 to the Assabet River;  
Thence easterly by the Assabet River to a point on the Boston and Maine Railroad;  
Thence northerly by the Boston and Maine Railroad to the point of beginning.

## INDUSTRIAL DISTRICT

### M-3

Beginning at a point on the north side of Main Street at District C-1 and 295± feet east of High Street;  
Thence easterly by Main Street to Tower Street;  
Thence northerly by Tower Street about ±2,275 feet to the property line between R.J. Curley and Little brook Limited Partnership;  
Thence southwesterly about ±980 feet by said property line and its extension to the existing zone line between District M-3 and District SB.  
Thence southerly by District SB and District C-1 about 2070± feet to a point ±100 feet easterly of the east side of High Street;  
Thence easterly ±50 feet;  
Thence southerly ±150 feet  
Thence easterly ±135 feet  
Thence southerly ±100 feet to the point of beginning on the north side of Main Street.

## INDUSTRIAL DISTRICT

### M-4

Beginning at a point on the southerly side of Main Street at the Assabet River;  
Thence southwesterly by the Assabet River to a point on the easterly side of the Cherry Street Playground;  
Thence northerly by the easterly side of the Cherry Street Playground to a point on the southerly side of Cherry Street;  
Thence westerly by the southerly side of Cherry Street to a point 650' beyond the intersection of Cherry Street and the westerly side of the Cherry Street Playground;  
Thence at a right angle northerly to the southerly side of Main Street;  
Thence easterly by the southerly side of Main Street to the point of beginning.

**INDUSTRIAL DISTRICT**

**M-5 (I)**

Beginning at a point 650' south of Main Street and a 150' west of Woodrow Street at the corner of District C-9 and SA-8;  
Thence southerly 150' from and parallel to Woodrow Street to a corner on the northerly side of Forest Avenue;  
Thence westerly by the northerly side of Forest Avenue to a corner, said point being 290' east of the easterly line of Stow Court;  
Thence northerly by the end of Stow Court to a point in the Assabet River;  
Thence northeasterly by the Assabet River to a point 650' south of Main Street at the intersection of District M-4 and District C-9;  
Thence easterly in a straight line parallel and 650' from Main Street to the point of beginning.

## INDUSTRIAL DISTRICT

### M-5 (II)

Beginning at a point on the northerly side of Main Street and the easterly side of Priest Street;

Thence northerly by the easterly side of Priest Street;

Thence northerly by the easterly side of Priest Street to a corner, said point being 300' northerly from the Boston and Maine Railroad;

Thence easterly 300' from and parallel to said railroad to a point in the Assabet River;

Thence southeasterly by said Assabet River to a point at the Boston and Maine Railroad;

Thence easterly by the Boston and Maine Railroad to a point on the easterly side of Cox Street;

Thence northerly by the easterly side of Cox Street to a point in the Assabet River;

Thence easterly by the Assabet River to a point at the Hudson-Stow Town Line and at District SA-8;

Thence southerly by District SA-8 to a point on the northerly side of Wilkins Street; said point being 300' northeasterly from the Boston and Maine Railroad;

Thence southwesterly by the northerly side of Wilkins Street to a point at the Boston and Maine Railroad;

Thence westerly by the Boston and Maine Railroad to a point on the westerly side of Cox Street;

Thence southeasterly by the westerly side of Cox Street to a point on the westerly side of Mackin Street;

Thence southerly by the westerly side of Mackin Street to a point on the northerly side of Main Street

Thence westerly by the northerly side of Main Street to the point of beginning.

## INDUSTRIAL DISTRICT

### M-6 (I)

Beginning at a point on the southerly side of Forest Avenue at the northeasterly corner of land owned by John Krysa, N/F;

Thence easterly by the southerly side of Forest Avenue to a point on the westerly side of Marlboro Street;

Thence southerly by the westerly side of Marlboro Street to a point on the northerly side of Reed Road;

Thence northerly and westerly by the northerly side of Reed Road to a point 700' northwesterly from Marlboro Street;

Thence westerly crossing Reed Road and by District SA-8 to a point 1700' distant from the easterly side of Washington Street;

Thence 1700' from and parallel to the easterly side of Washington Street to the existing SB district;

Thence southwesterly by the existing SB district to the Marlboro-Hudson Town line;

Thence westerly by the Marlboro-Hudson Town line to the easterly side of Washington Street;

Thence northerly by the easterly side of Washington Street to the southerly side of Technology Drive;

Thence easterly and northerly by the southerly side of Technology Drive to a point opposite the southeasterly corner of the Forestvale Cemetery;

Thence northerly crossing Technology Drive and along Forestvale Cemetery by District SA-8 to a corner;

Thence westerly by the Forestvale Cemetery to a point 350' easterly of the easterly side of Broad Street;

Thence northerly 350' from and parallel to Broad Street to a point on the southerly side of Wheeler Road;

Thence in a general northeasterly direction by the southerly side of Wheeler Road to a point 350' south of the southerly side of Forest Avenue;

Thence easterly 350' from and parallel to the southerly side of Forest Avenue to a point on the extension on the easterly property line of John Krysa, N/F;

Thence northerly along said line to the point of beginning.

# INDUSTRIAL DISTRICT

## M-6 (II)

Beginning at a bound on the southerly side of Main Street and stone wall dividing the property of Vincenzo Sauta and Mary E. Sauta;

Thence westerly along the southerly side of Main Street to a point on the easterly side of Chestnut Street;

Thence northerly along the easterly side of Chestnut Street to a point at the Hudson-Stow Town Line;

Thence easterly along the Hudson-Stow Town Line to a point 100' west of Hunter Avenue;

Thence in a general southeasterly direction 100' from and parallel to Hunter Avenue to a point opposite the intersection of Hunter Avenue and Temple Avenue;

Thence easterly 100' to said intersection;

Thence southwesterly along the westerly side of Temple Avenue to a point on the northerly side of Main Street;

Thence southeasterly crossing Main Street to a point on the westerly side of Parmenter Road;

Thence southerly along the westerly side of Parmenter Road to a point at the southerly side of the Boston and Maine Railroad;

Thence N 66° 19' 05" W 1009.96' to a point;

Thence S 69° 11' 52" W 80.96' to a drill hole;

Thence S 74° 53' 20" W 171.34' to a drill hole;

Thence N 15° 30' 19" W 208.56' to a point;

Thence N 60° 37' 50" W 16.87' to land now or formerly of the Boston and Maine Railroad;

Thence S 49° 43' 29" W 171.53' to a drill hole;

Thence S 49° 29' 44" W 214.86' to a drill hole;

Thence S 49° 45' 56" W 237.30' to a drill hole;

Thence S 50° 13' 43" W 221.94' to a point;

Thence S 50° 40' 26" W 192.05' to a drill hole;

Thence S 45° 59' 41" W 169.26' to a drill hole;

Thence S 45° 28' 14" W 167.49' partly by land now or formerly of Addressograph Farrington, Inc. to a drill hole;

Thence S 45° 19' 05" W 98.89' to a drill hole;

Thence S 45° 37' 12" W 110.70' to a point;

Thence S 62° 29' 17" W 97.68' to a point;

Thence S 58° 50' 43" W 14.31' to a point;

Thence S 64° 54' 32" W 57.09' to a drill hole;

Thence S 62° 41' 59" W 159.82' to a drill hole at land now or formerly of the Trustee of Brent Drive Realty Trust;

Thence S 23° 20' 52" E 350.30' to a point;

Thence S 59° 34' 07" E 582.80' to a point;

Thence S 05° 38' 54" E 720.21' to a point;

Thence S 83° 03' 38" W 1505.57' to a point;  
Thence N 02° 22' 44" W 326.43' to a drill hole;  
Thence N 02° 13' 32" W 501.84' to a drill hole;  
Thence N 02° 30' 45" W 369.69' to a point at land now or formerly of Mary C. Sauta  
and land now or formerly of Norman R Underwood, Jr. and Marion M.  
Underwood;  
Thence northwesterly by land of said Sauta to a point on the southerly side of Brook  
Street;  
Thence northeasterly by the southerly side of Brook Street to a point on the southerly side  
of Main Street being the point of beginning;



# INDUSTRIAL DISTRICT

## M-6 (III)

Beginning at a point on the westerly side line of Parmenter Road at the land now or formerly of Tennis International, Inc.;

Thence westerly 57.18' by a curve to left having a radius of 30.00' to a point;

Thence S 66° 41' 39" W 567.05' to a point;

Thence southerly 50.64' by a curve to the left having a radius of 40.00' to a point of reverse curvature;

Thence southerly 25.00' by a curve to the right having a radius of 60.00' to a point of non-tangency;

Thence S 07° 32' 06" E 368.30' to a point;

Thence easterly by the northerly property line of Catineau to a corner at the intersection of the Johnson property;

Thence northerly by the westerly property line of Johnson to a corner;

Thence easterly by the northerly property line of Johnson to a corner at the westerly side of Parmenter Road;

Thence southerly by the westerly side of Parmenter Road to a point 1,300' north of the Hudson-Marlboro town line;

Thence easterly to a point 290.40 feet northwest of White Pond Road;

Thence northerly parallel with White Pond Road 450.00 feet to a point;

Thence northerly 383.66 feet to a point 271.20 feet northwest of White Pond Road at the Boston and Maine Railroad;

Thence northwesterly along the Boston and Maine Railroad to a point 811.87 feet easterly of Parmenter Road;

Thence S10° 08' 02" E 74.00' to a point;

Thence N63° 22' 05" W 766.10' to a point on the easterly side of Parmenter Road;

Thence northwesterly across Parmenter Road to the point of beginning.

## INDUSTRIAL DISTRICT

### M-7

Beginning at a point on the Marlboro-Hudson line and on the westerly side of Interstate Route #495;

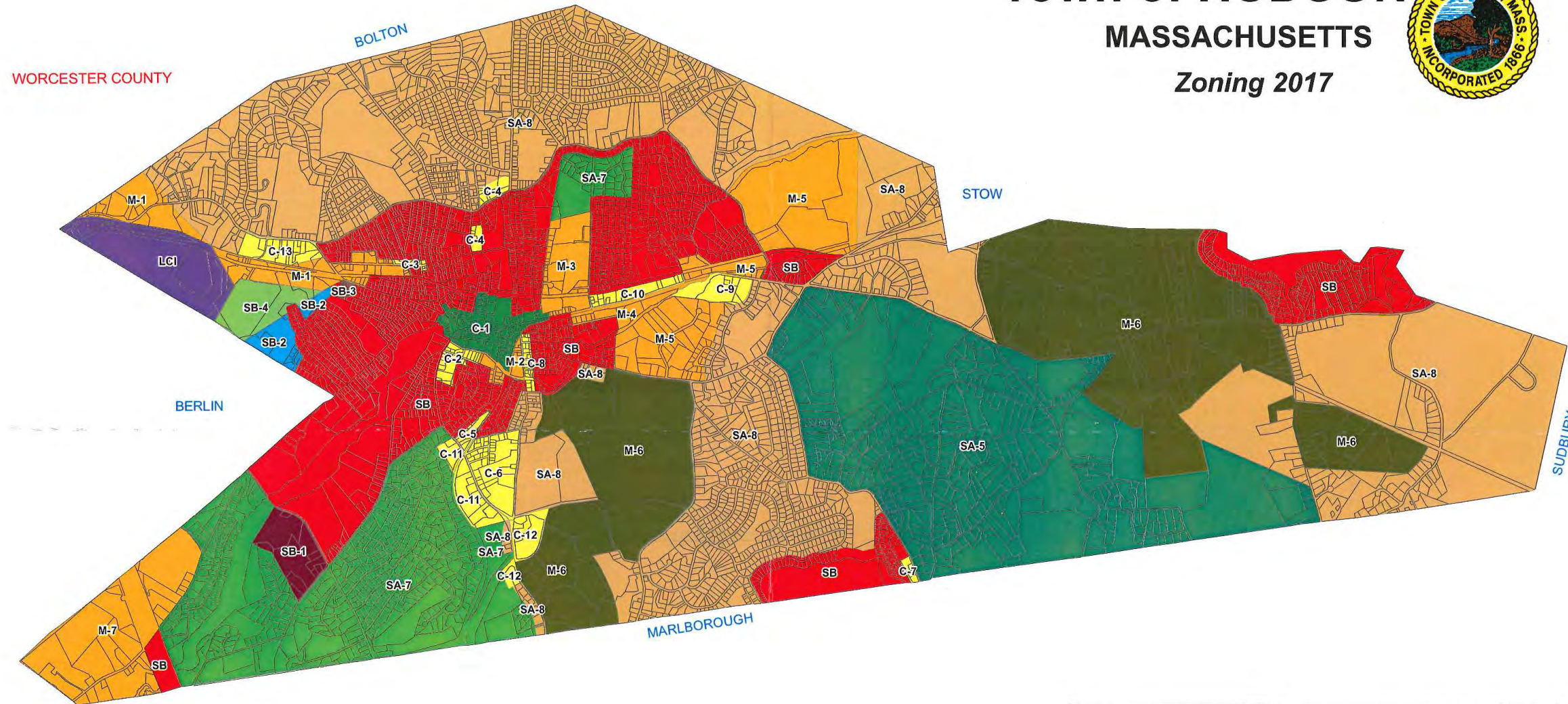
Thence westerly by the Marlboro-Hudson Line to a corner formed by the intersection of the Marlboro-Hudson-Berlin town lines;

Thence northwesterly and northeasterly by the Hudson-Berlin line to a point on the southerly side of Dudley Road;

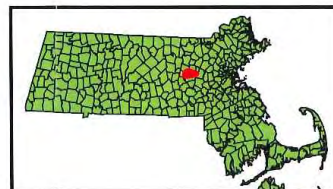
Thence southeasterly by the southerly side of Dudley Road to a point on the northerly side of River Road;

Thence southwesterly by the northerly side of River Road to a point on the westerly side of Route #495;

Thence southerly by the westerly side of Route #495 to the point of beginning.



THIS ZONING MAP WAS CREATED BY THE HUDSON GIS DEPARTMENT.  
THE DATA IS A SPATIAL REPRODUCTION OF OFFICIAL MAPS ON FILE IN  
THE OFFICE OF THE TOWN CLERK.



	ZONE	TYPE	FRONTAGE
	LCI	Light Commercial Industrial	150 frontage, 30,000 sq.ft.
	C-1	Commercial - Varied Use	Special Cases
	C-2 THRU C-13	Commercial	150 frontage, 15,000 sq.ft.
	M-1 THRU M-5, AND M-7	Industrial	150 frontage, 30,000 sq.ft.
	M-8	Industrial	150 frontage, 60,000 sq.ft.
	SA-5	Single Family	180 frontage, 60,000 sq.ft.
	SA-7	Single Family	150 frontage, 30,000 sq.ft.
	SA-8	Single Family	150 frontage, 40,000 sq.ft.
	SB	Single Family	100 frontage, 15,000 sq.ft.
	SB-1	Single Family	100 frontage, 15,000 sq.ft.
	SB-2	Mobile Home	50 frontage, 5,000 sq.ft.
	SB-3	Multi-Family	
	SB-4	Mobile Home	50 frontage, 5,000 sq.ft.

# TOWN OF STOW STOW, MASSACHUSETTS



A TRUE COPY,  
ATTEST.  
*Leanne E. Hubbard*  
TOWN CLERK STOW, MA

## ZONING BYLAW

Including Amendments through May 2, 2016

*Town of Stow Zoning Bylaw - Including Amendments through May 2, 2016*

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*Town of Stow Zoning Bylaw - Including Amendments through May 2, 2016*

**SECTION 1**

**AUTHORITY, PURPOSE, DEFINITIONS**

**1.1 Authority**

The Town of Stow Zoning Bylaw is adopted under Chapter 40A of the General Laws (the Zoning Act) and Article 89 of the Amendments to the Constitution (the Home Rule Amendment).

**1.2 Purpose**

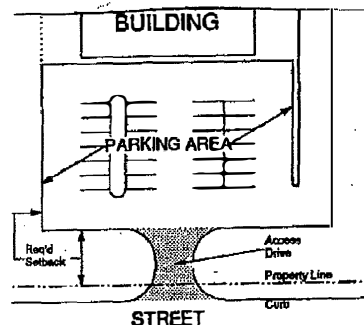
The purposes of this Zoning Bylaw are to regulate the use of land, BUILDINGS, and structures to the full extent of the constitutional and statutory powers of the Town to protect the health, safety and general welfare of present and future inhabitants, including but not limited to the following purposes: to preserve the environmental resources of the Town; to maintain open spaces by recognizing the concern for irretrievable loss of farm, wetlands and woodlands while respecting the rights of landowners; to encourage the most appropriate use of land through a proper balance of residential, commercial and industrial designations; to preserve the historical and cultural characteristics of the Town; to achieve housing choices and a range of housing costs; and to induce its citizens to remain in the community, thus providing a sense of history and continuity.

**1.3 Definitions**

The words defined in this section shall be capitalized throughout the Bylaw. Where a defined word has not been capitalized, it is intended that the meaning of the word be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context.

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "LOT" includes the word "plot", the word "land" includes the words "marsh" and "water".

**ACCESS DRIVEWAY** - The travel lane that allows motor vehicles ingress from the street and egress from the site and includes the area between the edge of street pavement to the area within the LOT where the ACCESS DRIVEWAY is no longer within the minimum parking area setback required under the Parking Section of the Zoning Bylaw.





*Town of Stow Zoning Bylaw - Including Amendments through May 2, 2016*

**ACCESSORY APARTMENT:**

- A second DWELLING UNIT located within a structure constructed as a detached one-family DWELLING, subordinate in size to the principal DWELLING UNIT and separated from it in a manner that maintains the appearance of the structure as a one-family unit; or
- A second DWELLING UNIT located within a separate structure, such as a barn, garage or shed, that is clearly subordinate to the principal DWELLING UNIT.

**ACCESSORY BUILDING** - A detached BUILDING, which is located on the same LOT with the main BUILDING or USE and which is subordinate and customarily incidental to the USE of the main BUILDING or the land.

**ACTIVE ADULT NEIGHBORHOOD (AAN)** - A group of DWELLING UNITS for only adult residents of which at least one resident per DWELLING UNIT is 55 years of age or older. Such developments shall have this age restriction as part of the deed or other documents of record and running with the land for the dwellings and/or property and are permitted as exception to the Fair Housing Act pursuant to 42 USC Section 3607 B.2.c.

**AFFORDABLE DWELLING UNIT** - A DWELLING UNIT the value of which is determined by the Department of Housing and Community Development (DHCD) to be affordable by a low income or moderate income family and thus to be included in DHCD's Subsidized Housing Inventory of low income or moderate income housing DWELLING UNITS for the purposes of compliance with the provisions of Massachusetts General Laws Chapter 40B, §§ 20-23.

**AQUIFER** - A geologic formation, group of geologic formations, or part of a geologic formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

**AREA OF SIGN:**

- The area of a sign shall include all lettering and accompanying designs and symbols, together with the background on which they are displayed.
- The area of a sign consisting of individual letters or symbols shall be the area of the smallest rectangle or triangle which encompasses all the letters and symbols.
- The area of a three-dimensional form sign shall be the area of the four vertical faces of a cube which encompasses the form.

**BED AND BREAKFAST ESTABLISHMENT** - A private DWELLING with an on-site manager where no more than eight rooms are let and a breakfast is included in the daily rate.

**BED AND BREAKFAST HOME** - A private owner-occupied DWELLING where three or fewer rooms are let and a breakfast is included in the rent.

**BUILDING** - A structure having a roof or cover for the shelter, support, or enclosure of persons, animals, or property.

**BUILDING INSPECTOR** - The existing Inspector of Buildings under the State Building Code or other designated authority, or his duly authorized representative, appointed by the Selectmen, and charged with the enforcement of this Bylaw.

**BUILDING LOT** - A BUILDING LOT is that area of land described in an application for a building permit or an application to the Board of Appeals for a permit or a variance, or

*Town of Stow Zoning Bylaw - Including Amendments through May 2, 2016*

otherwise defined as the area on which a structure is to be constructed or a use is to be carried on. A BUILDING LOT shall not include any part of a street. A corner LOT shall be any LOT abutting on two (2) or more streets at their intersection.

CHILD CARE FACILITY - A day care of school-age child care center or program as defined in Massachusetts General Laws, Chapter 40A.

COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION - A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum NAMEPLATE CAPACITY of 250 kW DC. A COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be considered a Principal Use as the Zoning Bylaw defines that phrase.

DEVELOPABLE SITE AREA - The DEVELOPABLE SITE AREA of existing or proposed LOT(s) shall be calculated by subtracting from the LOT area all land, which is located in:

- a wetland, which shall mean a "freshwater wetland" as defined in Chapter 131, Section 40 of the Massachusetts General Laws and the Stow Wetlands Protection Bylaw, Article 9 of the Stow General Bylaws;
- a Flood Plain District as defined in the Stow Zoning Bylaw;
- another zoning district in which the principal use of the LOT is not also permitted; and
- an access or right of way easement.

DIRECT LIGHT - Light that reaches a location from a light source or some part of the fixture containing the source, rather than reflecting off an illuminated surface. Light from filaments or other sources, surrounding glass, reflectors, diffusers, or similar components is DIRECT LIGHT. Light arriving from illuminated ground is not direct light.

DWELLING - Any BUILDING, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

DWELLING UNIT - One (1) or more rooms for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit, but not for more than five (5) persons unrelated by blood or marriage.

ERECTED - Attached, constructed, reconstructed, altered, enlarged or moved. ERECTED shall not mean repainted, cleaned, repaired or maintained. Altered includes changes in the structure or lettering or symbols of the sign, or replacement.

EXISTING CONDITIONS - As referred to in this Bylaw means conditions in existence on the date the first publication of notice of this Bylaw appears in accordance with Chapter 40A, Sections 5 and 6 of the Massachusetts General Laws.

EXTERIOR LIGHT - Any luminaire (light fixture) that is either not within a structure having a substantially opaque roof or is installed so that more than half the light output shines outside. A permanently-installed fixture in a screen- or glass-enclosed porch that is not normally climate-controlled or in a greenhouse or similar structure shall be considered an exterior light.

FAMILY DAY CARE HOME - A FAMILY DAY CARE HOME as defined in the Massachusetts General Laws, Chapter 40A.

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**FENCE** - A structure made of wood, wire, metal or other durable material ERECTED so as to serve as an enclosure or a barrier against unobstructed passage from one side to another.

**FLOOR AREA** - The interior FLOOR AREA exclusive of basements, stair wells, halls, bathrooms, corridors, attics, walls, partitions, porches and attached ACCESSORY BUILDINGS.

**FLOOR AREA, GROSS** - The sum of the horizontal areas of the several floors of a BUILDING measured from the exterior face of exterior walls, or from the centerline of a common wall, but not including any space where the floor-to-ceiling height is less than six feet.

**FLOOR AREA, NET** - The sum of the horizontal areas of the several floors of a BUILDING, measured from the interior face of the exterior walls or common wall, but not including stairwells, elevator wells, bathrooms, hallways and corridors, designated and approved building service areas and areas used for a CHILD CARE FACILITY as defined in this Bylaw, provided that such CHILD CARE FACILITY is accessory to a principal use located in the same BUILDING or on the same LOT.

**FLOOR AREA RATIO** - The ratio of the sum of the GROSS FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.

**FULL-CUTOFF FIXTURE** - A luminaire having a light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. This kind of luminaire emits no light above the horizontal.

**GARAGE, PRIVATE** - Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls for commercial repair or commercial storage.

**GROUND WATER** - All water beneath the surface of the ground.

**HAZARDOUS MATERIAL** - A substance which because of quantity, concentration or physical or chemical characteristics poses a hazard to human health, safety, welfare or the environment, when improperly treated, stored, transported, used or disposed, or otherwise managed; this includes but is not limited to any substance set forth or deemed a HAZARDOUS MATERIAL in Massachusetts General Laws Chapter 21C and 21E, 310 CMR 30.00 of the Code of Massachusetts Regulations or pursuant to any Bylaws or regulations of the Town of Stow.

**HOMEOWNERS ASSOCIATION** - The corporation, trust, or association owned by the unit owners within a Development and used by them to manage and regulate their affairs, including any commonly owned land or facilities.

**HOTEL, INN, MOTEL, TOURIST HOME or LODGING HOUSE** - A BUILDING, or portion thereof, or a group of BUILDINGS on a single LOT, intended to be used for the temporary occupancy of three (3) or more persons who are lodged, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual room or suites.

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**IMPERVIOUS SURFACE** - A surface impenetrable by water.

**INDEPENDENT ADULT RESIDENCE** - Any entity, however organized, which meets all of the following criteria: Provides room and/or board in a residential living environment; provides services to residents who do not require 24-hour skilled nursing care, but need assistance with activities of daily living; and in any event collects payments for the provision of these services.

**INDEPENDENT ADULT UNIT** - One (1) or more rooms for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit contained within an INDEPENDENT ADULT RESIDENCE.

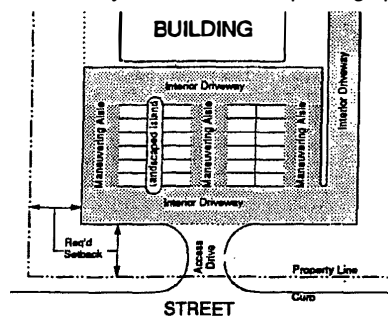
**INITIAL DESIGN LIGHT OUTPUT** - The luminous output of a fixture as determined by specifications of the fixture and lamps (bulbs) that are installed in it, rather than by measuring the actual light output.

**INTERIOR DRIVEWAY** - A travel lane located within the LOT which is not used to directly enter or leave parking spaces. An INTERIOR DRIVEWAY shall not include any part of the ACCESS DRIVEWAY.

**LOADING SPACE, OFF-STREET** - An off-street space or berth, on the same LOT with a BUILDING, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street, alley or other appropriate means of ingress or egress.

**LOT** - An area of land, undivided by any STREET, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) a deed recorded in Middlesex South District Registry of Deeds, or 2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry, or 3) title or record disclosed by any and all pertinent public documents or otherwise established by determination of a court. A corner LOT shall be any LOT abutting on two (2) or more streets at their intersection.

**MANEUVERING AISLE** - A travel lane located within the perimeter of a parking area by which motor vehicles directly enter and leave parking spaces.



**MARINA** - A public or commercial area with docking facilities for one (1) or more of the following: the launching, docking, storage, or servicing of pleasure boats; docks or related structures for the sale of fuel, boats, or marine accessories.

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**MARIJUANA** - All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. MARIJUANA also includes MARIJUANA-INFUSED PRODUCTS (MIPs) except where the context clearly indicates otherwise.

**MARIJUANA-INFUSED PRODUCT (MIP)** - A product infused with MARIJUANA that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by an RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

**MEDICAL MARIJUANA TREATMENT CENTER** – A not-for-profit entity registered under 105 CMR 725.100, to be known as a REGISTERED MARIJUANA DISPENSARY (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers MARIJUANA, products containing MARIJUANA, related supplies, or educational materials to registered qualifying patients or their personal caregivers, as those terms are defined under 105 CMR 725.004. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of MARIJUANA

**MEDICAL USE OF MARIJUANA:** The acquisition, cultivation, possession, processing (including development of related products such as tinctures, aerosols, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of MARIJUANA, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof, as those terms are defined under 105 CMR 725.004.

**MEMBERSHIP CLUB** - A private, non-profit organization, BUILDING or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

**MULTI-FAMILY DWELLING** - A BUILDING for residential USE, other than a DWELLING conversion or ACCESSORY APARTMENT, containing more than one DWELLING UNIT but not more than 4 DWELLING UNITS.

**NAMEPLATE CAPACITY** – The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

**NON-CONFORMING USES, STRUCTURES and LOTS** - A NON-CONFORMING USE, STRUCTURE or LOT shall be defined in Chapter 40A, Section 6 of the General Laws.

**ON-SITE SIGN** - A SIGN pertaining to products or activities located or offered at the same location as the SIGN.

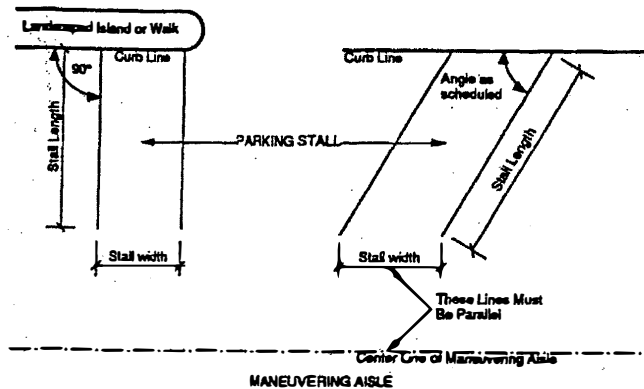
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**OPEN LAND** – An area of land within a **PLANNED CONSERVATION DEVELOPMENT** preserved in perpetuity exclusively for the purposes set forth in Section 8.5.14 (Open Land Requirements) of the Zoning Bylaw.

**OPEN SPACE** – An area of natural or landscaped vegetated growth. This may include within said area recreation areas, playing fields, benches, trails, footpaths, bodies of water and certain other surfaces such as gravel, cobblestone, brick, pavers or other similar materials when used to construct permeable walkways as may be approved by the Special Permit Authority or Site Plan Approval Authority.

**PARKING STALL LENGTH** - The longitudinal dimension of the stall measured parallel to the angle of parking.

**PARKING STALL WIDTH** - The linear dimension measured across the stall and parallel to the **MANEUVERING AISLE**.



**PERMANENT SIGN** - Any sign other than a temporary sign.

**PLANNED CONSERVATION DEVELOPMENT (PCD)** – A development of land that adheres to the following process: (a) determines the amount of development allowed up-front by by a **PROOF PLAN**; (b) requires a **PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS** to identify the significant natural, cultural, agricultural, and historic features of the land; (c) concentrates development, through design flexibility and reduced dimensional requirements, in order to preserve those features; and (d) permanently preserves at least sixty percent of the gross area of the proposed PCD locus, which shall include all parcels of land that are to be developed, preserved or otherwise altered in accordance with Section 8.5 (Planned Conservation Development) of the Zoning Bylaw.

**PLANNED** the PCD site plan undertaken by appropriate professionals in fields including, but not limited to, landscape architecture, urban design, engineering and environmental science, which documents the chronological process for designing a PCD as described in Section 8.5.5 (Design Process) of the Zoning Bylaw, through the identification of conservation areas, locating the dwelling sites, determining the layout of streets and trails and drawing in the lot lines, in the order so described.

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**PRIMARY CONSERVATION RESOURCES** – Areas of a potentially developable parcel that are protected or where development is limited by federal, state or local law or private restriction as stated in the deed of said parcel(s), including, without limitation:

- Easements, not limited to conservation, preservation or agricultural use easements or restrictions; aquifer or public water supply easements or restrictions, including Zone 1 and A around public water supplies; and similar covenants and restrictions.
- Areas of lakes, ponds, rivers, streams, brooks, vernal pools and wetlands, including the 35 foot no disturb buffer as may be amended, and as determined by the Conservation Commission in response to a formal Abbreviated Notice of Resource Delineation Application, and all wetland resource areas as defined in G.L. c. 131, s.40 and the Town of Stow Wetland Bylaw.
- Floodplains as defined in Section 5.1 (Floodplain Overlay District) of the Zoning Bylaw.

**PROCESS WASTES** - Nondomestic, nontoxic, nonhazardous, liquid or solid waste by-products associated with the manufacture or preparation of a product, including but not limited to hardware, dry goods, foodstuffs and printed material.

**PROOF PLAN** – A plan showing the approximate layout of LOTs under a conventional subdivision plan pursuant to the provisions of the Subdivision Rules and Regulations and Zoning Bylaw, including **PRIMARY CONSERVATION RESOURCES**, that would otherwise apply under the given site limitations without the benefit of Planned Conservation Development standards pursuant to Section 8.5 (Planned Conservation Development) of the Zoning Bylaw.

**PUBLIC STREETLIGHT** - An exterior light shining primarily onto a **STREET**, which is both authorized by the Board of Selectmen and paid for from the Town budget or which is required by the Planning Board.

**QUALIFIED AFFORDABLE HOUSING PURCHASER** - An individual or family with household incomes that do not exceed 80% of the median income (this shall be referred to as "moderate income") or 50% of the median income (this shall be referred to as "low income"), with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

**RECHARGE AREA** - An area in which water is absorbed that eventually reaches the zone of saturation in one or more **AQUIFERS**.

**REFUSE** - All solid or liquid waste materials, including garbage and rubbish, but not including sewage.

**REGISTERED MARIJUANA DISPENSARY (RMD)** - has the same meaning as **MEDICAL MARIJUANA TREATMENT CENTER**.

**ROOMING or BOARDING HOUSE** - A **BUILDING** or premises, other than a **HOTEL**, **INN**, **MOTEL**, tourist court, or **LODGING HOUSE**, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests; in contrast to **HOTELS**, restaurants, and **TOURIST HOMES**, open to transients.

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**SANITARY WASTES** - Waste waters arising from ordinary domestic water use from toilets, sinks and bathing facilities and containing normal wastes. For purposes of this Bylaw, all references to disposable volume(s) of sanitary wastes refer to design standards as outlined in Title V of the State Environmental Code (310 CMR 15.00).

**SECONDARY CONSERVATION RESOURCES** – Areas of a potentially developable parcel that contain valuable natural, historical or cultural resources, including but not limited to:

- Specimen trees
- Stone walls
- Prime farmland soils or soils of statewide importance as defined by the Natural Resource Conservation Service.
- Significant geological features, including but not limited to, eskers, exposed ledge and significant boulders.
- Mature and/or unfragmented woodlands
- Meadows
- Historical and archeological sites
- Core Habitat, Critical Natural Landscapes, and Priority Natural Communities as defined by the Massachusetts Natural Heritage and Endangered Species Program
- Agricultural fields
- Slopes of 20% or greater
- One hundred foot wetland buffer
- Open scenic vistas as defined in the Open Space and Recreation Plan in effect at the Time of the Application
- Missing segments of the Stow Emerald Necklas Trail as defined in the Open Space and Recreation Plan
- Land adjacent to existing conserved parcels
- Areas with a high Index of Ecological Integrity as defined by the Conservation Assessment and Prioritization System developed by the UMASS Landscape Ecology Lab.

**SIGN** - Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

**SLOPE** - For the purposes of the erosion control provision, slope shall be measured using the two-foot contours on the topographic map supplied with the site plans. The slope percentage will be the change in elevation divided by the shortest distance between two contour lines. Upon written permission of the permit granting authority, slope percentages may be averaged across specified horizontal distances.

**SOLID WASTES** - Any discarded solid material, putrescible or non-putrescible, consisting of all combustible and noncombustible solid material including, but not limited to, garbage and rubbish.



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**STREET** - A street shall be (1) an approved public way laid out by the Town of Stow, or Middlesex County Commissioners, or the Commonwealth of Massachusetts; or (2) A way which the Stow Town Clerk certifies is maintained by public authority and used as a public way; or (3) a public or private way shown on a plan theretofore approved and endorsed in accordance with the Subdivision control Law; or (4) a way in existence as of June 15, 1956 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicle traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon. A public or private way shall not be deemed to be a STREET as to any lot of land that does not have rights of access and passage over said way.

**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 laying out the way upon which the LOT abuts.

**STRUCTURE** - Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land, swimming pools which require a permit under the Building Code and parking lots, driveways, roads and septic systems.

**TEMPORARY SIGN** - Any SIGN which is displayed for a continuous period of not more than twenty-one (21) days and not replaced by a SIGN of a similar intent within sixty (60) days.

**TRACT OF LAND** - An area consisting of a single LOT or parcel of land, or several contiguous lots or parcels of land.

**TRAILER or MOBILE HOME** - TRAILER or MOBILE HOME shall mean any vehicle or object which is drawn by or used in connection with a motor vehicle and which is so designed and constructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations. It shall include the type of vehicle commonly known as MOBILE HOME, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

**USE, ACCESSORY** - Any USE which is incidental and subordinate to a PRINCIPAL USE.

**USE, PRINCIPAL** - The main or primary USE of any land or LOT.

**WALL** - A STRUCTURE of stone, masonry, wood or other durable material constructed so as to retain soils or to serve as an enclosure or barrier against unobstructed passage from one side to another.

**YARD** - An OPEN SPACE, other than an enclosed court, on the same LOT with a BUILDING or group of BUILDINGS, which OPEN SPACE lies between the BUILDING or group of BUILDINGS and a LOT line, and is not occupied or obstructed from the ground upward by a BUILDING or a STRUCTURE.

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**YARD, FRONT** - A YARD extending across the full width of the LOT and lying between the STREET LINE of the LOT and the nearest line of the BUILDING. The depth of a front yard shall be the minimum distance between the BUILDING and front LOT line.

**YARD, REAR** - A YARD extending across the full width of the LOT and lying between the BUILDING and the REAR LOT line.

**YARD, SIDE** - A YARD between the side LOT line of the LOT and the nearest line of the BUILDING, and extending from the FRONT YARD to the REAR YARD, or, in the absence of either such YARDS, to the front or rear LOT lines, as may be. The width of a SIDE YARD shall be the minimum distance between the BUILDING and the side LOT line.

**YIELD** – The allowable number of residential LOTs in a PLANNED CONSERVATION DEVELOPMENT determined by an approved PROOF PLAN.

**ZONE OF SATURATION** - The subsurface zone occurring below the water table where the soil pores are filled with water and the moisture content equals the porosity.

## **SECTION 2**

### **ESTABLISHMENT OF ZONING DISTRICTS**

#### **2.1 Classification of Districts**

For the purposes of this Bylaw, the Town of Stow is divided into the following zoning districts and overlay districts:

##### **2.1.1 Zoning Districts**

Recreation-Conservation District  
Residential District  
Business District  
Compact Business District  
Commercial District  
Industrial District  
Refuse Disposal District

##### **2.1.2 Overlay Districts**

Flood Plain District  
Water Resource Protection District  
Wireless Service Facility District  
Active Adult Neighborhood District  
REGISTERED MARIJUANA DISPENSARY District

#### **2.2 Zoning Map**

Said districts are hereby established as shown, located, defined and bounded on a map entitled "Town of Stow Zoning District Map", prepared by Metropolitan Area Planning Council dated May 1, 1995 and amended May 12, 2015 and filed with the office of the Town Clerk; which map shall also constitute an index map of all zoning districts, and together with all the maps referred to in Section 2.3 and all explanatory matter thereon shall constitute the Zoning Map of the Town, herein incorporated by reference and made a part of this Bylaw.

#### **2.3 Location of Boundaries of Districts:**

- 2.3.1 Where the boundary lines are shown upon said map within the STREET LINES or utility transportation lines, the center lines of such rights-of-way or lines shall be the boundary lines unless otherwise indicated.
- 2.3.2 Boundary lines located outside of such STREET LINES or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such

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transmission lines are the distance in feet of such boundary lines from the center line of such lines, such distances being measured at right angles to such lines unless otherwise indicated.

- 2.3.3 Where the boundary lines are shown approximately on the location of property or LOT lines, and the exact location of property, LOT or boundary lines is not indicated by means of dimensions shown in figures, then the property or LOT lines shall be the boundary lines in existence and as recorded at the time of the adoption of or amendment to the Zoning Map.
- 2.3.4 Contour lines used as boundary lines are the elevation above the datum mean sea level as indicated by the U. S. Geological Survey map dated 1952.
- 2.3.5 Soil association lines used as boundary lines are the soil association boundary lines as shown on the Soil Association Map, prepared by the U. S. Soil Conservation Service, dated 1964, on file with the Planning Board.
- 2.3.6 In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of said map.
- 2.3.7 Intentionally left blank.
- 2.3.8 Boundary lines outlining the Flood Plain shall include all lands designated in the following maps and reports. In the event there is a discrepancy in the flood plain boundary designation, the boundary that includes a larger area of flood plain shall apply.

Boundary lines outlining the flood plain of the Assabet River shall be the limits of the Standard Project Flood Modified delineated on the plan entitled "Flood Plains & Profiles", sheets 2, 3, and 4 of the Assabet River Technical Report, Department of the Army, Corps of Engineers, dated June, 1966 and on file with the Town Clerk.

Boundary lines outlining the flood plain of Heath Hen Meadow Brook shall be the limits of the 100-year design storm flood plain delineated on the plan entitled "Flood Plain - Plan and Profile Heath Hen Meadow Brook, Stow, Massachusetts", by BSC Engineering, Inc., dated February 21, 1975, revised May 2, 1975, and on file with the Town Clerk.

All special flood hazard areas within the Town of Stow designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Stow are panel numbers 25017C0333F, 25017C0334F, 25017C0341F, 25017C0342F, 25017C0343F, 25017C0344F, 25017C0353F, 25017C0354F, 25017C0361F and 25017C0363F dated July 7, 2014. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Planning Board.

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- 2.3.9 Where the limit of the Standard Project Flood Modified, referenced above, is used as a district boundary, the district boundary shall be determined by the elevations delineated on said plan.
- 2.3.10 The boundaries of the Water Resource Protection District are as delineated on a map entitled "Water Resource Protection District Map - Town of Stow, Massachusetts" dated May 1, 1987, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.
- 2.3.11 The boundaries of the Wireless Service Facility District are as delineated on a map entitled "Wireless Service Facility District - Town of Stow, Massachusetts" dated January 23, 2001, at a scale of 1 inch = 1,000 feet, on file in the office of the Town Clerk.
- 2.3.12 The boundaries of the Active Adult Neighborhood District are as delineated on a map entitled "Active Adult Neighborhood District - Town of Stow, Massachusetts" dated May 13, 2002, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.
- 2.3.13 The boundaries of the REGISTERED MARIJUANA DISPENSARY District are as delineated on a map entitled "Registered Marijuana Dispensary Overlay District - Town of Stow, Massachusetts" dated May 5, 2014, on file in the office of the Town Clerk.

### **SECTION 3**

#### **USE REGULATIONS**

##### **3.1 Recreation-Conservation District Uses**

This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, wetlands, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare.

- 3.1.1 Uses allowed, provided that no BUILDINGS are located within one hundred (100) feet of a district boundary line:
- 3.1.1.1 Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose;
  - 3.1.1.2 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur;
  - 3.1.1.3 Orchards, nurseries, forests and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries;
  - 3.1.1.4 Non-commercial recreation, including municipal cross country ski areas, county or state parks and boat landings, but not an amusement park; and
  - 3.1.1.5 Display and sale or offering for sale, of farm produce from uses permitted in paragraphs 3.1.1.2 and 3.1.1.3 above, and products normally sold therewith, provided that:
    - 1. At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is from farm produce;
    - 2. No stand for such sale is located within twenty-five (25) feet of the street sideline; and
    - 3. Provision is made for off-street parking in accordance with the Parking Section of this Bylaw.
  - 3.1.1.6 ACCESSORY BUILDINGS and USES
  - 3.1.1.7 Uses or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided that such use or structure complies with the dimensional requirements of the Bylaw and is not primarily used as a residential dwelling.
  - 3.1.1.8 Uses or structures by a PUBLIC SERVICE CORPORATION pursuant to the requirements of G.L. c.40A, s.3.
- 3.1.2 Uses permitted subject to special permit, granted by the Planning Board, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in the parking section of this Bylaw:

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- 3.1.2.1 Restaurants, provided that their use is in connection with a permitted use, and provided that no such BUILDING be located within one hundred (100) feet of a district boundary line;
- 3.1.2.2 Country Clubs or other MEMBERSHIP CLUBS;
- 3.1.2.3 Commercial picnic areas and swimming areas;
- 3.1.2.4 Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp BUILDING or site for each 3500 square feet of grass area;
- 3.1.2.5 Recreation, including golf courses, ski areas and tows, MARINAs and commercial boat landings, but not an amusement park.
- 3.1.2.6 Golf carts, but no other motorized recreational vehicles are permitted.
- 3.1.2.7 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

**3.2 Residential District Uses**

The Residential District is intended as a district for typical rural, single-family residential and non-commercial uses.

**3.2.1 Uses permitted:**

- 3.2.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;
- 3.2.1.2 Single-family detached BUILDINGS;
- 3.2.1.3 BOARDING HOUSES or ROOMING HOUSES for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner;
- 3.2.1.4 Playgrounds where approved as part of a subdivision plan;
- 3.2.1.5 Keeping of pets and animals for use of the residents of the premises;
- 3.2.1.6 Storage of farm vehicles, and, subject to the provisions of Section 7.7.5.1, school buses;
- 3.2.1.7 Professional office or home occupation, provided that:
  - 1. The profession or home occupation is conducted by a resident of the premises;
  - 2. The use is clearly incidental to and secondary to the use as a residence;
  - 3. There is no exterior evidence of a non-residential use of the premises except as otherwise permitted in this section;
  - 4. No additional noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which is discernible from other properties;
  - 5. There is no public display of goods or wares, and there is no additional exterior storage of material or equipment;
  - 6. One SIGN, not exceeding three (3) square feet, is permitted subject to the provisions of this Bylaw regulating SIGNS;
  - 7. There is no on-street parking permitted for any employee or visitor in connection with such use; and
  - 8. The use does not present a safety or health hazard to the public;

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- 3.2.1.8 ACCESSORY USES and BUILDINGS, including such normal ACCESSORY USES as PRIVATE GARAGES, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses;
- 3.2.1.9 BED AND BREAKFAST HOME, provided that off-street parking, one parking space per guest room, is available;
- 3.2.1.10 CHILD CARE FACILITY, provided that the facility complies with the standards set forth in the Table of Dimensional Requirements and the following standards:
  - 1. Minimum OPEN SPACE, including outdoor play areas of 35%;
  - 2. Maximum NET FLOOR AREA of 4,000 square feet.
- 3.2.1.11 FAMILY DAY CARE HOMES if such FAMILY DAY CARE HOME is accessory to the residential use.
- 3.2.1.12 For parcels of five (5) acres or greater, the provisions of Massachusetts General Law Chapter 40A, Section 3 shall apply.
- 3.2.2 Uses permitted subject to special permit, granted by the Board of Appeals:
  - 3.2.2.1 Private schools and colleges, with or without dormitory facilities, including nursery and kindergarten schools, dance and music studios, provided adequate parking areas are provided;
  - 3.2.2.2 Playgrounds, unless approved as part of a subdivision plan;
  - 3.2.2.3 Conversion of a one-family DWELLING, existing at the time of the original adoption of this section of the Bylaw, into a two-family DWELLING, provided that the exterior appearance is not altered and that there is sufficient floor and ground area above the minimum requirements as provided in Section 4.3 and 4.4;
  - 3.2.2.4 Non-commercial recreation, including municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), MARINAs, landings, and other non-commercial recreation use;
  - 3.2.2.5 Veterinary hospitals, and kennels, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line;
  - 3.2.2.6 BED AND BREAKFAST ESTABLISHMENT, provided that off-street parking, one parking space per guest room, is available; and
  - 3.2.2.7 Nursing homes.
  - 3.2.2.8 For parcels of less than five (5) acres, stables, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line. The Special Permit Granting Authority may allow BUILDINGS to shelter or maintain animals as defined in Massachusetts General Law, Chapter 128, Section 1A, within the one hundred foot (100') setback, provided that the BUILDING was in existence on or before November 13, 1968, was historically used for such purpose, and the use meets the requirements of the Board of Health; and provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.



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**3.2.3 Uses permitted by special permit, granted by the Planning Board:**

- 3.2.3.1 ACCESSORY APARTMENTS in a Residential District as permitted in Section 8.1;
- 3.2.3.2 Duplex Residential Uses in a Residential District as permitted in Section 8.2;
- 3.2.3.3 Cross-Country Ski Uses in the Residential District as permitted in Section 8.3;
- 3.2.3.4 Golf Course Uses in the Residential District as permitted in Section 8.4; and
- 3.2.3.5 Uses not otherwise permitted in the Residential District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Residential District. This Section shall not eliminate the requirements of Section 3.2.2.5, which shall remain intact as written.
- 3.2.3.6 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

**3.3 Business District Uses**

The Business District is intended to meet local needs for retail goods and services primarily within a BUILDING.

**3.3.1 Uses Permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:**

- 3.3.1.1 TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
- 3.3.1.2 Business or professional offices;
- 3.3.1.3 Retail stores, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING;
- 3.3.1.4 CHILD CARE FACILITY.

**3.3.2 Uses Permitted, subject to special permit granted by the Planning Board:**

- 3.3.2.1 Retail stores or service establishments, the principal activity of which shall be the offering of goods or services at retail within the BUILDING;
- 3.3.2.2 Business or professional offices, banks, U. S. Post Office;
- 3.3.2.3 Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment, provided there is no outside display or storage;
- 3.3.2.4 Restaurants or other places for serving food within the BUILDING. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant BUILDING or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle;
- 3.3.2.5 Parking areas for use of employees, customers or visitors, subject to the requirements of the Parking Section of this Bylaw;

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- 3.3.2.6 ACCESSORY BUILDINGS and USES which are customary and incidental to the uses permitted;
- 3.3.2.7 SIGNS as provided in the Sign Section of this Bylaw; and
- 3.3.2.8 INDEPENDENT ADULT RESIDENCE.
- 3.3.2.9 Uses not otherwise permitted in the Business District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Business District.
- 3.3.2.10 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.
- 3.3.2.11 Retail component of a REGISTERED MARIJUANA DISPENSARY
- 3.3.3 Uses permitted, subject to a special permit, granted by the Board of Appeals, which shall be based on satisfaction that said use will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness:
  - 3.3.3.1 HOTELS, MOTELS, TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
  - 3.3.3.2 Theatres, bowling alleys, skating rinks, clubs or other places of amusement or assembly which occur within the BUILDING; and
  - 3.3.3.3 Gasoline service stations, garages or repair shops, provided that:
    - 1. Repairs shall be limited to minor repairs and adjustments, with all repairs occurring within a BUILDING;
    - 2. There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or required in the operation of the service station, garage or repair shop; and
    - 3. The area used to service, repair or store vehicles shall be paved and provided with traps to catch and retain (until removal in accordance with an approved maintenance plan) any grease, oil or other fluids.
    - 4. There shall be an area at least twenty (20) feet deep between the STREET LINE and the paved area which shall be separated from the STREET by a curb, and which shall be seeded and landscaped, and maintained as such, except at an entrance/exit which shall be at least twenty (20) feet but no more than thirty (30) feet wide, and at least fifty (50) feet apart, and further provided that there shall be only two curb cuts for each one hundred and fifty (150) feet of street frontage.
- 3.3.4 Access to Industrial Zoned Land - Access over Business Zoned Land is allowed.
- 3.4 **Compact Business District Uses**

The Compact Business District is intended as a district to provide certain limited business uses within a STRUCTURE.
- 3.4.1 Uses permitted:

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- 3.4.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;
  - 3.4.1.2 Single-family detached BUILDINGS;
  - 3.4.1.3 BOARDING HOUSES or ROOMING HOUSES for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner;
  - 3.4.1.4 Playgrounds where approved as part of a subdivision plan;
  - 3.4.1.5 Keeping of pets and animals for use of the residents of the premises;
  - 3.4.1.6 ACCESSORY USES and BUILDINGS, including such normal ACCESSORY USES as PRIVATE GARAGES, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses; and
  - 3.4.1.7 CHILD CARE FACILITY.
- 3.4.2 Uses permitted, subject to special permit granted by the Planning Board:
- 3.4.2.1 Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the BUILDING;
  - 3.4.2.2 Business or professional offices, banks, U. S. Post Office;
  - 3.4.2.3 Parking areas or garages for use of employees, customers or visitors, subject to design standards in the parking section of this Bylaw;
  - 3.4.2.4 ACCESSORY BUILDINGS and USES and
  - 3.4.2.5 SIGNS as provided in the Sign Section of this Bylaw.
  - 3.4.2.6 Uses not otherwise permitted in the Compact Business District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Compact Business District.
- 3.5 Commercial District Uses**
- The Commercial District is intended to meet local needs for goods and services.
- 3.5.1 Uses Permitted:
- 3.5.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;
  - 3.5.1.2 CHILD CARE FACILITY; and
  - 3.5.1.3 Wireless Communication Facilities.
  - 3.5.1.4 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

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- 3.5.2 Uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:
- 3.5.2.1 TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
  - 3.5.2.2 Business or professional offices;
  - 3.5.2.3 Retail store, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING; and
  - 3.5.2.4 Salesrooms for bicycles, boats and farm implements, provided that no more than 30% of the LOT area is used for BUILDING, parking and display areas.
- 3.5.3 Uses permitted, subject to special permit granted by the Planning Board:
- 3.5.3.1 Funeral homes, mortuaries or crematories;
  - 3.5.3.2 Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment;
  - 3.5.3.3 Building materials salesrooms and yards, utility structures, contractor's yards, storage warehouses, BUILDINGS and yards and wholesale distribution plants, provided that all loading and unloading is done at the rear of the BUILDING in covered berths with WALLS on three (3) sides, and provided all materials and equipment stored outside are screened from view from public ways or abutting properties by an opaque FENCE or screening at least six (6) feet high but not more than twenty (20) feet high except that items on display for retail sales need be screened only from properties in a Recreation-Conservation or Residential District on the same side of the STREET;
  - 3.5.3.4 Utility structures, passenger depots and terminals;
  - 3.5.3.5 Printing, publishing or commercial reproduction or photo-processing establishments, offices, medical or dental laboratories, and research laboratories with incidental assembly or manufacture;
  - 3.5.3.6 Restaurants or other places for serving food within the BUILDING. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant BUILDING or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle;
  - 3.5.3.7 Screened storage, ACCESSORY BUILDINGS and USES;
  - 3.5.3.8 Parking areas or garages for use of employees, customers or visitors, subject to design standards in the Parking Section of this Bylaw;
  - 3.5.3.9 TOURIST HOMES, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSES;
  - 3.5.3.10 Business or professional offices; banks, U. S. Post Office; and
  - 3.5.3.11 Retail store, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING.
  - 3.5.3.12 Uses not otherwise permitted in the Commercial District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the

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opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Commercial District.

**3.6 Industrial District Uses**

The Industrial District is intended for use by research laboratories, office BUILDINGS and selected light industries which are compatible with a low-density, rural residential community.

**3.6.1 Uses permitted:**

- 3.6.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;
- 3.6.1.2 CHILD CARE FACILITY; and
- 3.6.1.3 Wireless Communication Facilities.
- 3.6.1.4 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

**3.6.2 Uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:**

- 3.6.2.1 Research laboratories with incidental assembly or manufacture; and
- 3.6.2.2 Office BUILDINGS.

**3.6.3 Uses permitted, subject to special permit granted by the Planning Board:**

- 3.6.3.1 Research laboratories with incidental assembly or manufacture;
- 3.6.3.2 Office BUILDINGS;
- 3.6.3.3 Manufacturing enterprises, provided that such activities will not be offensive, injurious, dangerous to the public health or noxious because of sewage or REFUSE, vibration, smoke or gas, fumes, dust or dirt, odors, dangers of combustion or unsightliness;
- 3.6.3.4 Parking areas or garages for use of employees, customers or visitors, subject to the design standards in the Parking Section of this Bylaw;
- 3.6.3.5 Screened storage, ACCESSORY BUILDINGS and USES;
- 3.6.3.6 Cafeterias for employees, when contained in the same STRUCTURE as a permitted use;
- 3.6.3.7 All uses as permitted in the Recreation-Conservation District; and
- 3.6.3.8 Conversion of existing residence to BED AND BREAKFAST ESTABLISHMENT or HOME.
- 3.6.3.9 Uses not otherwise permitted in the Industrial District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation

measures, are in harmony with the character and uses permitted in the Industrial District.

### **3.7 Refuse Disposal District Uses**

The REFUSE Disposal District is intended to provide for the safe and sanitary disposal of REFUSE which is generated within the Town of Stow.

#### **3.7.1 Uses permitted, subject to special permit granted by the Planning Board:**

- 3.7.1.1 All uses permitted in the Industrial District, subject to all requirements and limitations contained in this Bylaw for construction or use in the Industrial District, or otherwise applicable to all districts or any overlying district.

#### **3.7.2 Uses permitted, subject to special permit granted by the Board of Selectmen, collectively or individually called a "refuse disposal facility" for REFUSE:**

Such special permit may be granted by the Selectmen only upon making such findings as are necessary therefor under Chapter 40A of the Massachusetts General Laws, as amended, and on such further terms, conditions, safeguards and limitations on time or use as are necessary and appropriate therefor. Provided, however, that only one such permit shall exist at any time, except that two or more may be issued for "refuse disposal facilities" located adjacent to an existing "refuse disposal facility" for which a special permit under this section has been granted, or, if at the sole discretion of the Selectmen, a need exists for the issuance of more than one such permit for non-adjacent site during a transition period from use of one site to another.

Such special permit shall lapse within two (2) years from the issuance thereof if a substantial use or construction has not commenced, except that for good cause shown, the Selectmen may in their sole discretion grant an extension thereof. Such special permit shall limit the intended use to a "refuse disposal facility" for municipal purposes, to be used solely by the Town of Stow.

- 3.7.2.1 Sanitary landfill;
- 3.7.2.2 REFUSE transfer station;
- 3.7.2.3 REFUSE incinerator; and
- 3.7.2.4 Any other facility for treating or disposing of REFUSE.

#### **3.7.3 Uses permitted subject to Site Plan Approval by the Planning Board:**

- 3.7.3.1 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

### **3.8 General Use Regulations Pertaining to All Districts**

#### **3.8.1 Pertaining to all Districts:**

- 3.8.1.1 BUILDING construction - All BUILDINGS shall be constructed as prescribed by the State Building Code.
- 3.8.1.2 Odor, dust and smoke - No such offensive emissions shall be discernible beyond the property line or, in the case of an industrial park development or of multiple use of the property, beyond one hundred (100) feet of the BUILDING generating the emission, except that in no case shall the discharge from any source exceed the following limits:

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1. Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U. S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three (3) minutes in any one (1) hour.
2. Lime dust, as CaO, measured at the property line of any LOT on which the activity creates such dust, shall not exceed ten (10) micrograms per cubic meter of air.
3. Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the LOT.
4. Odors shall not exceed the smallest values given in Table III (Odor Thresholds) in Chapter 5 of the "Air Pollution Manual" Manufacturing Chemists Association, Inc., Washington, D.C., 1951.
5. All measurements of air pollution shall be by the procedures, and with equipment, approved by the BUILDING INSPECTOR, which procedures and equipment shall be of the latest generally recognized development and design readily available.

3.8.1.3 Noise - The noise generated on any LOT, measured at any point beyond the property lines of the LOT on which the noise source is located, shall not cause the total sound level to be more than three (3) decibels above the natural ambient sound level except as provided below:

1. For not more than five (5) minutes in any one (1) hour the noise generated shall not cause the total sound level to be more than ten (10) decibels above the natural ambient sound level.
2. For not more than sixty (60) minutes in any seven (7) day period the noise generated shall not cause the total sound level to be more than thirty (30) decibels above the natural ambient sound level.
3. Noise making devices which are maintained and are utilized strictly to serve as safety warning devices are excluded from these regulations.

Measurements shall be conducted by personnel approved by the BUILDING INSPECTOR using the "A" weighting on a standard commercial total sound level instrument approved by the BUILDING INSPECTOR. For the purpose of this Bylaw the natural sound level shall be assumed to be forty (40) decibels above 0.0002 microbar during hours of daylight, and thirty (30) decibels above 0.0002 microbar at all other times.

3.8.1.4 Heat, glare, vibration, and radiation - No heat, glare, or vibration shall be discernible without instruments from the outside of any STRUCTURE, and no radiation shall be discernible from the outside of the STRUCTURE with or without instruments.

3.8.1.5 Exterior lighting - No exterior lighting, or other street lighting approved by the Selectmen, shall shine on adjacent properties or towards any STREET in such a manner as to create a nuisance or hazard.

3.8.1.5.1 The INITIAL DESIGN LIGHT OUTPUT of all exterior lighting on a LOT shall be subject to a cap of 25,000 lumens/acre or 10,000 lumens, whichever is greater. Fixtures under an opaque covering such as a canopy or in a parking garage shall count as 0.25 of their output if 5-10 feet from the nearest edge, 0.1 at 10-30 feet and 0 for more than 30 feet.

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- 3.8.1.5.2 A Special Permit from the Planning Board is required when installing new fixtures or replacing existing fixtures and the total resulting INITIAL DESIGN LIGHT OUTPUT would be more than 100,000 lumens on any LOT. However, a Special Permit shall not be required when replacing existing fixtures with FULL-CUTOFF fixtures and the total INITIAL DESIGN LIGHT OUTPUT of the replacement fixtures is less than half the total INITIAL DESIGN LIGHT OUTPUT of the removed fixtures.

The Special Permit application shall show the location, type and output of all fixtures. The Planning Board shall impose mitigating conditions to protect abutters not only from DIRECT LIGHT but also reflected light, and shall limit the total light output and hours of use to that which is reasonably necessary. The Planning Board shall require remediation of existing lighting.

- 3.8.1.5.3 Lighting of athletic fields shall be only by Special Permit from the Planning Board, and shall be exempt from the 25,000 lumens/acre cap. The Planning Board shall require full engineering plans with a design average illuminance of no more than 200 lux. No DIRECT LIGHT shall shine off the LOT containing the field. Athletic field lighting shall be illuminated only while in use and shall not be illuminated between 10 p.m and sunrise under any circumstances. All lighting fixtures shall be set back 500 feet from any RESIDENTIAL or RECREATION/CONSERVATION LOT, and 200 feet from any other LOT.
- 3.8.1.5.4 The Planning Board may issue a Special Permit for lighting that does not conform to the conditions of the table in Section 3.8.1.5.6 up to 4,000 additional lumens of nonconforming lighting if the lighting is found to provide a public benefit. The Planning Board shall impose mitigating conditions such as limiting lighting levels, hours of operation, and requiring shielding to protect abutters from unwanted light.
- 3.8.1.5.5 Shining lasers in excess of 5 mW at wavelengths within the range of human vision or searchlights into the sky, for advertising or any other purpose, is prohibited. Airfield beacons required by the FAA are exempt from this prohibition.

- 3.8.1.5.6 Each EXTERIOR LIGHT fixture shall comply with the following specific conditions:

***Fixture-Specific Conditions***

<b><i>Fixture Type:</i></b>	<b><i>Conditions:</i></b>
All EXTERIOR LIGHT Fixtures with a rated output of 2,000 lumens or more (other than PUBLIC STREETLIGHTS)	<p>Must be FULL-CUTOFF FIXTURES.</p> <p>Must be installed in the proper orientation so as to emit no light above the horizontal.</p> <p>Must be no more than 35 feet above ground.</p> <p>Must not be used to illuminate a LOT, which is across any STREET.</p>



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**Fixture-Specific Conditions**

<b>Fixture Type:</b>	<b>Conditions:</b>
EXTERIOR LIGHT Fixtures (other than PUBLIC STREETLIGHTS) with an INITIAL DESIGN LIGHT OUTPUT of more than 4,000 lumens	<p>Must comply with all above conditions and:</p> <p>Must not shine DIRECT LIGHT onto any other LOT or STREET located within a RESIDENTIAL or RECREATION-CONSERVATION district.</p> <p>Must not shine DIRECT LIGHT onto any body of water not on the same LOT as the fixture.</p>
EXTERIOR LIGHT Fixtures (other than PUBLIC STREETLIGHTS) with an INITIAL DESIGN LIGHT OUTPUT of more than 10,000 lumens	<p>Must comply with all above conditions and:</p> <p>Must not shine DIRECT LIGHT onto any other LOT located within any district.</p> <p>Must not shine DIRECT LIGHT onto any STREET.</p> <p>Must not shine DIRECT LIGHT onto any body of water.</p>
PUBLIC STREETLIGHTS	<p>Must be FULL-CUTOFF FIXTURES.</p> <p>Must be installed in the proper orientation so as to emit no light above the horizontal.</p> <p>Must be no more than 35 feet above ground.</p> <p>Must not shine DIRECT LIGHT onto any DWELLING.</p>
All floodlights, spotlights, or similar EXTERIOR LIGHT FIXTURE that are not full cutoff	<p>Must be aimed at least 45 degrees below horizontal.</p>

3.8.1.5.7 The following table provides exemptions to both fixture-specific conditions and the cap in 3.8.1.5.1

**Exemptions**

<b>Situation:</b>	<b>Exemption:</b>
Emergency Lighting Fixtures	Emergency lighting fixtures operated by a public safety agency are exempt. Lighting fixtures with an INITIAL LIGHT OUTPUT of less than 200 lumens, which are intended to signal the location of emergency services, rather than provide illumination and which are authorized by a public safety agency, are exempt.
Greenhouse Lighting Fixtures for the purpose of supporting plant growth.	Exempt from the 25,000 lumens per acre requirement. Exempt from the 100,000 lumen Special Permit requirement (Section 3.8.1.5.2).
Lighting fixtures required by the FAA	Lighting fixtures required to comply with FAA requirements may be installed, but shall not emit more light above horizontal or shine more DIRECT LIGHT onto any other LOT than is required to comply with the FAA regulations.

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**Exemptions**

**Situation:**

**Exemption:**

Seasonal Holiday Lighting

Seasonal holiday lighting may be installed and illuminated, provided that it is illuminated for no more than 90 days in any 270 day period. *(This allows nonconforming holiday lighting even if the property is not eligible for the nonconforming fixture exemption. Conforming holiday lighting is not restricted in any way.)*

- 3.8.1.6 Screening, surfacing, parking, and SIGNS - As provided in the sign section and Parking Section of this Bylaw.
- 3.8.1.7 Waste disposal and water supply - Regulations of the State Board of Health and the Stow Board of Health shall be met and shall be indicated on a site plan, when a site plan is required.
- 3.8.1.8 Scientific Uses - Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit granted by the Planning Board provided the granting authority finds that the proposed ACCESSORY USE does not substantially derogate from the public good.
- 3.8.1.9 Drainage - When a subdivision approval or a Site Plan Approval or a Special Permit is required drainage shall be designed so that the following conditions shall be met during and after construction and development:
  - 1. Pre-development surface water runoff rates and volumes shall not be increased;
  - 2. Pre-development erosion and sedimentation rates shall not be increased; and
  - 3. No building permit, special permit or subdivision approval shall be granted if these conditions cannot be met.
- 3.8.1.10 Erosion control - Site design and materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water runoff.
  - 1. Grading or construction which will result in SLOPES of twenty-five percent (25%) or greater on fifty percent (50%) or more of the LOT area or on thirty-two thousand (32,000) square feet or more on a single parcel, even if less than half of the LOT area, shall be allowed only under special permit from the Planning Board. This shall be granted only under demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled degradation. Applications and plans for such special permits shall be referred to the Conservation Commission.
  - 2. Where 3.8.1.10.1 and 3.8.1.10.3 apply, all slopes exceeding fifteen percent (15%) resulting from site grading shall be covered with topsoil to a depth of at least six inches and planted with vegetative cover sufficient to prevent erosion.
  - 3. No area totaling one acre or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six

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inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless within **STREETS** which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Planning Board on the condition that run-off will be controlled, erosion prevented and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity when such temporary cover would be infeasible.

4. The **BUILDING INSPECTOR** shall require information of the applicant as necessary for him to ensure compliance with these requirements, including if necessary, elevation at key locations, description of vegetative cover and the nature of impoundment basins proposed, if any.
5. Where resultant site grades will exceed fifteen percent (15%) the Town shall require a performance bond to ensure compliance with these requirements.
6. Where 3.8.1.10.1 and 3.8.1.10.3 apply, hillside areas shall be retained with vegetative cover as follows:

Average Slope	Minimum % of Land to Remain in Vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 +	85

7. Before a project disturbs one acre or more of land, either by itself or as part of a larger development, and storm water could run off the site in a directed manner (via a culvert, ditch, storm sewer system, roadway, storm dug channel, etc) and reach a surface water (pond, stream, wetland, etc.), a copy of the Stormwater Pollution Prevention Plan (SWPP) and the Notice of Intent filed with the Environmental Protection Agency (EPA) under the National Pollutant Discharge Elimination System (NPDES) shall be submitted to the Planning Board.

3.8.1.11 Special Provisions to Enhance Access for Handicapped Persons - Attempts to provide and improve handicapped access on LOTS with established residential or non-residential uses often create conflicts with various dimensional requirements of this Bylaw. Therefore, the following partial exemptions shall apply in order to facilitate the installation of handicapped parking spaces, handicapped access ramps and other amenities designed to improve access for the handicapped to existing **BUILDINGS** and **STRUCTURES**. The requirements listed in (1) through (3) below may be reduced only to the degree necessary to be consistent with the requirements of the Massachusetts Architectural Access Board.

1. Any minimum number of required parking spaces.
2. Any minimum required **OPEN SPACE**.
3. Any minimum required **FRONT, SIDE and REAR YARD**.
4. No special permit shall be required for the installation of handicapped access amenities and for the implementation of any exemption provided herein.

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5. All proposed handicapped access amenities and any of the exemptions provided herein shall be approved by the BUILDING INSPECTOR prior to any work or construction.
- 3.8.1.12 Wireless Communication Facility - A transmission facility for the purpose of personal wireless communication services such as satellite dishes or antennae, with or without a BUILDING that shelters associated electronic or mechanical equipment.
- 3.8.2 Use Regulations Pertaining to the Business, Commercial, and Industrial Districts
- 3.8.2.1 Storage - All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties by an opaque FENCE or screening at least six (6) feet but not more than twenty (20) feet high.
- 3.8.2.2 No open burning is permitted, unless in an incinerator of a type approved by the Board of Selectmen.
- 3.8.3 Use Regulations Pertaining to the Residential District
- 3.8.3.1 Exterior lighting shall conform with the requirements of Section 3.8.1.5, except that the use of exterior lighting by a commercial or business activity or operation during the period from one-half hour after sunset to one-half hour before sunrise shall not be permitted. This provision shall not preclude the use of emergency lighting required by a public agency in the performance of its duties, lighting of SIGNS in conformance with the general regulations included in Section 6.3.1, customary holiday lighting or low level illumination of entranceways, exits and driveways.
- Signs shall not be illuminated unless the business is open to the general public and employees are present and ready to receive customers, and shall not be illuminated between 9 p.m. and 7 a.m. Any fixture with an INITIAL DESIGN LIGHT OUTPUT of more than 2,000 lumens shall not be considered low level illumination. Any peak illuminance on the ground, a building or a sign, of more than 10 lux shall not be considered low level illumination.

### **3.9 NON-CONFORMING USES AND STRUCTURES**

- 3.9.1 A pre-existing NON-CONFORMING USE or STRUCTURE may continue. However, other than Wireless Service Facilities, which may not be altered or extended unless specifically allowed in Section 3.11 of the Bylaw, no lawful pre-existing NON-CONFORMING USES or STRUCTURES may be extended or altered except in conformance with Sections 3.9.6 and 3.9.7 below. All applications for extensions and/or alterations shall include a scaled floor plan of the STRUCTURE(S) in question showing FLOOR AREA and ground coverage prior to and following the proposed changes in order to determine the degree to which the use has expanded from its original size. All applications for such special permits shall include such information and plans as required for a special permit as required in Section 9.2. Applicants shall also comply with the following site planning standards for "NON-CONFORMING USES or STRUCTURES":
- 3.9.1.1 It shall comply with the parking requirements of the Parking Section of this Bylaw, except as superseded by 3.9.1.4., 3.9.1.5. and 3.9.1.6. below;
- 3.9.1.2 It shall comply with the SIGN section of this Bylaw;

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- 3.9.1.3 It shall comply with the General Use Regulations section of this Bylaw;
- 3.9.1.4 No parking, BUILDING or outdoor storage facility of materials or products shall be closer than 35 feet from the side or rear LOT line, nor closer than 50 feet from the STREET LINE;
- 3.9.1.5 Parking and outdoor storage of materials or products shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography; and
- 3.9.1.6 There shall be sufficient space and provision on site for the maneuvering of vehicles so as to allow loading and unloading of materials and products without impeding the flow of traffic along public ways or blocking pedestrian sidewalks, paths and rights of way.
- 3.9.2 If said NON-CONFORMING USE has been changed to a more restricted use, it shall not again be changed to a less restricted use.
- 3.9.3 If the NON-CONFORMING USE is discontinued or abandoned for a period of two (2) years or more, it shall not be re-established except upon a special permit granted by the Board of Appeals.
- 3.9.4 A non-conforming single or two-family DWELLING or agricultural STRUCTURE which has been damaged or removed may be rebuilt or restored at the same location and again used as previously, provided that the owner shall start operations for restoring and rebuilding on said premises within twelve (12) months after such damage or removal and reconstruction is completed and occupancy begun within two (2) years of start of restoration except upon a special permit for a longer period of time granted by the Board of Appeals.
- 3.9.5 An amendment to the Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such bylaw required by Section 5, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the non-conforming nature of said structure. In cases involving construction, such construction shall be carried through to completion continuously and expeditiously. If such construction has ceased for a period of two or more years, it shall be considered abandoned, and exemptions from zoning bylaw amendments shall cease to apply.
- 3.9.6 Changes of Use and Limitation on Intensity and Size of Use - Other Than Single or Two-Family Residential Dwellings:
  - 3.9.6.1 As provided in G. L. c. 40A, sec. 6, a lawfully preexisting nonconforming use and/or structure, other than a single or two-family residential dwelling, may be reconstructed, altered or extended only if:
    - 1. said reconstruction, alteration or extension itself conforms with all the provisions of the Zoning Bylaw;

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2. there is a finding by the Board of Appeals that such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use;
3. that said extension, alteration or change is in accordance with the guidelines noted below; and
4. that the Board of Appeals grants a special permit as provided in Section 9.2.

3.9.6.2 Guidelines for Review of Extensions, Alterations or Changes to Preexisting, Nonconforming Uses and Structures: Recognizing the need to provide guidelines for determining relative impacts upon the Town and the immediate neighborhood from an expansion, alteration or change of preexisting nonconforming uses and structures, and recognizing the basis and consistent principles of zoning with respect to minimizing nonconforming uses and structures, the following shall apply to the review of special permit applications under this Section:

1. the Board of Appeals shall encourage extensions, alterations or changes to nonconforming structures and uses toward greater, if not complete, conformance with the provisions of the Zoning Bylaw and to reduce the degree of nonconformity;
2. the Board of Appeals shall not encourage the expansion of a nonconforming structure or use as measured by either the:
  - a) amount of floor space or land area used, or
  - b) volume of activity, including but not limited to an increase in the intensity of use and/or a change in the nature or purpose of the use;
3. the Board of Appeals shall prohibit the expansion of nonconforming structures and uses unless there will be no demonstrable adverse impacts on abutting properties and those properties that generally characterize the neighborhood or locus within which the expansion is sought, and;
4. the Board of Appeals shall not encourage the expansion of nonconforming structures and uses if the expansion will negatively impact the Town of Stow's ground or surface waterbodies.

3.9.6.3 Table of Presumptively Not More Detrimental Extensions, Alterations, or Changes to Preexisting, Nonconforming Uses and Structures:

An extension, alteration or change to a lawfully preexisting nonconforming use or structure shall be presumed not to be substantially more detrimental to the neighborhood if the guidelines of Section 3.9.6.2 are considered and if the extension, alteration or change also is in compliance with the following:

**TABLE OF PRESUMPTIVELY NOT MORE DETRIMENTAL EXTENSIONS, ALTERATIONS, OR CHANGES TO OTHER THAN SINGLE OR TWO-FAMILY RESIDENTIAL DWELLINGS**

<b>Issue</b>	<b>Presumptively Allowable Changes, Alterations, or Extensions</b>
If maximum floor area ratio requirements are exceeded and/or minimum open space requirements are not met.	The extension, alteration, or change does not: 1) increase the floor area ratio

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Issue	Presumptively Allowable Changes, Alterations, or Extensions
	requirements; 2) decrease the existing floor area ratio and/or; 3) results in an increase of the open space requirements of Section 4.4.
If the structure or use exceeds current parking or loading area requirements.	The requirements of Section 7 of the Zoning Bylaw are met or if the Board of Appeals determines that the existing use and proposed expansion or site conditions do not warrant the number of parking spaces required by Section 7.3.3.
If the structure or use exceeds, or is in violation of, or violates any other provision of the Zoning Bylaw.	The extension, alteration, or change meets the guidelines specified in Section 3.9.6.2 above.

**3.9.7 Alteration, Reconstruction, Extension or Structural Changes to Preexisting Nonconforming Single and Two-Family Residential Structures.**

3.9.7.1 As provided for in G. L. c. 40A sec. 6, a nonconforming single or two-family dwelling or structure accessory thereto may be altered, reconstructed, extended or otherwise structurally changed provided that:

1. the proposed alteration, extension or structural change itself conforms to the requirements of the present Bylaw, and does not intensify any existing non-conformities or result in any additional non-conformities, in which event the Building Inspector may issue a building permit and an application to the Board of Appeals need not be made; or
2. the proposed alteration, extension or structural change itself does not conform to the requirements of the present Bylaw, and does intensify existing non-conformities or results in additional non-conformities, in which event a Petition for Special Permit must be made to the Board of Appeals, and the Board of Appeals must find that:
  - a) there is no substantial increase in the nonconforming nature of said structure; and
  - b) such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

3.9.7.2 In determining the meaning of the phrases "increase the nonconforming nature of said structure" and "substantially more detrimental to the neighborhood," the following shall apply to the review of Special Permit Petitions subject to this provision to alter, reconstruct, extend or structurally change a preexisting nonconforming single- or two-family residential structure:

1. The Board of Appeals must make a determination as to the particular respect or respects in which the existing structure or lot does not conform to the requirements of the present Bylaw;

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2. Should the Board of Appeals conclude that the proposed change would substantially increase the nonconforming nature of the structure or lot, the applicant will not be entitled to the issuance of a special permit;
3. If the Board of Appeals determines, that the proposal will not substantially increase the nonconforming nature of the structure or the lot, the applicant will also be required to show that the change will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood;
4. If the Board of Appeals determines that the proposal will be more substantially detrimental to the neighborhood, the special permit sought will be denied unless the Board of Appeals determines that a special permit can be approved with conditions that would make the change substantially not more detrimental, in which case the Board of Appeals may approve a special permit with such conditions.
5. For the purposes of this Section, determination of "substantially more detrimental to the neighborhood" shall include consideration of and impacts to, the general and immediate neighborhood from the resulting height, building coverage, impervious coverage, and width of the altered, reconstructed, extended or structurally changed structure. Additionally, a determination whether an altered, reconstructed, extended or structurally changed structure will be "substantially more detrimental to the neighborhood" shall include the resulting impacts to views and vistas from abutting properties and public and private ways, increase in traffic, noise, surface water runoff and related site planning issues.

### **3.10 Table of Principal Uses**

- 3.10.1 Provisions Applicable to Table of Principal Uses - No land, STRUCTURE or BUILDING shall be used except for the purposes permitted in the district as set forth in this Bylaw and further indicated on the Table of Principal Uses. Each use set forth in the principal use column shall be subject to any conditions or limitations that are set forth in this Bylaw and in the Table of Principal Uses. If there is a discrepancy between the Table of Principal Uses and the text of this Bylaw, the provisions set forth in the text of this Bylaw shall take precedent.
- 3.10.1.1 A use listed in the Table of Principal Uses is permitted in any district denoted by the letter "Y" and is not permitted in any district denoted by the letter "N". If denoted by the letters "SPA", "SPP" or "SPS", the use is permitted only if the designated Special Permit Granting Authority grants a special permit as provided herein and makes such specific findings as may be required by the Bylaw in respect of such use. For the purposes of the Table of Principal Uses, "SPA" shall mean a special permit authorized by the Board of Appeals; "SPP" shall mean a special permit authorized by the Planning Board; and "SPS" shall mean a special permit authorized by the Board of Selectmen.
- 3.10.1.2 Site plan approval in accordance with Section 9.3 is required for a use where the letter "R" appears and is not required where the letters "NR" appear.
- 3.10.1.3 A special permit is required for any increase in intensity of a site or use for which a special permit is required, except as to lawful pre-existing NON-CONFORMING USES.



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**Table of Principal Uses**

All Principal Uses listed in this Table are subject to provisions in corresponding Section 3.1, Section 5.1 and Section 5.2.

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
<b><u>General Uses</u></b>									
Agriculture	Y (4)	N	Y	Y	Y	Y	Y	Y	NR
Conservation	Y	Y (5)	Y	Y	Y	Y	Y	Y	NR
Recreation	SPA (4)	N	N	SPP	N	SPP	SPA	SPP	(3)
<b><u>Residential Uses</u></b>									
Single Family DWELLING	Y (4) (11)	N	Y SPP(11)	N	N	N	N	N	(3)
Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7) (11)	N	SPP (7) (11)	N	N	N	N	N	(3)
Duplex DWELLINGS	SPP (4) (11)	N	N	N	N	N	N	N	(3)
Multi-Family DWELLING	SPP(4) (11)	N	N	N	N	N	N	N	(3)
Conversion to 2-Family DWELLING	SPA (4)	N	N	N	N	N	N	N	(3)
Combined Residence/ Home Occupation	Y (4)	N	Y	N	N	N	N	N	NR
Bed & Breakfast Home	Y (4)	SPA (1)	N	N	SPP (3)	N	N	N	R
Bed & Breakfast Home or Establishment	SPA (1) (4)	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Boarding House or Rooming House	Y (4)	N	Y	N	N	N	N	N	R
Playgrounds	SPA (4)	N	N	N	N	N	N	N	(3)
Conservation Areas, Farming and Horticulture, Orchards, Nurseries, Forests, Tree Farms, Sale of Farm Produce	Y (4)	N	Y	Y	Y	Y	Y	Y	R
Storage of Farm Vehicles	Y (4)	N	N	N	N	N	N	N	NR
ACCESSORY BUILDINGS & Uses	Y (4)	Y	Y	SPP	SPP	Y	SPA	SPP	(3)
Hammerhead LOTs	SPP (4)	N	N	N	N	N	N	N	(3)

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**Table of Principal Uses (Continued)**

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
INDEPENDENT ADULT LIVING RESIDENCE	N	SPP (9) (11)	N	N	N	N	N	N	(3)
ACTIVE ADULT NEIGHBORHOOD	N	N	N	SPP (10)	SPP (10)	N	N	N	(3)
Common Drives	Y	N	N	N	N	N	N	N	R
<b><u>Institutional Uses</u></b>									
CHILD CARE FACILITY	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
FAMILY DAY CARE HOME	Y (6) (4)	N	Y	N	N	N	N	N	R
Private Schools & Colleges, Dance & Music Studios	SPA (4)	N	N	N	N	N	N	N	(3)
Nursing Homes	SPA (4)	N	N	N	N	N	N	N	(3)
Day Camps, Overnight Camps, and Camp Sites	N	N	N	SPP	N	SPP	N	SPP	(3)
Municipal	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Public Service Corporation	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Religious	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Educational (Non-Profit)	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Wireless Communication Facilities	SPP (8)	N	N	SSP(8)	SSP(8)	SPP (8)	N	SSP(8)	(3)
<b><u>Business &amp; Commercial Uses</u></b>									
TOURIST HOMES, or LODGING HOUSES	N	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Business or Professional Offices	N	SPP (1)	SPP	SPP (2)	SPP (1)	N	N	SPP (2)	(3)
Retail Stores or Service Establishments	N	SPP (1)	SPP	N	SPP (1)	N	N	N	(3)
Banks	N	SPP	SPP	N	SPP	N	N	N	(3)
U.S. Post Offices	N	SPP	SPP	N	N	N	N	N	(3)
Salesrooms for Automobiles, Bicycles, Farm Implements, Boats, and Similar Equipment	N	SPP	N	N	SPP (1)	N	N	N	(3)

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**Table of Principal Uses (Continued)**

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Restaurants	N	SPP	N	SPP	SPP	SPP	N	SPP	(3)
Country Clubs or Other MEMBERSHIP CLUBS	N	SPA	N	SPP	N	SPP	N	SPP	(3)
Golf Courses	SPP (4)	N	N	SPP	N	SPP	N	SPP	(3)
Ski Areas, MARINAS & Boat Landings	SPA(4)	N	N	SPP	N	SPP	N	SPP	(3)
Cross Country Ski Areas	SPP (4)	N	N	N	N	N	N	N	(3)
Parking Areas for Employees, Customers or Visitors	N	SPP	SPP	SPP	SPP	N	N	SPP	(3)
HOTELS MOTELS	N	SPA	N	N	N	N	N	N	(3)
Theaters, Bowling Alleys, Skating Rinks, Clubs or Assembly within the BUILDING	N	SPA	N	N	N	N	N	N	(3)
Funeral Home, Mortuaries or Crematories	N	N	N	N	SPP	N	N	N	(3)
Veterinary Hospitals, Stables & Kennels, Raising or Breeding of Animals for Sale, and Boarding Animals	SPA (4)	N	N	N	N	N	N	N	(3)
Printing, Publishing or Commercial Reproduction or Photo Processing Establishments, Offices, Medical or Dental Labs, and Research Laboratories	N	N	N	N	SPP (2)	N	N	N	(3)
Building Materials Salesrooms & Yards, Contractor's Yards, Wholesale Distribution Plants, Storage Warehouses	N	N	N	N	SPP	N	N	N	(3)
Gasoline Service Stations, Garages or Repair Shops	N	SPA	N	N	N	N	N	N	(3)
Utility Structures, Passenger Depots and Terminals	N	N	N	N	SPP	N	N	N	(3)
Screened Storage	N	N	N	SPP	SPP	N	N	SPP	(3)
Cafeterias for Employees	N	N	N	SPP	N	N	N	SPP	(3)
Access to Industrial Zoned Land	N	Y	N	N	N	N	N	N	(3)

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**Table of Principal Uses (Continued)**

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Retail Store as part of a REGISTERED MARIJUANA DISPENSARY	N	SPP (1) (12)	N	N	N	N	N	N	(3)
<b><u>Industrial Uses</u></b>									
Manufacturing Enterprises	N	N	N	SPP	N	N	N	SPP	(3)
Research Laboratories with Incidental Assembly or Manufacture	N	N	N	SPP (2)	N	N	N	SPP (2)	(3)
Sanitary Landfill	N	N	N	N	N	N	N	SPS	(3)
Refuse Transfer Station	N	N	N	N	N	N	N	SPS	(3)
Refuse Incinerator	N	N	N	N	N	N	N	SPS	(3)
COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION	SPP	SPP	N	Y	Y	SPP	N	Y	(3)

- (1) Uses permitted by right provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.
- (2) Uses permitted by right provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.
- (3) All uses requiring a Special Permit are subject to Site Plan Approval requirements as part of the special permit process.
- (4) Refer to Section 7.3.3.3 of this Bylaw to determine parking requirements for uses permitted in the Residential District.
- (5) Allowed in accordance with the provisions of M.G.L., Ch. 40A, Section 3.
- (6) Allowed as accessory use only.
- (7) Allowed without special permit in accordance with Section 8.1.2 of this Bylaw.
- (8) Wireless Service Facilities shall be allowed by special permit only on land located in the Wireless Service Facility District.
- (9) The total number of INDEPENDENT ADULT UNITS shall not exceed 6% of the total single family DWELLING UNITS in Stow.
- (10) An Active Adult Neighborhood shall be allowed by Special Permit only on land located in the Active Adult Neighborhood District.

- (11) Provisions of Section 8.9, Inclusion of Affordable Housing, may apply.
- (12) Retail component of a REGISTERED MARIJUANA DISPENSARY is allowed by Special Permit within the REGISTERED MARIJUANA DISPENSARY Overlay District, in accordance with section 5.5 of the BYLAW and pursuant to Department of Public Health Regulations 105 CMR 725.000.

Prohibited Uses - All uses not specifically named in the text of the bylaw are prohibited.

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**3.12 Intentionally left blank**

## **SECTION 4**

### **DIMENSIONAL REGULATIONS**

#### **4.1 Standard Dimensional Provisions:**

- 4.1.1 No BUILDING, STRUCTURE or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which violates any section of this Bylaw or any of the provisions of the bylaws of the Town of Stow.
- 4.1.2 Only one main BUILDING may be built or placed on any LOT within the Town except within a business, commercial, or industrial district. Any main BUILDING hereafter ERECTED shall be on a LOT which has frontage upon a STREET as defined in this Bylaw.
- 4.1.3 A LOT on which there existed at the time of the adoption of this Bylaw two (2) or more DWELLING houses may be divided into as many LOTS as there were DWELLING houses thereon, providing the LOT is divided in such manner that the resulting LOTS shall conform to the area and frontage requirements of this Bylaw, except upon special permit granted by the Board of Appeals. No other LOT may be changed so as to result in a LOT or LOTS having less than the minimum area and frontage requirements.
- 4.1.4 No BUILDING except piers, wharfs and other STRUCTURES to service boats shall be ERECTED below the flood contour lines as shown on the maps and plans set forth in Section 2.3.8 of this Bylaw, as indicated on and incorporated in by reference on the zoning map accompanying this Bylaw, except upon a special permit granted by the Board of Appeals as hereinafter provided for in Section 5.1.1.7.
- 4.1.5 Any construction or use for which a permit was legally issued prior to the adoption of this bylaw or any amendment thereto shall be permitted, notwithstanding non-compliance with the requirements of this bylaw or amendment thereto, provided such construction or use was commenced within six (6) months after the issuance of the permit and carried on to completion within two (2) years, unless a special permit for a longer period of time is granted by the Board of Appeals.
- 4.1.6 This section is intended to provide additional rights to build single family DWELLINGS on certain LOTS in the Residential District that do not conform to zoning area and frontage requirements in effect, and is in no way intended to limit any rights set forth as to such LOTS in Chapter 40A, as from time to time amended. The Board of Appeals shall grant a special permit for the construction of a single-family DWELLING to the owner of any LOT of at least 40,000 square feet area and at least 150 feet of contiguous LOT frontage in the Residential District, which was separately shown, laid out or described in a plan, deed or certificate of title duly recorded or registered at the Middlesex South District Registry of Deeds, and met all requirements of the Bylaw then in effect, prior to the first publication of notice of the public hearing required before any amendment of the Zoning

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Bylaw pursuant to said Chapter 40A, increasing such area or frontage requirements, or both, for a residential LOT, and situated on a STREET as defined in the Zoning Bylaws open for use by the public at such date of publication, upon a finding that the conditions in Section 4.1.6.1 are met.

- 4.1.6.1 Any adjoining LOT to the LOT described in the application for a special permit, held in common ownership with the LOT described in the application for the special permit, had an existing lawful BUILDING thereon, or a building permit had issued for such a BUILDING (on which construction was commenced within six [6] months from the date of the permit and continued through to completion as continuously and expeditiously as reasonable) before the date of the publication of the first notice of the public hearing on the amendment to the Zoning Bylaw, increasing such area or frontage requirements, so that such adjoining LOT is not available for use in combination with the LOT which is the subject of the application at the time of filing the application.
- 4.1.6.2 Provided, however, that the Board of Appeals shall grant such special permit for only one LOT to any owner owning such LOT in common with a LOT unavailable for use in combination therewith as defined in this section which permit shall run with the land; and shall impose as conditions to such special permit that any proposed DWELLING is to be located on such LOT so as to conform with all other minimum requirements of FRONT, SIDE and REAR YARD setbacks of the Zoning Bylaws in effect; and the further condition that, unless the LOT is sold and thereafter is in separate ownership, a special permit granted under this section shall lapse within a specified period of time, not more than two (2) years thereafter if a building permit has not been issued and construction has not begun by such expiration date except for good cause shown and an extension of such special permit by the Board of Appeals granted upon a showing of good cause.
- 4.1.6.3 Provided further, that the Board of Appeals may impose additional conditions and safeguards, where appropriate, to assure harmony with the general purpose and intent of the Zoning Bylaws.
- 4.1.7 No BUILDINGS and STRUCTURES, except for driveways, roads and septic systems, shall be located outside the DEVELOPABLE SITE AREA.

**4.2 Height Regulations:**

- 4.2.1 The height of any BUILDING or STRUCTURE shall not exceed thirty-five (35) feet unless a special permit has been granted by the Planning Board when there is no obstruction to scenic views from public ways or properties, except that in no case shall the height exceed the limits permitted by Section 35A of Chapter 90 of the General Laws as inserted by Chapter 756 of the Acts of 1960 and any more restrictive amendments thereto. Radio towers, chimneys, broadcasting and television antennae, bulkheads, cooling towers, water towers, ventilators and other appurtenances shall in no event exceed one hundred (100) feet in height, and amateur radio towers and antennae shall not exceed one hundred fifty (150) feet in height, and further provided that if the use requires a permit or license for the intended use from any governmental authority, one has been granted.
- 4.2.2 Height shall be measured as the vertical distance from the average ground elevation around the exterior WALLS of the STRUCTURE, or, in the case of built-up land, the highest elevation at the site prior to such change in contour, to the highest point of the roof surface in the case of a flat roof, and to the mean height between eaves and ridge in the case of a pitched roof.

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4.2.3 Limitations of height shall not apply to spires, domes and steeples.

**4.3 Area, Frontage, YARD, and FLOOR AREA Requirements**

4.3.1 No BUILDING shall be ERECTED unless in conformity with the requirements on the Table, following, except:

4.3.1.1 eaves, sills, cornices, belt cornices and window awnings may project up to two feet into the required YARD;

4.3.1.2 on a corner LOT in order to provide unobstructed visibility at intersection, no SIGN, FENCE, WALL, tree, hedge, or other vegetation, and no BUILDING or other STRUCTURE more than three (3) feet above the established STREET grades measured from a plane through the curb grades or the height of the crown of the STREET, shall be ERECTED, placed or maintained within the area formed by intersecting STREET LINES and a straight line joining said STREET LINES at points which are twenty-five (25) feet distant from the point of intersection, measured along said STREET LINES; and

4.3.1.3 further, no YARD, LOT area or OPEN SPACE required for a BUILDING by this Bylaw, shall, during the existence of such BUILDING, be occupied by or counted as OPEN SPACE for another BUILDING. No LOT area shall be so reduced or diminished that the YARDS or other OPEN SPACES shall be smaller than prescribed by this Bylaw.

4.3.1.4 A detached ACCESSORY BUILDING or a swimming pool may be ERECTED in the REAR or SIDE YARD area in conformance with the YARD requirements of the district in which it is located. An ACCESSORY BUILDING attached to its principal BUILDING shall be considered an integral part thereof, and as such shall be subject to the FRONT, SIDE and REAR YARD requirements applicable to the principal BUILDING;

4.3.2 Methods for Calculating Dimensional Requirements - The following shall apply:

4.3.2.1 LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that:

- no area within a STREET shall be included in determining minimum LOT area.
- water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area;
- at least 50% of the minimum required LOT area shall be land which is not in a wetlands resource area (excluding the buffer zone) as defined by Article 9, Wetlands Protection, of the Town of Stow General Bylaw or Flood Plain District

4.3.2.2 Frontage shall be contiguous and measured along the STREET LINE.

- a) For a corner LOT, frontage shall be measured along one STREET only, including one half of the corner arc, or that portion of the corner arc not exceeding twenty-five (25) feet, whichever is less.
- b) If a LOT has frontage on more than one STREET, the frontage on one STREET only may be used to satisfy the minimum LOT frontage.



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4.3.2.3 Area Suitable for BUILDINGS - Except in the case of hammerhead LOTS as permitted in a Residential District, each LOT in a Residential District shall have sufficient area suitable for BUILDINGS. The area suitable for BUILDINGS shall be considered sufficient if: (a) a circle of 150 feet in diameter, or, (b) a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan without overlapping any LOT line or any wetlands or Flood Plain District.

4.3.2.4 LOT Width - In the Residence District, each LOT shall have a minimum width of at least 100 feet between the STREET LINE and the area suitable for BUILDINGS. A LOT meets the minimum width requirement if a 100-foot diameter circle can move on the LOT plan from the STREET LINE to the area suitable for BUILDINGS without overlapping any side or rear LOT line or any Flood Plain District line.

4.3.2.5 LOT Shape - No LOT shall be laid out which is substantially irregular in shape. For purposes of this provision, substantially irregular is defined as a LOT having an index of regularity lower than four-tenths (0.4) as determined by the following formula.

When the LOT is a hammerhead LOT, the index of regularity shall not be lower than 0.25.

$$r = \frac{16a}{p^2} \quad \text{Where: } \begin{array}{ll} r &= \text{The index of regularity} \\ a &= \text{The area of the LOT in square feet.} \\ p &= \text{The perimeter of the LOT in linear feet.} \end{array}$$

Provisions of this section shall not apply to LOTs shown on a plan and part of an application for a special permit or subdivision, the application for which has been duly filed as required by this Zoning Bylaw or the Massachusetts General Laws before the first publication of notice of the public hearing on such amendment required by Massachusetts General Laws Ch. 40A, s. 5.

4.3.2.6 Front YARDS - Front YARDS shall be the distance measured in a straight line between the LOT frontage and the nearest point of any BUILDING or STRUCTURE, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required front YARD.

- 1) A LOT having frontage on two or more STREETS shall have two or more front YARDS, each of which shall comply with the requirements of the front YARD provisions.
- 2) In no case shall any BUILDING or STRUCTURE be located closer to the sideline of a STREET than the minimum required front YARD.
- 3) Driveways are allowed within FRONT YARDS.
- 4) Septic system STRUCTURES are allowed within the FRONT YARD and shall comply with requirements established by the Board of Health.

4.3.2.7 Side and Rear YARDS - Side and rear YARDS shall be the distance measured in a straight line from the nearest point of any BUILDING or STRUCTURE to each side or rear LOT line, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required SIDE or rear YARD.

- 1) Septic system STRUCTURES are allowed within the SIDE and REAR YARD and shall comply with requirements established by the Board of Health.
- 2) Intentionally left blank.

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3) Driveways are allowed within the SIDE and REAR YARD setbacks.

4.3.2.8 FLOOR AREA RATIO - The ratio of the sum of the GROSS FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.

**4.4 Table of Dimensional Requirements**

These requirements shall be satisfied entirely within each district.

Zoning District	Minimum LOT Area in sq. ft.	Minimum LOT Frontage in ft.	Minimum FRONT YARD in ft.	Minimum SIDE YARD in ft.	Minimum REAR YARD in ft.	Minimum OPEN SPACE in percent	Maximum FLOOR AREA RATIO
R/C	40,000	150 (2)	100	50	100	80%	.10
Res	65,340	200 (2)	30	25	40	10%	NR
Bus	40,000	150 (2)	50	None (1)	50 (1)	20%	.30
Comm	40,000	150 (2)	50	25 (1)	50 (1)	30%	.30
Ind	40,000	150 (2)	100	25 (1)	50 (1)	40%	.30
C/B	65,340	200	50	None (1)	40 (1)	30%	.30
R/D	300,000	150	300 (3)	150 (3)	150 (3)	80%	.10

NR = Not Regulated

Footnote to Table of Dimensional Requirements

- (1) If the LOT abuts a residential or recreation-conservation district, whether directly or separated by a public or railroad right-of-way, the side and rear YARDS abutting the residential or recreation-conservation district shall be increased as follows and shall include a 50' landscaped buffer that consists of an opaque screen as defined in Section 7.7.4.1 of the Zoning Bylaw.

Minimum Side or Rear YARD

Compact Business District	50 feet
Business District	50 feet
Commercial District	50 feet
Industrial District	100 feet

- (2) The minimum frontage on Route 117 (Great Road) shall be 200 feet.
- (3) In the Refuse Disposal District, one hundred feet (100') of the FRONT, REAR and SIDE YARDS must be densely planted with natural screening, or otherwise screened. YARD requirements may be waived as a condition of the special permit for that portion of a parcel of land abutting an operational REFUSE disposal facility. Such YARD requirements are to be measured from the LOT boundaries and the outer-most limits of the excavation or any BUILDING for the REFUSE disposal facility.
- (4) Wireless Service Facilities shall be exempt from the provisions of Section 4 but shall be subject to minimum front, side and rear YARD setbacks stated in Section 4.4 and setbacks and other limitations established in Section 3.11 of the Zoning Bylaw.
- (5) An Active Adult Neighborhood shall be exempt from the provisions of Section 4 and shall be subject to minimum front, side and rear YARD setbacks and other limitations established in Section 8.8 of the Zoning Bylaw.

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#### **4.5 Special Provisions and Exceptions to Dimensional Regulations**

##### **4.5.1 Dimensional Regulations for INDEPENDENT ADULT RESIDENCE**

In the Business District, an INDEPENDENT ADULT RESIDENCE shall be built according to the following dimensional standards.

minimum LOT area	- 217,800 sq. ft.
minimum LOT frontage	- 200 ft.
minimum LOT width	- As otherwise set forth in this Bylaw
minimum FRONT, SIDE and REAR YARDS	- 50 ft.
minimum setback of pavement areas other than ACCESS DRIVEWAYS and walkways from the front LOT line	- 50 ft.
minimum separation of BUILDINGS within the LOT	- 20 ft.
maximum height of STRUCTURES	- 35 ft.
minimum OPEN SPACE	- 30 %
maximum FLOOR AREA RATIO (business district only)	- 0.30

- 4.5.1.1 Dimensional Regulation of INDEPENDENT ADULT RESIDENCES in the Business District shall be subject to FLOOR AREA RATIO.
- 4.5.1.2 All privileges and exemptions provided to single-family residential uses or BUILDINGS under this Bylaw as set forth in Section 3.8.1.11 or otherwise, shall also apply to INDEPENDENT ADULT RESIDENCES.
- 4.5.1.3 Where the requirements of INDEPENDENT ADULT RESIDENCES differ from or conflict with other requirements of the Bylaw, the requirements established herein shall prevail. The above requirements shall be met and where appropriate, the Planning Board may impose additional requirements as a condition of the Special Permit.
- 4.5.2 The provisions of Sections 4.1, 4.2 and 4.3 of the Zoning Bylaw shall not apply to Wireless Service Facilities. The height provisions of Section 4.2 shall not apply to Wireless Service Facilities which shall be governed by the provisions of Section 3.11.7.1.
- 4.5.3 The provisions of Sections 4.1, 4.2, and 4.3 of the Zoning Bylaw shall not apply to an Active Adult Neighborhood.

## **SECTION 5**

### **OVERLAY DISTRICTS**

#### **5.1 Flood Plain District**

The Flood Plain District is intended to protect the public health and safety and persons and property against the hazards of flood water inundation; to preserve and maintain the GROUND WATER table and to protect the community from the costs which may be incurred when unsuitable development occurs in areas subject to floods. The provisions applicable to the Flood Plain District shall be considered as overlying other zoning districts. In those cases where the Flood Plain District overlies another zoning district, the provisions of the Flood Plain District shall be controlling.

##### **5.1.1 Uses Permitted:**

- 5.1.1.1 Conservation areas for water, water supply, plants and wildlife, and dams necessary for achieving this purpose;
- 5.1.1.2 Farming and horticulture, including raising and harvesting crops, truck gardening, grazing and livestock raising, but not including piggeries or the raising of animals for fur;
- 5.1.1.3 Nurseries, forests and tree farms, provided that any equipment necessary for these uses is normally stored so it is not visible from district or property boundaries;
- 5.1.1.4 Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), MARINAs, landings and any non-commercial recreation use;
- 5.1.1.5 In a business, commercial or industrial district, any of the foregoing uses which are conducted for profit, or for which a fee or similar charge is made, and allowed within the Flood Plain District, provided that such uses are otherwise permitted in the district overlain by the Flood Plain District;
- 5.1.1.6 Subject to General Laws, Chapter 131, Section 40 and 40A access across land within the district overlapped; and
- 5.1.1.7 The Board of Appeals may grant a special permit to allow any use or STRUCTURE otherwise permitted in the district overlain by the Flood Plain District if it is clearly shown that the land intended for said use or structure is included within the Flood Plain District through mapping error, or that no portion of said proposed new use or structure will be below the flood plain elevation as defined in this Bylaw. Where a mapping error is claimed, the petitioner claiming the same shall bear the burden of demonstrating that the Flood Plain District is incorrect as it relates to the land subject to the special permit application.

5.1.2 Floodway Data - In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

5.1.2.1 Base Flood Elevation Data - Base flood elevation data is required for land divisions or proposed developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered A zones.

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**5.1.3 Notification Of Watercourse Alteration**

In a riverine situation, the Town of Stow shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- NFIP State Coordinator

Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104

- NFIP Program Specialist

Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

**5.1.4 Other Regulations**

In Zones AE, along watercourses that have a regulatory floodway within the Town of Stow designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway, which would result in any increase in flood levels during the occurrence of the base flood discharge. All land division or development proposals must be designed to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

**5.1.5 Reference To Existing Regulations**

- The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:
  - Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
  - Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
  - Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
  - Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

**5.2 Water Resource Protection District**

The Water Resource Protection District is intended to protect, preserve and maintain the existing and potential GROUND WATER supply and GROUND WATER RECHARGE AREAS within the town; to preserve and protect present and potential sources of GROUND WATER supply for the public health and safety; and to conserve the natural resources of the town. The Water Resource Protection District shall be considered as overlying other zoning districts and the provisions of the Water Resource Protection District shall be controlling, and any uses permitted in the portions of the underlying districts shall be permitted subject to all the provisions of this Section. Prohibitions of land use in the underlying districts shall not be modified by the conditions of the Water Resource Protection District.

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5.2.1 Uses permitted provided that all necessary permits, orders or approvals required by local, state or federal law shall have been obtained:

5.2.1.1 All uses of the underlying district provided that no such use on any LOT or parcel shall as to that portion of said LOT or parcel within the Water Resource Protection District:

1. Result in the disposal of any waste material, solid or liquid, other than SANITARY WASTES, brush or stumps.
2. Generate on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of LOT area, except as provided in Section 5.2.2.3. For the purposes of this Bylaw, such volumes are to be estimated as provided in Title 5, Sanitary Sewage, of the State Environmental Code.
3. Conduct any activity which involves as a principal or ACCESSORY USE the manufacture, process, storage, application, transportation and/or disposal of toxic or HAZARDOUS MATERIALS where such activity would involve outside storage, on-site waste disposal except as provided in Section 5.2.2, or uncontrolled drainage facilities which would allow discharge to surface or GROUND WATER.
4. Dispose of snow brought in from outside the District.
5. Involve the storage for sale of fuel, oil or gasoline or, except as allowed by special permit, involve outdoor storage of road salt, or other deicing chemicals, fertilizers, herbicides or pesticides.
6. Store underground and/or transmit oil, gasoline or other liquid petroleum products, excluding liquified petroleum gases.
7. Involve excavation of earth, sand, gravel and other soils, except as allowed in Section 5.2.5.3.
8. Render impervious, by any means, more than ten percent (10%) of the LOT area proposed for development within the Water Resource Protection District or 5,000 square feet of said district, whichever is greater.
9. Use septic system cleaners containing HAZARDOUS MATERIAL.
10. Damage to underlying GROUND WATER. For the purpose hereof the following uses shall be considered to damage the underlying GROUND WATER: automotive service and repair shops; junk and salvage yards; truck and bus terminals; car wash establishments; painting, wood preserving or furniture stripping establishments; dry cleaning establishments; metal plating, finishing, polishing or etching establishments; or any other similar use determined by the Board of Health or its sanitary agent to damage the underlying GROUND WATER.

5.2.1.2 Conservation of soil, water, plants and wildlife;

5.2.1.3 Outdoor recreation, foot, bicycle and/or horse paths, nature study, boating, landings, bridges, fishing or hunting where otherwise legally permitted;

5.2.1.4 Proper operation and maintenance of existing dams, splash boards and other water control, supply and conservation devices;

5.2.1.5 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, orchards, nurseries, forests and tree farms, and poultry and livestock raising but not including piggeries or the raising of animals for fur,

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- provided that fertilizers, herbicides, pesticides and other leachable materials are not stored in any manner which would permit leakage thereof; the appropriateness of the management practices shall be governed by USDA or Soil Conservation Service, or Cooperative Extension Service or Massachusetts Department of Food and Agriculture's guidelines and use regulations;
- 5.2.1.6 Necessary public utilities and facilities, provided they are designed to prevent contamination of GROUND WATER;
  - 5.2.1.7 Construction of BUILDINGS, STRUCTURES and other facilities for parking and other uses are as appurtenant thereto, provided that except to the extent of naturally occurring PH and temperature components of surface water quality and GROUND WATER quality standards, runoff waters leaving the developed site via surface flow shall remain unimpaired as to quality;
  - 5.2.1.8 Maintenance, replacement and repair of existing BUILDINGS or STRUCTURES;
  - 5.2.1.9 Home heating storage tanks, provided that the contents thereof are for heating the premises and that the tanks are contained within the BUILDING; and
  - 5.2.1.10 Liquified petroleum gas storage tanks.
- 5.2.2 Uses permitted where allowed in the underlying zoning district, subject to a special permit granted by the appropriate Special Permit Granting Authority:
- 5.2.2.1 Expansion of existing NON-CONFORMING USES to the extent allowed in the underlying district. The Special Permit Granting Authority shall not grant such approval unless it shall find that such expansion shall not be more detrimental to the GROUND WATER supply than the existing use;
  - 5.2.2.2 Any use involving on-site disposal of PROCESS WASTES;
  - 5.2.2.3 Generation of on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of LOT area; and
  - 5.2.2.4 Above ground or indoor storage of toxic or HAZARDOUS MATERIALS totaling more than fifty gallons of liquid volume or twenty-five pounds per dry weight, except as allowed in Section 5.2.1.9.
- 5.2.3 In addition to the usual requirements in applying for a special permit, each applicant for a special permit hereunder shall provide the following additional information at the time the application is filed:
- 5.2.3.1 A complete list of all chemicals, pesticides, fuel or other potentially toxic or HAZARDOUS MATERIALS to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/facilities from vandalism, corrosion and leakage and to provide for control of spills;
  - 5.2.3.2 A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods;
  - 5.2.3.3 Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system or any waste water treatment system subject to 310 CMR 15.02; and

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- 5.2.3.4 Analysis by a technically qualified expert certifying that during the normal operation of the proposed use the quality and supply of the underlying GROUND WATER resources will not be degraded from EXISTING CONDITIONS.
- 5.2.4 The Special Permit Granting Authority may grant such a special permit provided that it finds in addition to such other findings as are otherwise required by the Bylaw that such use permitted thereby:
  - 5.2.4.1 Meets the purpose and intent of this Bylaw and will not derogate from the purpose of the Water Resource Protection District;
  - 5.2.4.2 Satisfies the requirements for design set forth in Section 5.2.5 below;
  - 5.2.4.3 Will not, during construction or thereafter, impair existing GROUND WATER quality or reduce existing recharge capacity beyond that allowed in Section 5.2.1.1.8 of this Bylaw; and
  - 5.2.4.4 Will not adversely affect the quality or the yield of an existing or potential GROUND WATER supply.
- 5.2.5 The above uses shall be permitted only upon satisfaction of the following design requirements:
  - 5.2.5.1 Where a portion of the LOT is located partially outside the Water Resource Protection District, site design shall to the extent feasible, locate potential pollution sources, such as on-site disposal systems, outside the district boundaries.
  - 5.2.5.2 Roof, parking and drive runoff shall be recharged on the site, diverted toward areas covered with vegetation for surface infiltration to the maximum extent practicable. Runoff from parking areas of 5,000 square feet or more shall be discharged to oil-gas trap catch basins with appropriate sumps prior to recharge.
  - 5.2.5.3 Excavation of earth, sand, gravel and other soils shall not extend closer than five feet above the maximum GROUND WATER elevation, except to provide for structural foundations, holding ponds for drainage purposes and utility conduits. Exposed land shall be returned to its natural vegetative state when excavation is complete.
  - 5.2.5.4 Any additional net runoff volume shall not be diverted beyond the boundaries of this District.
  - 5.2.5.5 Risk of pollution through accidental spillage of HAZARDOUS MATERIALS shall be reduced through the use of secure storage areas, impermeable diked catchments, separated drainage systems from an area where toxic or HAZARDOUS MATERIALS are stored or handled, or similar measures, which shall at the minimum meet any requirements of any governmental agency and shall in general conform to any standards established for such purpose by any industry or other private organization.
  - 5.2.5.6 PROCESS WASTES from other operations other than personal hygiene and food for residents, patrons and employees shall be treated so that contaminant levels in GROUND WATER resulting from such disposal will not exceed those levels specified in 310 CMR 22.00, or existing levels where such existing levels are higher.
  - 5.2.5.7 All runoff from IMPERVIOUS SURFACES shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. No discharge directly into surface waters without intervening mitigative measures will be allowed.



### **5.3 Wireless Service Facility**

#### **5.3.1 Objectives**

This Section permits the construction and use of Wireless Service Facilities within Stow, regulates their impacts and accommodates their location and use in a manner intended to:

- A. Protect the scenic, historic, natural and man-made resources of the town;
- B. Preserve the general safety, welfare and quality of life in the community;
- C. Protect property values;
- D. Protect the environment;
- E. Guide sound development and encourage the most appropriate use of the land;
- F. Encourage the use of certain existing Towers and structures;
- G. Limit the total number and height of such facilities to what is essential to meet the need;
- H. Promote shared use of facilities where appropriate to reduce the need for new facilities, and
- I. Comply with the Communication Act of 1936 as amended by the Federal Telecommunications Act of 1996.

#### **5.3.2 Applicability**

- A. No Wireless Service Facility shall be ERECTED or installed except in compliance with the provisions of this Section.
- B. The requirements of this section shall apply to all Wireless Service Facilities, except where Federal or State Law or Regulations exempt certain users or uses from all or portions of the provisions of this section.
- C. No Wireless Service Facility shall be considered exempt from this section by sharing a MOUNT or FACILITY SITE with such exempt uses.

#### **5.3.3 Definitions**

In addition to the terms defined in Section 1.3, Definitions, of this Bylaw, the following words, which are technical terms applying to Wireless Service Facilities, shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 1.3, Definitions.

- A. ACT: The Federal Telecommunications Act of 1996.
- B. ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site, prior to disturbance, to the highest point of a structure with appurtenances.
- C. ANTENNA: A device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).
- D. APPLICANT: The applicant or co-applicant for any special permit or site plan approval for a Wireless Service Facility shall be a provider of WIRELESS

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SERVICES, as defined herein, or other entity that has authority from the FCC to provide WIRELESS SERVICES for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.

- E. AVAILABLE SPACE: The space on a Tower or other structure to which ANTENNAS of a Carrier are able to fit structurally and to be technologically feasible.
- F. CAMOUFLAGED: A Wireless Service Facility or components that are disguised, painted, colored or hidden by a purpose-built decoy that is made part of an existing or proposed structure or made to resemble an architectural feature of the building or structure on which it is placed.
- G. CARRIER: An entity that provides Wireless Services, as defined herein, to individuals, businesses or institutions. Synonymous with Wireless Service Provider.
- H. CHANNEL: One of the assigned sub bands of radio frequencies as defined in the ACT, licensed to the CARRIER for wireless service use.
- I. CO-LOCATION: The use of a single MOUNT by more than one CARRIER and/or several MOUNTS on a building or structure by more than one CARRIER. Each service co-located at a site is a separate Wireless Service Facility. CARRIERS operating more than one service at a site will be considered to have more than one facility co-located at the site.
- J. CONCEALED: A Wireless Service Facility or components are CONCEALED when they are within parts of a building or other structure that was built for another purpose and that is not visible from outside the structure.
- K. ENVIRONMENTAL ASSESSMENT: An EA is the document required by the National Environmental Policy Act (NEPA) when a Wireless Service Facility is placed in certain designated areas.
- L. EQUIPMENT SHELTER: An enclosed structure, cabinet, shed or box at the base of the Mount within which are housed batteries, generators and electrical equipment.
- M. FACILITY SITE: A lot or parcel, or any part thereof, that is owned or leased by one or more CARRIERS and upon which one or more Wireless Service Facility(s) and required landscaping are located.
- N. MODIFICATION OF AN EXISTING FACILITY: Any material change or proposed change to a facility including but not limited to power input or output, number of ANTENNAS, change in ANTENNA type or model, repositioning of ANTENNA(s), or change in number of channels per ANTENNA above the maximum number approved under an existing permit or special permit.
- O. MONITORING: The measurement, by the use of instruments away from the ANTENNA, including measurements at the lot/leasehold boundary, of the electromagnetic radiation from a site as a whole, or from individual Wireless Service Facilities, Towers, ANTENNAS, or associated power supplies and generators.
- P. MONOPOLE: A single, self-supporting vertical pole with no guy wires, and hollow such that the ANTENNA cables are CONCEALED within the structure.
- Q. MOUNT: The structure or surface upon which ANTENNAS are Mounted, including the following four types of Mounts:
  - 1. Roof-mount. A mount attached to a building roof to which ANTENNAS are mounted.

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2. Side-mount. A mount attached to the side or other non-roof portion of a building to which ANTENNAS are mounted.
3. Ground-mount. A mount anchored into the ground to which ANTENNAS are mounted. Ground mounts include purpose built structures such as poles, bases, posts, MONOPOLES, and towers.
4. Structure-mount. A mount, attached to a structure other than a building, to which ANTENNAS are mounted.

In the absence of a separate structural component to hold an ANTENNA, the ANTENNA shall be considered to be its own ground, roof, side or structure mount.

- R. RADIO FREQUENCY ENERGY (RFE): The electromagnetic emissions from 9 kHz to 3,000 GHz.
- S. SECURITY BARRIER: A locked fence, a wall or berm that completely seals an area from unauthorized entry or trespass.
- T. TOWER: A ground or building MOUNT that is significantly taller than it is wide, built for the purpose of supporting wireless service transmitting, and/or receiving, ANTENNAS and/or related equipment. Components of the Wireless Service Facility used only to attach, contain, or support other elements of that facility are excluded from this definition provided such components are not integrated with, or attached directly to, the tower structure.
- U. WIRELESS SERVICES: Commercial mobile radio services, unlicensed Wireless Services, and common Carrier wireless exchange access services, as defined in the ACT. These services include, but are not limited to, cellular services, personal communication services (PCS), specialized mobile radio services, and paging services.
- V. WIRELESS SERVICE FACILITY: A complete system operated by one entity on one communications service that is installed at one site, which system contains ANTENNAS, transmission and/or reception equipment, and related equipment for the purpose of supporting wireless communications. A site may contain one or more Wireless Service Facilities.

5.3.4 Location of Facilities, Priorities

- 5.3.4.1 Wireless Service Facilities shall only be permitted by Special Permit from the Planning Board, acting as the Special Permit Granting Authority, in accordance with MGL Ch. 40A, s.9 on land located in the Wireless Service Facility District.
- 5.3.4.2 APPLICANTS shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and make a showing that demonstrates that the alternatives are singly or in aggregate insufficient to provide the necessary coverage and/or singly or in aggregate more visible or otherwise have more of a detrimental impact on the community than use of the proposed location. A WIRELESS SERVICE FACILITY, ANTENNAS and MOUNTS shall be permitted according to the following priorities: (a. being the highest priority)
- a. on property occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force;
  - b. within an existing structure, CONCEALED;
  - c. CAMOUFLAGED on an existing structure, such as but not limited to an existing electric transmission Tower or an existing radio Antenna, a water Tower or building

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provided that the installation of the new facility does not increase the height of the existing structure, and of a compatible design;

- d. on an existing structure and not to increase the height of the structure by more than 10 feet. In no case shall the height exceed 100 feet AGL except on land occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force;
- e. co-located with existing Wireless Service Facilities located within the WIRELESS SERVICE FACILITY District where deemed appropriate by the Special Permit Granting Authority;
- f. co-located on a new MOUNT within the Wireless Service Facility District as deemed appropriate by the Special Permit Granting Authority, and
- g. if adequately demonstrated to the Planning Board in the special permit process that each of the above types of locations is not feasible, erection of a new facility that complies with the requirements of this section and where visual impact can be eliminated or minimized and mitigated to the maximum extent feasible, including height reductions, camouflaging and other means.

**5.3.5 Wireless Service Facility District**

This district shall be an overlay district and shall include all parcels of land located in the Industrial and Refuse Disposal Districts and on certain parcels of land in the Commercial and Residential Districts, and on land occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force as depicted on a map dated January 23, 2001 and entitled "Wireless Service Facility District".

**5.3.6 Special Permit**

Any new WIRELESS SERVICE FACILITY and any proposed modification of a WIRELESS SERVICE FACILITY shall be allowed only by special permit from the Planning Board as the Special Permit Granting Authority in accordance with MGL Ch. 40A, s.9, subject to the following requirements, conditions and limitations.

**5.3.7 Dimensional, Screening and Other Site Development Requirements**

**5.3.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height**

- a. Except on land occupied by the State Fire-fighting Academy, the State Entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.
- b. On land occupied by the State Fire-Fighting Academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.
- c. The height of all wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES FACILITY, the height and

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density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual and economic impacts to residential properties off-site, and proposals to screen the visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.

- d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL and shall not result in adverse visual or economic impact.

e. *Deleted at October, 2009 Special Town Meeting*

5.3.7.2 Setbacks – No TOWER, MONOPOLE, or WIRELESS SERVICE FACILITY shall be located within:

- a. 1000 feet, measured on a horizontal plane, to all existing residential Buildings and schools or the footprint of a future residential building for which a Building Permit has been issued, except those residential buildings located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use;
- b. 1000 feet, measured on a horizontal plane, to all existing municipal buildings, except those located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use; and
- c. 200 feet from existing non-residential buildings except those located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed;
- d. Any WIRELESS SERVICE FACILITY shall comply with front, side, and rear YARD dimensional requirements of Section 4.4, Table of Dimensional Requirements, except that such dimensional requirements may be altered by the Planning Board if it finds that a substantially better design will result. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed WIRELESS SERVICE FACILITY.

5.3.7.3 Shelters and Accessory Buildings - EQUIPMENT SHELTERS for Wireless Service Facilities shall be designed to be consistent with one of the following design standards:

- a. EQUIPMENT SHELTERS shall be located in underground vaults; or
- b. EQUIPMENT SHELTERS shall be designed to be consistent with traditional New England architectural styles and materials. Alternative materials may be used provided that the Special Permit Granting Authority finds the materials to be consistent with character of the neighborhood; or
- c. EQUIPMENT SHELTERS shall be screened behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Special Permit Granting Authority shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

5.3.7.4 Security, Signs

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- a. All Ground Mounted Wireless Service Facilities shall be surrounded by a SECURITY BARRIER to ensure they are completely secure from trespass or vandalism.
  - b. A one square foot sign shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a 24-hour emergency telephone number(s).
  - c. Advertising on any ANTENNA, TOWER, fencing, accessory building or communication EQUIPMENT SHELTER is prohibited.
- 5.3.7.5 Lighting - No exterior night lighting of TOWERS or the WIRELESS SERVICE FACILITY is permitted except for manually operated low intensity security lights installed at or near ground level for use when operating personnel are on site.
- 5.3.7.6 Historic Buildings and Structures
  - 1) Any WIRELESS SERVICE FACILITY located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building, or
  - 2) Any alteration made to a historic BUILDING or STRUCTURE to accommodate a WIRELESS SERVICE FACILITY shall be fully reversible.
- 5.3.7.7 Environmental Standards
  - a. Existing vegetation shall be preserved to the maximum extent practicable.
  - b. Electric utilities and all network interconnections from the WIRELESS SERVICE FACILITY via land lines shall be via underground lines.
  - c. No hazardous waste shall be discharged on the site of any WIRELESS SERVICE FACILITY. If any hazardous materials are to be stored or used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
  - d. Storage of any materials other than those customarily used at the site shall be prohibited.
- 5.3.7.8 Noise - Ground-Mounted, Roof-Mounted or Side-Mounted equipment for WIRELESS SERVICE FACILITY shall not generate acoustic noise in excess of those levels allowed by the Massachusetts Department of Environmental Protection noise regulation, 310 CMR 7.10 or its successor.
- 5.3.7.9 RADIO FREQUENCY ENERGY (RFE) Standards - All equipment proposed for a WIRELESS SERVICE FACILITY shall be evaluated for safety compliance per the FCC *Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation* or their successor.
- 5.3.8 New WIRELESS SERVICE FACILITY - Any new freestanding MOUNT in the Wireless Service Facility District shall be of a MONOPOLE construction with internal ANTENNAS designed to be visually unobtrusive or with surface MOUNT ANTENNAS as determined to be appropriate for the circumstances by the Planning Board or other less obtrusive design as it becomes available.
- 5.3.9 Justification of Need
  - 5.3.9.1 Coverage Area - The APPLICANT shall provide a map of the geographic area in which the proposed facility will provide Wireless Service. Said map shall be provided as a colored hard copy and in a digital format that is compatible with the Town of Stow

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Geographic Information System program(s). The APPLICANT shall provide documentation of the criteria and methodology employed to establish coverage area.

- 5.3.9.2 Adequacy of Other FACILITY SITES and Controlled by the APPLICANT - The APPLICANT shall provide written documentation of any FACILITY SITES in the town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these FACILITY SITES do not already provide, or do not have the potential to provide WIRELESS SERVICES by site adjustment.
- 5.3.9.3 Capacity of Existing FACILITY SITES and Potential FACILITY SITES - The APPLICANT shall provide written documentation that it has examined all FACILITY SITES located in the town and in abutting towns or cities in which the APPLICANT has no legal or equitable interest to determine whether those existing facilities can be used to provide Wireless Service. In addition, the APPLICANT shall provide written documentation that it has examined existing commercial Buildings and Structures for opportunities to construct roof and side MOUNTS, or otherwise demonstrate that such a facility is not technologically feasible as a potential FACILITY SITE. The APPLICANT shall demonstrate that potential FACILITY SITES will not provide similar coverage to the APPLICANT'S confirmed Co-locators.
- 5.3.9.4 Wireless Service Through the Least Disruptive Means –The APPLICANT shall provide written documentation that the proposed facility uses the least disruptive technology (through the creative use technology and materials) in which it can provide WIRELESS SERVICES in conjunction with all FACILITY SITES listed above.

5.3.10 Application

- 5.3.10.1 APPLICANT - The APPLICANT or co-APPLICANT for any special permit or site plan approval for a WIRELESS SERVICE FACILITY shall be a CARRIER that has authority from the FCC to provide WIRELESS SERVICES for the facility being proposed. The APPLICANT shall submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.
- 5.3.10.2 Pre-Application Conference - Prior to the submission of an application for a Special Permit under this bylaw provision, the APPLICANT is strongly encouraged to meet with the Special Permit Granting Authority at a public meeting to discuss the proposed WIRELESS SERVICE FACILITY in general terms and to clarify the filing requirements.
- 5.3.10.3 Pre-Application Filing Requirements - The purpose of the conference is to inform the Special Permit Granting Authority as to the preliminary nature of the proposed WIRELESS SERVICE FACILITY. As such, no formal filings are required for the pre-application conference. However, the APPLICANT is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Special Permit Granting Authority of the location of the proposed facility, as well as its scale and overall design.
- 5.3.10.4 Demonstrated Co-Locators – If proposing CO-LOCATION, the APPLICANT shall submit written proof of commitment.

5.3.11 WIRELESS SERVICE FACILITY Regulations

The Special Permit Granting Authority shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section. At a minimum, such regulations shall require the APPLICANT to provide the following materials with the application:

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- a. A town-wide map showing all existing Wireless Service Facilities in Stow and those within two miles of its corporate limits, including those recently approved but not constructed.
- b. The proposed locations of all future Wireless Service Facilities known to be under consideration in the Town on a Town-wide map for this CARRIER.
- c. An appraisal, prepared by a state-certified real estate appraiser, of the economic impact on property values within view of the proposed facility, based upon the impact of substantially similar wireless facilities in substantially similar communities. For the purposes of this paragraph, substantially similar communities shall include communities from the Commonwealth of Massachusetts, with similar market demand, population density and rural character.
- d. The results of a drive test conducted by the APPLICANT and based on the pre-application conference.
- e. Sight lines, photographs and other visual materials as described below:
  - 1) Sight line representation. A sight line representation shall be drawn from any public road within 1500 feet and the closest facade of each residential building (viewpoint) within 1500 feet to the highest point (visible point) of the WIRELESS SERVICE FACILITY. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and Buildings. In the event there is only one (or more) residential building within 1500 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.
  - 2) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit.
  - 3) Proposed (after condition). Each of the existing condition photographs shall be based on crane or balloon tests and shall have the proposed WIRELESS SERVICE FACILITY superimposed on it to show what will be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit if the proposed WIRELESS SERVICE FACILITY is built. Original photos of crane or balloon test shall be supplied to verify authenticity of the digital simulations.
  - 4) The APPLICANT shall submit a map of the town that has been annotated with the data collected during the crane or balloon test. The roadways, determined by the Planning Board to be relevant to the requested special permit, shall be highlighted in one color, the points where the crane or balloon was visible at all shall be highlighted in another color, and the points where there is an unscreened view of the crane or balloon shall be highlighted in a third color. The APPLICANT shall designate on the map the location from which the photographs were taken.
  - 5) The APPLICANT shall submit a map showing the broadcast footprints coverage areas created by varying antenna heights at 50, 75 and 100 feet AGL and at 150 feet AGL where the latter height is permitted. The map shall indicate the different signal strengths and the parameters used to arrive at the data. An explanation of the reasons for selecting the signal strength(s) used to characterize coverage shall be provided. As a minimum the following shall be provided with each map: frequency in MHz, transmitter power output per channel, transmit and receive antenna gains, line loss and amplifier gains (if any), effective radiated power per channel in watts, all quality-of-service assumptions used (including factors for attenuation through foliage and/or structures), signal strength required to meet the stated quality-of-service assumptions, and identification of the computer software used to generate the



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footprints. The applicant shall also include, on a separate map of the same scale, signal-strength footprints indicating any existing coverage within the Town of Stow from any applicant-owned or -operated sites in Stow and any existing coverage from adjacent towns that meet the stated quality-of-service assumptions.

- f. Within 21 days of filing an application for a Special Permit, the APPLICANT shall arrange for a crane or balloon test, satisfactory to the Planning Board, at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in two newspapers of general circulation in the Town at least 14 days, but not more than 28 days prior to the test. Notification of the test shall be mailed to all postal patrons in Stow. Notification shall also be sent via certified mail with return receipt requested to all parties in interest. The test shall illustrate the proposed height and each subsequent ten-foot interval downward to the vegetation line, or ground, whichever is earlier.
- g. Noise Filing Requirements: The APPLICANT shall provide a statement demonstrating the impact of the proposed facility on the acoustic noise environment in the vicinity of the facility. The following conditions shall apply:
  - 1) Existing ambient conditions: characterize existing acoustic noise conditions in the area.
  - 2) Existing plus proposed conditions: characterize acoustic noise produced by the proposed WIRELESS SERVICE FACILITY in relation to the existing ambient conditions as it would affect nearby parcels.
  - 3) If the acoustic noise levels produced by the proposed WIRELESS SERVICE FACILITY are expected to approach or exceed the Massachusetts Department of Environmental Protection requirements, the Planning Board may require a more detailed analysis and/or field measurements prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate.
- h. RADIO FREQUENCY ENERGY (RFE) Filing Requirements: The APPLICANT shall provide a statement listing the existing and maximum future projected levels of RFE from the proposed WIRELESS SERVICE FACILITY, for the following situations:
  - 1) Existing, or ambient: characterize existing RFE sources in the area;
  - 2) Existing plus proposed wireless service facilities: characterize RFE from the proposed WIRELESS SERVICE FACILITY plus the existing RFE environment and estimated cumulative RFE impacts, and
  - 3) Certification, signed by a Radio Frequency (RF) engineer, experienced in the field of evaluating RF standards, stating that RFE characterizations are accurate and meet FCC Guidelines as specified in the RFE Standards sub-section of this Bylaw.

5.3.12 Approval Criteria

- 5.3.12.1 A special permit shall be granted under this section only if the Special Permit Granting Authority finds that the project is in harmony with the general purpose and intent of the Bylaw and the Special Permit Granting Authority's Rules & Regulations. In addition, the Special Permit Granting Authority shall make all of the applicable findings before granting the special permit, as follows:
  - a. that the APPLICANT is not already providing coverage or is unable to maintain coverage, to the extent that the town is required to accommodate such coverage under federal law, without the special permit;

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- b. that the APPLICANT is not able to use existing FACILITY SITES within the overlay district to provide coverage to the extent that the town is required to accommodate such coverage under federal law; and that the proposed WIRELESS SERVICE FACILITY minimizes or prohibits, as appropriate, any adverse impact on historic resources, scenic views, residential property values, natural or man-made resources, and the public welfare;
  - c. that the APPLICANT has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
  - d. that the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic energy and that MONITORING shall be paid for by the APPLICANT;
  - e. that the proposed MOUNT is designed to accommodate the maximum number of users technologically practical but not less than three (3) unless a lesser number is deemed appropriate by the Special Permit Granting Authority;
  - f. that the APPLICANT has agreed to rent or lease AVAILABLE SPACE on any TOWER it controls within Stow or its contiguous towns, under the terms of a fair-market lease, without discrimination to other Wireless Service CARRIERS;
  - g. that the facility is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations, and
  - h. that the proposed WIRELESS SERVICE FACILITY complies with all applicable requirements of this Bylaw.
- 5.3.12.2 If a special permit is granted, the Special Permit Granting Authority may impose such additional conditions and safeguards as public safety, welfare and convenience may require.
- 5.3.12.3 Any decision by the Special Permit Granting Authority to deny a special permit under this section shall be in conformance with the ACT, in that it shall be in writing and supported by substantial evidence contained in a written record.
- 5.3.13 (Intentionally left blank)
- 5.3.14 Term of Permit
- Any Special Permit issued for any WIRELESS SERVICE FACILITY shall be valid for not more than three (3) years, unless such time is extended by the Planning Board, by a period not to exceed one year, to accommodate the coordinated review of special permits for WIRELESS SERVICE FACILITIES. At the end of that time period, the WIRELESS SERVICE FACILITY shall be removed by the CARRIER or a new Special Permit shall be required.
- 5.3.15 Removal Requirements
- 5.3.15.1 At such time that a licensed CARRIER plans to abandon or discontinue operation of a WIRELESS SERVICE FACILITY, such CARRIER shall notify the Town by certified mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed CARRIER fails to give such notice, the WIRELESS SERVICE FACILITY shall be considered abandoned upon such discontinuation of operations.

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- 5.3.15.2 Upon abandonment or discontinuation of use, the CARRIER shall physically remove the WIRELESS SERVICE FACILITY within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
- Removal of ANTENNAS, MOUNT, EQUIPMENT SHELTERS and SECURITY BARRIERS from the subject property.
  - Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - Restoring the location of the WIRELESS SERVICE FACILITY to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- 5.3.15.3 If a CARRIER fails to remove a WIRELESS SERVICE FACILITY in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility.
- 5.3.15.4 The Special Permit Granting Authority may require the APPLICANT to post a bond at the time of construction to cover costs for the removal of the WIRELESS SERVICE FACILITY in the event the Town must remove the facility.
- 5.3.16 Modifications - Modification of a WIRELESS SERVICE FACILITY may be considered equivalent to an application for a new WIRELESS SERVICE FACILITY and will require a Special Permit when the following events apply:
- 5.3.16.1 The APPLICANT and/or co-APPLICANT wants to alter the terms of the Special Permit by changing the WIRELESS SERVICE FACILITY in one or more of the following ways:
- Change in the number of facilities permitted on the site;
  - Change in the facilities that materially changes the facilities approved by the Massachusetts Department of Public Health, and
  - Change in the operating parameters of a facility, including, but not limited to, ANTENNAS and cables that increases their quantity or size, that changes in a material way their orientation or other visible characteristics, or that exceeds specifications on the special permit.
- 5.3.16.2 The APPLICANT and/or co-APPLICANT propose to add any equipment or additional height not specified in the original approval.
- 5.3.17 Monitoring and Maintenance
- 5.3.17.1 Upon review of the RFE data submitted by the applicant pursuant to Sections 5.3.7.9 and 5.3.11.h, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of RFE safety compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board shall also determine whether the application as proposed would be compliant with the Federal Communications Commission's regulations concerning environmental effects of radio frequency emissions. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.

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- 5.3.17.2 Upon review of the acoustic noise data submitted by the applicant pursuant to Sections 5.3.7.8 and 5.3.11.g, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of acoustic noise compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.
- 5.3.17.3 The APPLICANT and co-APPLICANT shall maintain the WIRELESS SERVICE FACILITY is safe and in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the MOUNT and SECURITY BARRIER, and maintenance of the buffer areas and landscaping.
- 5.3.18 WIRELESS SERVICE FACILITY Operating Permit
- Any WIRELESS SERVICE FACILITY installed in compliance with this Bylaw shall require an annual Operating Permit from the BUILDING INSPECTOR. No WIRELESS SERVICE FACILITY shall be constructed, operated, altered, repaired or maintained except in exact conformance with such Permit.
- 5.3.18.1 Application - All applications shall be made to the BUILDING INSPECTOR in such form as he may require, and such applications shall include at least: 1) the location, by STREET number, of the proposed WIRELESS SERVICE FACILITY; 2) the name and address of the WIRELESS SERVICE FACILITY operator in charge and the owner of the LOT where the facility is to be located; 3) a scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the WIRELESS SERVICE FACILITY on the site, and illumination, if any; 4) such other pertinent information as the BUILDING INSPECTOR may require to ensure compliance with the Bylaw and any other applicable law; 5) a copy of the Special Permit, as amended, granted by the Special Permit Granting Authority under this Bylaw; and 6) the application must be signed by the property owner. The BUILDING INSPECTOR shall have the authority to reject any Permit application that is not complete when submitted.
- 5.3.18.2 Time Limitations - The BUILDING INSPECTOR shall approve or disapprove any application for a Permit within 30 days of receipt of the application. If the BUILDING INSPECTOR should fail to approve or disapprove an application for a Permit within such 30-day period, the application shall be deemed to be approved.
- 5.3.18.3 Fees - The Board of Selectmen of the Town of Stow shall establish and from time to time review the Permit fee for Wireless Service Facilities which shall be published as part of the Permit application form.
- 5.3.18.4 Certifications - The owner or operator in charge of the WIRELESS SERVICE FACILITY shall certify annually to the BUILDING INSPECTOR that he is in compliance with the standards of the Federal Aviation Communications Commission, Federal Aviation Administration, the Massachusetts Aeronautics Commission, the Massachusetts Department of Public Health regulations, and the American National Standards Institute and evidence of required maintenance shall be filed with the BUILDING INSPECTOR by the special permit holder.
- 5.3.19 Non-Wireless Facility Structures
- Municipal wireless uses, amateur radio uses, and home viewer and listener uses shall not exceed a maximum height sufficient to reasonably accommodate those uses, as required

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by Title 47 CFR Part 1 Subpart S Section 1.40000, Title 47 CFR 97.15 (as further defined by FCC PRB-1 101 FCC 2nd 952 (1985) and M.G.L. Chapter 40A, Section 3.

**5.4 ACTIVE ADULT NEIGHBORHOOD (AAN)**

5.4.1 Purpose - Stow cherishes the wisdom and experience of our citizens, and encourages continuity and participation in the town by its residents. This bylaw is intended to provide housing designed for adult residents age 55 and older who no longer want to maintain a single-family home. Preference shall be given to Stow residents and shall be achieved by local preference requirements as established, in accordance with all applicable law, by the Town of Stow Planning Board under its Rules and Regulations. An AAN shall be designed to:

- promote a sense of community among its residents;
- fit into the surrounding neighborhood while minimizing visual impacts;
- be in harmony with the natural terrain and consistent with Stow's rural New England architectural and village traditions;
- promote community through clustering of BUILDINGS, provision of community gathering spaces such as gardens and commons;
- emphasize protection of existing resources on the site, including natural resources, agriculture, recreation and trail linkages.

5.4.2 Applicability - An AAN shall only be permitted by Special Permit, and any amendments thereto from the Planning Board, acting as the Special Permit Granting Authority, in accordance with MGL Ch. 40A, s.9 on land located in the AAN District.

5.4.3 AAN District

This district shall be an overlay district and shall include parcels of land depicted on a map dated May 13, 2002 and entitled "Active Adult Neighborhood District", or any amendments thereto. This map is hereby adopted coincident with the adoption of this Bylaw. Development in an AAN District is subject to all provisions of the remainder of the Zoning Bylaw, except to the extent provided in Section 5.4, ACTIVE ADULT NEIGHBORHOOD (AAN). Section 8.9, Inclusion of Affordable Housing, applies to the AAN District, except for the restriction in Section 8.9.5.1.C.iii, which states that the total number of MULTI-FAMILY DWELLINGS shall not exceed 10% of the lots in the development.

5.4.4 Permitted Uses - There shall be permitted in any AAN:

5.4.4.1 Single-family DWELLINGS, single-family DWELLINGS with ACCESSORY APARTMENTS. For the purposes of this Bylaw, an ACCESSORY APARTMENT shall be considered a DWELLING UNIT; and

5.4.4.2 MULTI-FAMILY DWELLINGS that are designed to be consistent in character with the single-family DWELLINGS in the same development. Such MULTI-FAMILY DWELLINGS may be allowed, provided there shall be no more than four (4) DWELLING UNITS in any residential BUILDING; and

5.4.4.3 Accessory uses and structures incidental to principal uses indicated above.

5.4.5 Procedural Requirements

5.4.5.1 Any new AAN and any proposed modification of an AAN shall be allowed only by Special Permit from the Planning Board in accordance with MGL Ch. 40A, s.9, subject to the

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requirements, conditions and limitations contained herein and in the regulations adopted by the Planning Board.

**5.4.5.2 AAN Regulations**

The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section.

**5.4.5.3 Application for an AAN Special Permit**

An application for an AAN Special Permit shall be submitted in writing that meets the requirements set forth herein and all other information that may be required by the Planning Board under its Rules and Regulations.

- 5.4.6 Dimensional Requirements** - There shall be no minimum LOT area, FRONTAGE, FLOOR AREA RATIO, LOT width or YARD requirements within an AAN or for any LOT or BUILDING within an AAN except as provided in this section. However, an AAN shall comply with the applicable requirements of the Water Resource Protection and Flood Plain Districts. The Planning Board may impose appropriate additional conditions on the location, layout and size of BUILDINGS, STRUCTURES and OPEN SPACE.

An AAN shall be built according to the following dimensional standards:

Minimum TRACT OF LAND area	25 acres
Minimum frontage of TRACT OF LAND	No Minimum Required
Minimum TRACT OF LAND width	No Minimum Required
Minimum SIDE and REAR YARDS of TRACT OF LAND	No Minimum Required
Minimum setback of BUILDINGS, pavement areas other than ACCESS DRIVEWAYS and walkways from all boundaries of the TRACT OF LAND	50 feet
Minimum separation between BUILDINGS and/or STRUCTURES	20 feet
Maximum height of Principal and Accessory STRUCTURES	35 feet
Minimum OPEN SPACE	40% (OPEN SPACE shall not contain more than 50% wetlands, as defined in MGL Ch. 131, S.40 and the Stow Wetlands Protection Bylaw.)
Maximum density	3 DWELLING UNITS per acre of DEVELOPABLE SITE AREA
Maximum DWELLING UNITS per BUILDING	4

**5.4.7 Special Standards**

- 5.4.7.1** No more than 66 on-site DWELLING UNITS may be permitted under an AAN Special Permit. In no case shall the total number of DWELLING UNITS in the AAN Overlay District exceed six percent (6%) of the total number of single-family DWELLING UNITS in the Town of Stow.

- 5.4.7.2 Access Roads and Driveways** - In the event that the land that comprises an AAN is located in different zoning districts, it shall be a permitted use in each such zoning district not in the Active Adult Neighborhood Zoning District for roadways and driveways

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to provide access to land and BUILDINGS in the Active Adult Neighborhood Zoning District.

- 5.4.7.3 Each DWELLING UNIT in an AAN shall have at least one separate ground floor entrance/exit, unless the Planning Board permits otherwise as part of its Special Permit. In addition, the Planning Board may establish design guidelines for AANs.
- 5.4.7.4 The Planning Board, in granting a Special Permit for an AAN, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the tertiary treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential water resources.
- 5.4.7.5 DWELLING UNITS for Handicapped Persons - The Planning Board may require that some of the DWELLING UNITS be constructed so as to be suited for access and occupancy by a handicapped person or persons.
- 5.4.7.6 Performance Guarantee - Before the issuance of any building permits for the AAN, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land to the extent applicable and/or the regulations adopted pursuant to the Active Adult Neighborhood Bylaw for this purpose. Exceptions to the Regulations that may be adopted pursuant to this bylaw may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 5.4 of the Bylaw.
- 5.4.7.7 Revisions and Amendments of an AAN Special Permit - Any change which, in the sole opinion of the Planning Board, would alter the character of an AAN, including, but not limited to, an increase in number of total DWELLING UNITS within the AAN, an increase in the number of parking spaces, a decrease or cessation of any recreation amenities or similar use, structural change or alteration, shall require an amendment of the Special Permit or the filing of an application for a new Special Permit, as the Planning Board may determine.
- 5.4.7.8 Streets and Utilities - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the Active Adult Neighborhood is a subdivision.
- 5.4.8 Occupancy - Each DWELLING UNIT in an AAN shall be occupied by at least one person age fifty-five (55) or older.
  - 5.4.8.1 Children under the age of eighteen (18) may not reside in a DWELLING UNIT located in an AAN for more than six (6) months in any nine (9) month period.
- 5.4.9 Occupancy Income Range - The AAN shall be designed to provide housing for occupants earning a broad range of incomes, as defined by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD) for the Town of Stow. The AAN shall comply with the provisions of Section 8.9 Inclusion of Affordable Housing. In addition, at least 5% of the DWELLING UNITS shall be built to sell at a price affordable to

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middle income households, as defined by Executive Order 418 for the Town of Stow. All low income and moderate income and middle income DWELLING UNITS shall contain deed restrictions and comply with the provisions of MGL Ch. 184, s.31 as to resale price and shall provide for notice of any proposed resale and a right of first refusal to the Town of Stow, prior to any such sale.

- A. Low income or moderate income DWELLING UNITS created under this section shall be restricted as such in perpetuity and comply with the provisions of MGL Ch. 184, s.31. Middle income DWELLING UNITS created under this section shall be restricted as such in perpetuity and comply with the provisions of the Regulations promulgated in accordance with this Section 5.4.
- B. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*
- C. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*
- D. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*
- E. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*
- F. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*
- G. Rights and privileges - QUALIFIED AFFORDABLE HOUSING PURCHASERS and middle income purchasers shall have all rights, privileges and responsibilities given to owners or renters of market rate DWELLING UNITS, including access to all amenities within the development.
- H. A Special Permit issued under this Bylaw shall include the provision that no building permit shall be issued in reliance on said Special Permit, unless and until the Town of Stow has received written correspondence from the Department of Housing and Community Development (DHCD) that the low or moderate income DWELLING UNITS, authorized as a result of the Special Permit, will be included in DHCD's Subsidized Housing Inventory of low income or moderate income housing DWELLING UNITS for the purposes of compliance with the provisions of Massachusetts General Laws Chapter 40B, § 20-23. The correspondence from DHCD must provide documentation that the low or moderate income DWELLING UNITS will be treated as if they were created pursuant to an application for a Comprehensive Permit and qualifying programs thereunder.
- I. Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Stow or its designee.
- J. Timing of commitments - All contractual agreements with the Town of Stow and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any Special Permit required to commence construction.
- K. Timing of construction - As a condition of the issuance of a Special Permit under this Section, the Planning Board may set a time schedule for the construction of both low income or moderate income and market-rate DWELLING UNITS. No Certificate of Occupancy shall be issued for any market-rate DWELLING UNIT in a development, subject to the requirements of this Section, until there have been issued Certificates of Occupancy for low income or moderate income DWELLING UNITS in an amount equal to the percentage of low income or moderate income UNITS, which are to be constructed in the development or provided off-site.
- L. The above provisions apply to all on-site, off-site, buildings and existing housing stock made affordable with AAN provided funds.



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5.4.10 Planning Board Action

- 5.4.10.1 In evaluating the proposed AAN, the Planning Board shall consider the general objectives of this Bylaw and of AAN in particular: the existing and probable future development of surrounding areas, the appropriateness of the proposed layout, the configuration, and use of the OPEN SPACE in relation to the characteristics of the tract of land in question. The Planning Board may grant a Special Permit for an AAN if it finds that the AAN meets the purposes of this Bylaw as set forth herein:
- A. meets the intended purposes of this Bylaw as set forth herein;
  - B. provides a useful addition to the housing inventory of Stow;
  - C. protects and enhances the rural character and environment of Stow;
  - D. provides OPEN SPACE which is of a size, shape and location and has adequate access so as to benefit the town and the residents of the AAN;
  - E. is appropriate to the natural terrain of the tract of land to be developed;
  - F. provides for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;
  - G. the application set forth a specific plan for maintenance of all common facilities including but not limited to waste disposal and drainage facilities, roadways and other improvements to be constructed in an AAN;
  - H. will result in the creation of DWELLING UNITS that count toward the Town's "quota" requirements as established by MGL Ch. 40B s. 20-23;
  - I. complies with all other legal requirements for a Special Permit and the Zoning Bylaw, including those for an AAN; and
  - J. is consistent with the Stow Master Plan or succeeding plan, as amended.
- 5.4.10.2 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Town's consulting engineer, and other Boards, Departments and experts, in making said findings.
- 5.4.10.3 The Planning Board may require changes to the "AAN Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary, to secure the objectives of this Bylaw.
- 5.4.11 The provisions of this Bylaw are severable from each other, and the invalidity of any provisions or section shall not invalidate any other provision or section thereof.
- 5.4.12 ACTIVE ADULT NEIGHBORHOOD UNITS constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.

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**5.5 REGISTERED MARIJUANA DISPENSARY DISTRICT (RMD)**

5.5.1 Purpose - This bylaw is intended to provide for the limited establishment of REGISTERED MARIJUANA DISPENSARIES (RMD) in accordance with the Humanitarian Use of Medical Marijuana Act, M.G.L. c.94C, App. §1-1 et seq., and as they are authorized pursuant to Massachusetts Department of Public Health (DPH) regulations set forth in 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. The Medical Marijuana Overlay District Bylaw and the Rules and Regulations for RMDs are designed to provide safe and efficient access to regionally and locally appropriate locations for RMDs, and to minimize the adverse impacts of such facilities on abutting properties in the Town of Stow through controls on site design, location, hours of operation and setbacks from USES incompatible with RMDs as established in accordance with all applicable law.

5.5.2 Applicability - Notwithstanding the limitations of the base zoning or any other overlay district, a REGISTERED MARIJUANA DISPENSARY shall only be allowed within the RMD district upon the granting of a Special Permit by the Planning Board in accordance with the M.G.L. c.40A §9, on land located in the RMD District and subject to the requirements set forth in this section, the Zoning Bylaw and the Rules and Regulations for REGISTERED MARIJUANA DISPENSARIES adopted by the Planning Board.

5.5.2.1 Notwithstanding the limitations stated in section 5.5.2, the establishment and operation of a RMD, limited to the retail component, may be permitted in the Business District under section 3.3 of this BYLAW and in accordance with all applicable DPH regulations as stated in 105 CMR 725.000.

**5.5.3 REGISTERED MARIJUANA DISPENSARY OVERLAY DISTRICT**

5.5.4 Permitted Uses – There shall be permitted in any RMD District:

5.5.4.1 REGISTERED MARIJUANA DISPENSARIES subject to Special Permit granted by the Planning Board pursuant to 105 CMR 725.000.

5.5.4.2 Accessory structures incidental to the principal uses indicated above.

**5.5.5 General Requirements**

**5.5.5.1 RMD Regulations**

The Planning Board shall adopt and maintain a set of regulations that contain the necessary policies, procedures and requirements to implement the provisions of this Bylaw.

**5.5.5.2 Application for a RMD Special Permit**

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An application for a RMD Special Permit shall be submitted in writing pursuant to the requirements set forth Section 5.5, et seq., the RMD Rules and Regulations and Town of Stow Site Plan Approval Rules and Regulations.

5.5.5.3 Limitation of Approval

A Special Permit authorizing the establishment of a REGISTERED MARIJUANA DISPENSARY shall be valid only for the registered entity to which the Special Permit was issued, and only for the site on which the RMD has been authorized to locate. If the registration for an RMD has been revoked, transferred to another controlling entity, or relocated to a different site within the RMD, the Special Permit shall become null and void and a new Special Permit shall be required to reestablish the use of the RMD.

5.5.5.4 Hours of operation for the RMD shall be set by the Special Permit Granting Authority.

5.5.6 Location Requirements

5.5.6.1 All RMDs shall be contained within a building or structure.

5.5.6.2 No RMD, including the retail component of a RMD in the Business District, shall be located within a building which houses residential units.

5.5.6.3 No RMD shall be located within a moveable structure or trailer, not limited to a mobile home or truck. All sales shall be conducted within the building or through home deliveries to qualified patients consistent with the regulations pursuant to 105 CMR 725.000.

5.5.6.4 No RMD shall be permitted within (300') three hundred feet of the lot line of the following uses:

- Daycare facilities
- Schools
- Public Parks
- Playgrounds
- Drug or alcohol rehabilitation facility
- Correctional facility, half-way house, or similar facility
- Any other REGISTERED MARIJUANA DISPENSARY not involved in the processing, selling or retailing of MARIJUANA products for which the Special Permit is being issued.

The distance under this section is measured in a straight line from the nearest point of the property line of a use fitting the criteria of Section 5.5.5.8 to the nearest building footprint of the proposed RMD.

5.5.7 Site and Dimensional Requirements

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- 5.5.7.1 Dimensions – RMDs shall conform to the dimensional requirements of the underlying district set forth in the Section 4.4 of the Stow Zoning Bylaw, Table of Dimensional Requirements.
- 5.5.7.2 Height – RMDs shall conform to the height regulations set forth in Section 4.2 of the Stow Zoning Bylaw.
- 5.5.7.3 Parking and Loading – The required number of parking and loading areas servicing the RMD shall conform to Parking Regulations in Section 7 of the Zoning Bylaw. The Planning Board, at its sole discretion, may require a copy of projected need and patient population studies pursuant to the DPH Regulations to determine whether there is sufficient parking and loading area on site for the expected traffic and demand. Based on the transportation analysis, or other relevant documents, not limited to market analyses and/or trade area studies submitted as part of the Special Permit application, the Planning Board may deviate from the required number of parking spaces to ensure an adequate number of parking spaces and to preclude an excess amount of traffic on site.
- 5.5.7.4 Signage – RMDs shall meet the requirements of Section 6.3 of Zoning Bylaw regulating signs, in addition to conforming to sign regulations pursuant to 105 CMR 725.000.
- 5.5.7.5 Lighting – Lighting for the RMD, including all accessory structures, parking and security requirements, shall comply with Section 3.8.1.5 (exterior lighting) of the BYLAW, unless upon review of a lighting plan, the Planning Board determines that additional light is needed to facilitate exterior surveillance in accordance with the DPH Regulations 105 CMR 725.110 A10.
- 5.5.8 Planning Board Action
- 5.5.8.1 In evaluating the proposed RMD Special Permit application, the Planning Board shall consider the general objectives of the Zoning Bylaw, as well as the degree to which the following criteria are met:
- The RMD is located to serve a population that does not have reasonable access to RMD services.
  - The RMD site is located at least (300') three hundred feet distant from areas where children commonly congregate, as well as land uses containing a rehabilitation or group home.
  - The site is designed to create safe, secure and efficient access and egress to customers and employees using multiple modes of transportation, including vehicle, bicycle and pedestrians.
  - Traffic generated by clients, employees and delivery schedules from the RMD shall not create a substantial adverse impact on nearby residential uses.
  - The RMD proposal complies with all legal requirements for a Special Permit, including the Stow Zoning Bylaw, the Site Plan Approval Rules and Regulations for a REGISTERED MARIJUANA DISPENSARY and all requirements pursuant to the

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Department of Public Health Regulations 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana.

- f) Loading and refuse disposal areas are designed to be safe, secure and shielded from abutting uses.
- g) The building and site have been designed in a manner consistent and compatible with nearby structures of a similar size and use and in a manner that mitigates any negative aesthetic impact imposed by the required security conditions, measures and restrictions stated in the Department of Public Health Regulations pursuant to 105 CMR 725.000.

5.5.8.2 The Planning Board shall consider the recommendation of the Board of Health, the Conservation Commission, the Town's consulting engineer, and other Boards, Departments and agents, in making said findings.

5.5.8.3 The Planning Board may require changes to the "RMD Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary, to secure the objectives of this Bylaw.

5.5.9 If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, or the application of those provisions to persons or circumstances other than those to which it is held invalid, the remaining provisions of this Bylaw shall not be affected thereby, and to this end the provisions of this Bylaw are severable.

5.5.10 A REGISTERED MARIJUANA DISPENSARY permitted under this Bylaw shall as a condition of its special permit file an annual report to the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the Dispensary and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

## **SECTION 6**

### **GENERAL REGULATIONS**

#### **6.1 Hammerhead LOTS**

In a Residential District, a LOT known as "Hammerhead LOT" may be granted by special permit by the Planning Board, under the requirements and process for a special permit, provided that the Board is able to make a finding that all the following conditions have been met:

- 6.1.1 The LOT has a frontage of at least 50 feet;
- 6.1.2 The LOT has an area of at least 180,000 square feet;
- 6.1.3 The LOT has sufficient area suitable for BUILDINGS. The area suitable for BUILDINGS shall be considered sufficient if
  - 6.1.3.1 a circle of 150 feet in diameter, or
  - 6.1.3.2 a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan within the buildable area and not overlap any LOT line or any wetlands or Flood Plain District;
- 6.1.4 The LOT has a minimum width of 50 feet between the STREET LINE and the buildable area. A LOT means the minimum width requirement if a 50-foot diameter circle can move on the LOT plan from the STREET LINE to the buildable area without overlapping or crossing any LOT line or any Flood Plain District line;
- 6.1.5 Any BUILDING on the LOT be set back at least 40 feet from every property line;
- 6.1.6 A condition of the permit be that the LOT shall not be further divided; and
- 6.1.7 Sufficient sight distance to permit safe access to the way is provided in both directions at the point of access from the LOT across its frontage. Sight distance shall be deemed sufficient if, in feet, it is equal to at least six times the posted or allowable speed (miles per hour) of the way onto which access is provided.

#### **6.2 Common Drive**

Common drives are encouraged and may be allowed as provided in this section. In the Residential District, construction of a private drive to be shared by more than one LOT, but not more than three (3) LOTS, is permitted subject to the following specifications:

- 6.2.1 The common drive surface shall be twelve (12) feet wide. It shall have an 11-inch gravel base and a 4-inch compacted dense graded surface.
- 6.2.2 The maximum length of the common drive shall be five hundred (500) feet and shall be measured from the near side line of the street along the center line of the common drive to the throat of the furthest junction. As part of an approved subdivision or special permit granted by the Planning Board, the length of a common drive may be longer than five hundred (500) feet.

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- 6.2.3 The common drive shall lie entirely within the LOTs being served.
- 6.2.4 Use of the common drive by vehicle traffic shall be limited to ingress and egress and does not include the parking of vehicles on the common drive, except that occasional overflow parking of guests' vehicles shall be permitted, provided that such vehicles are parked in a manner that does not impede traffic flow and that such parking does not extend overnight.
- 6.2.5 The owners of the LOTS shall bear and have joint and several responsibilities and obligations for the repair, maintenance, reconstruction and snowplowing of the common drive, so as to provide continuous year-round access for vehicle traffic for the convenience of the owners of the LOTS, and to provide continuous year-round access for all emergency, fire, rescue, police, moving, construction and maintenance vehicles. No building permit shall be issued until a restriction or covenant to run with the land has been approved by the Planning Board in a form satisfactory to assure compliance with this provision and a copy of the document received by the BUILDING INSPECTOR.
- 6.2.6 An Erosion Control and Sedimentation Plan, in accordance with Planning Board Rules and Regulations governing the same, shall be submitted to and approved by the Planning Board.
- 6.2.7 As part of an approved subdivision or special permit granted by the Planning Board, the number of LOTs served by a common drive may be increased to five (5).

**6.3 SIGNS**

- 6.3.1 The following general regulations shall apply to all SIGNS in all districts:
- 6.3.1.1 No SIGN shall be ERECTED except as provided in this Bylaw;
- 6.3.1.2 No SIGN shall be ERECTED to in any way create a traffic hazard or confuse traffic control;
- 6.3.1.3 Only continuous white lights shall be used for illumination of a SIGN. The illumination for any SIGN shall be shielded, directed and maintained so as to cast no direct beam up into the sky, on a public or private way, pedestrian way, or adjacent property, and shall be of sufficiently low intensity that it shall not cause a glare or reflection that may constitute a traffic hazard or a nuisance. SIGNS shall not be illuminated between 9:00 p.m. and 5:00 a.m., except during business hours;
- 6.3.1.4 Any SIGN, including pre-existing signs, not properly maintained or which applies to products or activities which are no longer offered shall be removed;
- 6.3.1.5 SIGNS which are oscillating, internally illuminated, flashing or operating with moving parts are not permitted;
- 6.3.1.6 Each PERMANENT SIGN shall display its permit number at a location readily visible to the inspector;
- 6.3.2 Pre-existing SIGNS - Any SIGN legally ERECTED prior to the adoption of this Bylaw may continue to be maintained, provided, however, that no such SIGN shall be enlarged or altered except in conformance with a permit issued in accordance with the provisions of this Bylaw.
- 6.3.3 On Site - Permanent - PERMANENT SIGNS are permitted subject to the General Regulations of following subsections:

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**6.3.3.1 Residential and Recreation-Conservation Districts:**

1. One (1) ON-SITE SIGN is permitted not exceeding five (5) square feet in area on State numbered highways and three (3) square feet in area elsewhere.
2. One (1) ON-SITE SIGN pertaining to the rent, lease or sale of land or BUILDING(s) not exceeding three (3) square feet in area. All such SIGNS shall be removed within seven (7) days of rental, lease or sale of land or BUILDING.
3. One ON-SITE SIGN pertaining to agriculture, as permitted in Sections 3.1.1.2, 3.1.1.3, 3.1.1.5, and Section 3.2.1.1, each not exceeding sixteen (16) square feet in area, may be ERECTED.

**6.3.3.2 Business, Compact Business, Commercial, Industrial and Refuse Disposal Districts:**

1. For each establishment, one (1) ON-SITE SIGN attached to the facade of the BUILDING not exceeding the lesser of one square foot for each one lineal foot of business, commercial or industrial BUILDING frontage or eighty (80) square feet in area.
2. Window SIGNS in total may be the larger of 30% of the window or three (3) square feet.
3. One (1) primary free standing SIGN visible from the main public way not exceeding twenty (20) square feet in area.
4. In the case of multiple businesses in the same BUILDING or sharing the same access and/or parking facilities, only one SIGN is permitted per principal access.
5. If the business is on a corner LOT and the primary SIGN is not visible from the intersecting road, a secondary SIGN not larger than 50% of the primary SIGN is permitted.
6. One (1) ON-SITE SIGN pertaining to the rent, lease or sale of land or BUILDING(s) not exceeding six (6) square feet in area. All such SIGNS shall be removed within seven (7) days of rental, lease or sale of land or BUILDING.

**6.3.4 Off-site SIGNS - The following off-site SIGNS are permitted subject to any required approvals of the State Department of Public Works or the Outdoor Advertising Board.**

**6.3.4.1 Seasonal Agriculture:**

1. SIGNS for uses permitted/allowed in Sections 3.1.1.2, 3.1.1.3, 3.1.1.5 and Section 3.2.1.1, one not to exceed sixteen (16) square feet in area, and other such SIGNS not to exceed twelve (12) square feet, with a total square footage of all such SIGNS not to exceed seventy five (75) square feet.
2. One (1) slot on each community agricultural ladder SIGN posted at the Town entrances, subject to dimension and format requirements of the Planning Board and written approval of the Stow Agricultural Commission.
3. Seasonal agriculture SIGNS may be ERECTED one (1) week prior to the beginning of sales and must be removed one (1) week after sales are completed.
4. The Planning Board may grant a waiver from the requirements of this Section.

**6.3.4.2 Directional SIGNS for Businesses located in Stow: A free-standing pole may be ERECTED at intersections of town roads, located not to obstruct vision on the right of way and affixed with directional SIGNS, with the approval of the Board of Selectmen;**



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1. Non-agricultural directional SIGNS shall be 6" x 24" and have a dark green background. Lettering shall be yellow and no more than 4" in height.
2. A directional SIGN may bear only the name of a business, logotype, distance and directional arrow.
3. Directional SIGNS shall not be illuminated.
4. The maximum number of SIGNS per business shall not exceed three (3) located at different intersections.
5. Maximum of two (2) direction SIGN poles per intersection, excluding agricultural directional SIGNS.
6. The maximum height of a direction SIGN pole is eight (8) feet above the road surface.
7. Direction SIGN poles and locations will be subject to the approval of the BUILDING INSPECTOR and Superintendent of Streets.
8. A maximum of eight (8) businesses may share a pole for direction SIGNS.
9. The cost of the SIGNS, pole and maintenance shall be the sole responsibility of the SIGN owners.
10. Agricultural directional SIGNS shall be 6" x 24". The colors for the background and lettering and logos may be consistent with the marketing colors and logo used by the agricultural businesses. There is no restriction to lettering or logo size.

- 6.3.5 TEMPORARY SIGNS - TEMPORARY SIGNS up to three (3) square feet in area may be placed on private or public land. Each SIGN shall include the name, address and telephone number of the person responsible for the SIGN and date of posting. Any SIGN without this information is in violation of this Bylaw and shall be removed at the owner's expense. Failure of the owner to remove any SIGN within twenty-one (21) days of posting is a violation of this Bylaw.

Each event shall be allowed up to ten (10) TEMPORARY SIGNS. Similar events which occur at the same location and on consecutive days shall be deemed to be one event.

- 6.3.6 Exceptions - In all districts the following exceptions shall apply, but these SIGNS should reasonably comply with Town bylaws where possible. No permit is required unless otherwise specified:
- 6.3.6.1 Federal, state and Town of Stow SIGNS are exempt from the provisions of this section;
  - 6.3.6.2 Religious and charitable organizations are permitted up to three (3) SIGNS with a combined area not exceeding forty (40) square feet, but require a permit;
  - 6.3.6.3 Historical markers or tablets, if approved by the Stow Historical Commission, are exempt;
  - 6.3.6.4 Window SIGNS stating hours of operation, affiliations, credit cards and emergency information are exempt, provided each such SIGN does not exceed one half (1/2) square foot;
  - 6.3.6.5 SIGNS regulating the use of or access to land are exempt if less than one (1) square foot in area;

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- 6.3.6.6 SIGNS endorsing political campaigns or issues are exempt, provided such SIGNS are no larger than six (6) square feet and are removed within seven (7) days after the election to which they pertain; and
- 6.3.6.7 SIGNS showing the name only of the resident for identification are not exempt, but shall not require a permit.

6.3.7 Administration and Enforcement

- 6.3.7.1 Administration - There is hereby created a Sign Officer who shall be appointed annually by the Board of Selectmen.
- 6.3.7.2 Permits - No PERMANENT SIGN shall be ERECTED unless a permit has been issued by the Sign Officer. TEMPORARY SIGNS do not require a permit. The permit fee shall be \$2.00 per square foot payable to the Town of Stow when the permit application is submitted. There shall be no charge for seasonal agricultural SIGNS.
- 6.3.7.3 Application - Permit applications shall be submitted to the Building Department and shall include at least:
  - 1. the location, by street number, of the proposed SIGN;
  - 2. the name and address of the SIGN owner and of the owner of the premises where the SIGN is to be located;
  - 3. a scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the SIGN on the site and method of illumination;
  - 4. all existing SIGNS maintained on the premises;
  - 5. such other pertinent information as the BUILDING INSPECTOR and/or Sign Officer may require to ensure compliance with this Bylaw and any other applicable law; and
  - 6. the signature of the owner of the SIGN and the owner of the premises where the SIGN is to be located.

The Sign Officer shall have the authority to reject any SIGN permit application which is not complete when submitted.

- 6.3.7.4 Approval - The Sign Officer shall approve or disapprove any application for a SIGN permit within thirty (30) days of receipt of the application by the Building Department. If the Sign Officer should fail to approve or disapprove an application for a SIGN permit within such thirty (30) day period, the application shall be deemed to be approved. The Sign Officer shall issue a permit number with each approval or deemed approval.
- 6.3.7.5 Enforcement -
  - 1. The BUILDING INSPECTOR and/or Sign Officer shall, at reasonable times, have the power to enter upon the premises on which any SIGN is ERECTED or maintained in order to inspect said SIGN.
  - 2. If the BUILDING INSPECTOR determines that a SIGN is in violation of this Bylaw, he shall give written notice to the owner of such SIGN, and to the owner of the premises on which such SIGN is located, to remove or modify the SIGN within thirty (30) days to be in accordance with the provisions of this Bylaw. Failure to comply with the notice or appeal the decision constitutes a violation of this Bylaw. Immediate removal may be ordered for any SIGN requiring a permit

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which is ERECTED without first obtaining such permit, or which is a safety hazard.

3. All SIGNS without a permit number displayed will be removed at the owner's expense, except any SIGN legally ERECTED prior to the adoption of this Bylaw.

- 6.3.7.6 Right of Appeal - Any person who is dissatisfied with the decision of the BUILDING INSPECTOR or Sign Officer may appeal to the Board of Appeals within thirty (30) days from the date of such refusal, order or decision. If the action of the Inspector is modified or annulled, the BUILDING INSPECTOR shall issue a permit or order in accordance with the decision of the Board.
- 6.3.7.7 Variation in Specific Cases - The Board of Appeals may vary the provisions of this Bylaw in specific cases which appear to them not to have been contemplated by this Bylaw, and in cases wherein its enforcement would involve practical difficulties or unnecessary hardship, if, in each instance, desirable relief may be granted without substantially derogating from the intent of this bylaw but not otherwise. Any decision to vary the provisions of this Bylaw shall be by at least a 4/5 vote of the Board and shall specify any variance allowed and the reasons therefor.
- 6.3.7.8 Penalties - Any SIGN owner or property owner who violates this Bylaw shall be subject to a fine of not more than \$50.00 per day. Each day that a violation continues shall constitute a separate offense.

#### **6.4 TRAILERS and MOBILE HOMES**

No TRAILER or MOBILE HOME shall be moved onto any LOT within the Town for use as a DWELLING except as provided in MGL Ch. 40A, s.3.

#### **6.5 Earth Removal**

Unless specifically exempted under Article 17 of the Stow General Bylaws, a permit is required for the removal of earth in conjunction with a lawfully permitted use, provided that the Permit Granting Authority determines that such earth removal is necessary and consistent with the provisions of federal and state law, the General Bylaw and the Zoning Bylaw.

#### **6.6 FENCES**

- 6.6.1 In residential districts, no FENCE or WALL shall exceed eight feet in height.
- 6.6.2 In residential districts, FENCES shall be set back a minimum of one foot from the property lines. In instances when the FENCE is primarily intended to enclose animals, it shall be set back a minimum of three (3) feet from the property line.
- 6.6.3 Swimming Pools Fencing:
  - 6.6.3.1 Every outdoor swimming pool, whether or not filled with water, shall be completely surrounded at all times by a FENCE or WALL, in compliance with The Massachusetts State Building Code, 780 CMR, Section 421.

## **SECTION 7**

### **PARKING REGULATIONS**

#### **7.1 Purpose**

The purpose of this section is to ensure that all uses be provided with sufficient off-street parking and loading facilities to meet the needs of the proposed and actual uses; to ensure that off-street parking and loading facilities are designed so as to reduce hazards to pedestrians and drivers; to reduce congestion in the STREETS; to reduce nuisance to abutters from noise, fumes and headlight glare ordinarily associated with parking and loading areas; to reduce the environmental deterioration to surrounding neighborhoods resulting from glare, storm water runoff, heat, dust and unattractive views associated with large expanses of pavement and vehicles.

#### **7.2 General Provisions**

An adequate number of off-street parking spaces shall be required in all districts to accommodate residents and visitors. Therefore, no BUILDING or STRUCTURE shall be located upon any LOT and no activity shall be conducted upon any LOT unless the required parking facilities are provided on site in accordance with this Section.

**7.2.1 Changes** - Any change to a BUILDING, STRUCTURE or USE, or a change from one permitted USE to another permitted USE shall comply with the requirements of the Schedule of Minimum Parking for the entire BUILDING, STRUCTURE or USE as changed.

**7.2.2 Undetermined Uses** - Where the use of a BUILDING or BUILDINGS has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the district where such undetermined use is to be located shall apply provided, however, that the number of parking spaces actually built need not exceed the number required by the actual use or uses of the BUILDING when established to the satisfaction of the permit granting authority by calculation and/or appropriate condition or covenant in recordable form.

**7.2.3 Relief from Parking Regulations** - Relief from the Parking Regulations as otherwise required in the Bylaw may be obtained as follows:

**7.2.3.1 Special Permit from the Board of Appeals** - Relief from the parking regulations may be granted by special permit from the Board of Appeals, where the Board finds that it is not practicable to provide the number of parking spaces required, if either (1) in the case of a change from a NONCONFORMING USE to a conforming USE, that the benefits of a change to a conforming USE outweigh the lack of parking spaces, or (2) in the case of a change from one conforming USE to another conforming USE, that the lack of parking spaces will not create undue congestion or traffic hazards on or off the site.

**7.2.3.2 Industrial Uses** - Relief from buffer and landscape requirements for Industrial Uses - In the case of a continuous parking lot(s) associated with a conforming use in an industrial district, the buffer and landscape requirements in Subsections 7.7.5, 7.7.6 and 7.7.7 may be varied in accordance with Planning Board Rules and Regulations governing the same or in accordance with the Planning Board's Design Review Approval of off-street parking and loading area design requirements. Design Review Approval shall include

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the requirement for a landscape parking plan using Stormwater Best Management Practices.

- 7.2.4 Use of Required Parking as Commercial or Public LOT - No parking area designated as required parking in connection with a BUILDING, STRUCTURE or USE shall be operated as a commercial or public parking lot to provide spaces for the general public (excluding customers, clients, patients, guests or business invitees of the owner or tenant of each BUILDING or STRUCTURE) for a fee or other compensation.
- 7.2.5 Reserved Parking spaces - Where the total number of off-street parking spaces required are not immediately required for a particular intended USE as established to the satisfaction of the permit granting authority (or BUILDING INSPECTOR if no special permit or site plan approval is required), a phased development plan may be permitted requiring that only a portion of the parking area, but not less than sixty-five percent (65%) of the required spaces, be completed initially, subject to the following provisions:
- 7.2.5.1 The total number of spaces required to be shown on the plan shall be determined in accordance with the provisions of this Bylaw;
- 7.2.5.2 The spaces that are not intended for construction immediately shall be labeled "Reserve Parking" on the plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development, and in no case located within area counted as buffer, setback or OPEN SPACE under other provisions of this Bylaw;
- 7.2.5.3 Adequate drainage shall be provided for both the partial and total parking areas;
- 7.2.5.4 The portion of the parking areas not to be paved initially shall be landscaped with a ground cover to prevent erosion. The ground cover shall be appropriate for soil conditions, water availability and the environment;
- 7.2.5.5 An appropriate condition shall be in the special permit or other instrument, such as a covenant, in recordable form, which shall be recorded at the Registry of Deeds or filed with the Land Court, as the case may be, to establish the intended use and provisions for any future changes to the satisfaction of the Permit Granting Authority, which condition or covenant shall run with the land and be enforceable by the Town.

**7.3 Schedule of Minimum Parking - General Requirements**

- 7.3.1 Comparable USE Requirement - Where a USE is not specifically included in the Schedule of Minimum Parking, it is intended that the regulations for the most nearly comparable USE specified shall apply. Alternative off-street parking standards to those shown below may be accepted if the applicant demonstrates to the satisfaction of the Permit Granting Authority (or BUILDING INSPECTOR if no special permit or site plan approval is required), or their designee, that such standards are adequate for the intended USE.
- 7.3.2 Mixed Use Facilities - BUILDINGS or LOTS which contain more than one USE are considered mixed use facilities. In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each use, so that adequate space shall be provided to accommodate all vehicles anticipated on the premises at any one time. Parking spaces for one USE shall not be considered as providing the required spaces for any other USE, except when it can be clearly demonstrated that the need for parking occurs at different times.

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7.3.3 Schedule of Minimum Parking

7.3.3.1 Agricultural

Greenhouse	1 space for each 250 sq. ft. of GROSS FLOOR AREA of inside sales or display room.
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7.3.3.2 Recreation

Camps	1 space per 10 children of rated capacity of camp plus 1 space per employee and 1 space per camp vehicle kept on the premises.
Handball, racquetball, tennis courts	3 spaces per court plus 1 space per employee on the largest shift.
Golf Courses	5 spaces per hole plus 1 space per employee on the largest shift plus 50 percent of the spaces otherwise required for accessory uses (restaurants, bar, etc.).
Swimming pool	1 space per 75 sq. ft. of GROSS FLOOR AREA.
Bowling alley	4 spaces per alley.
Skating rink	1 space per 300 sq. ft. of GROSS FLOOR AREA of facility plus 1 space per employee on the largest shift.
Other outdoor recreational facilities	1 space per 4 persons generally expected on the premises at any one time.

7.3.3.3 Residential

DWELLINGS	2 spaces for each DWELLING UNIT containing less than 5 bedrooms plus one parking space for each additional bedroom and sufficient off-street parking for visitors.
BOARDING HOUSE	2 spaces plus 1 space per rentable room or suite.
Bed and Breakfast	1 space for each bedroom plus 1 space per employee on the largest shift.
Home Occupation	2 spaces for the DWELLING UNIT and sufficient spaces to comply with section 3.2.1.7.
INDEPENDENT ADULT LIVING RESIDENCE	1 space for each employee on the shift having the greatest number of employees, including resident staff. The number of resident spaces shall be 40% of the total units.

7.3.3.4 Institutional

Schools, elementary and middle	2 spaces for each classroom, but not less than 1 space per teacher and staff position plus 1 space for each 5 seats of rated capacity of the largest auditorium or gymnasium.
High schools	1 space per teacher and staff position plus 1 space per 5 students.
Other non-profit educational uses	To be determined by Permit Granting Authority (or BUILDING INSPECTOR if no special permit required) based upon the most comparable other use in the table.

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Nursing home, elder care facility	1 space for each 2 beds plus 1 space for each employee on the largest shift and adequate spaces for delivery vehicles.
Religious	1 space per 3 seats or 1 space for each 4 persons to maximum rated capacity of the hall or meeting room, whichever is greater.
Libraries, museums, community centers	1 space per 300 sq. ft. of GROSS FLOOR AREA.
Lodge or club	1 space per 3 seats.
Day-care	1 space per 10 children of rated capacity of the day-care facility plus 1 space for each teacher and staff person on the largest shift.

7.3.3.5 Business

Retail stores not listed below, general and personal services, studio	1 space for each 200 sq. ft. of GROSS FLOOR AREA.
Business or professional office	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Restaurant, funeral home	1 space for each 3 seats plus 1 space for each employee on the largest shift.
Quick food restaurant, video rental store, other quick service establishments	1 space for each 30 sq. ft. of GROSS FLOOR AREA.
Motor vehicle service station, repair or body shop	4 spaces for each service bay and work area.
Shopping center	1 space per 250 sq. ft. of gross leasable area.
Vehicle dealership, boat sales, rentals	1 space per 1,500 sq. ft. of GROSS FLOOR AREA and 1 space per 1,500 sq. ft. of exterior display area
Veterinary, kennel	2 spaces per exam room plus 1 space for each additional employee on largest shift.
Medical center, laboratories	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Building trade shop	1 space for each 800 sq. ft. of GROSS FLOOR AREA.
Convenience store	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Financial institutions	1 space per 300 sq. ft. of GROSS FLOOR AREA.
HOTEL, INN, MOTEL	1 space for each bedroom plus 10 per 1,000 sq. ft. of GROSS FLOOR AREA and adequate spaces for delivery vehicles.

7.3.3.6 Industrial

Manufacturing, packaging, processing and testing	1 space for each 800 sq. ft. of GROSS FLOOR AREA.
Warehouse	1 space per 5,000 sq. ft. of GROSS FLOOR AREA.

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**7.4 Off-Street Loading Areas**

One or more off-street loading areas shall be provided for any business that may be regularly serviced by tractor-trailer trucks, SU-30 design vehicles or other similar delivery vehicles. Adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each BUILDING and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

**7.5 Standard Parking Dimensional Regulations**

- 7.5.1 Off-street parking areas shall be located on the same or adjacent parcel as the use they are designed to serve.
- 7.5.2 Access to parking and loading areas shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress and egress from all parking spaces and loading areas to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.
- 7.5.3 Where sidewalks occur in parking areas, parked vehicles shall not overhang the sidewalk unless an additional two (2) foot sidewalk width is provided in order to accommodate such overhang.
- 7.5.4 Parking areas shall comply with the requirements of the Architectural Access Board or other such regulatory authority.
- 7.5.5 Paved off-street parking areas shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking	Width of Parking Stall	Parking Stall Length of Line	Width of MANEUVERING AISLE
90° (two-way)	9.0'	18.0'	24.0'
75° (one-way)	9.0'	19.0'	22.0'
60° (one-way)	10.4'	22.0'	18.0'
45° (one-way)	12.7'	25.0'	14.0'
Parallel (one-way)	8.0'	22.0'	14.0'
Parallel (two-way)	8.0'	22.0'	18.0'

**7.6 Small Car Stalls**

In parking areas containing more than forty (40) parking stalls, thirty percent (30%) of such parking stalls may be for small car use, except for retail store, personal service facility, general services or restaurant uses. Such small car stalls shall be grouped in one or more contiguous areas and shall be identified by a SIGN(S).



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- 7.6.1 Small Car Parking Dimensional Regulations - Off-street small car parking areas shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking	Width of Parking Stall	Parking Stall Length of Line	Width of MANEUVERING AISLE
90° (two-way)	8.0'	16.0'	24.0'
75° (one-way)	8.5'	17.0'	22.0'
60° (one-way)	9.8'	18.5'	18.0'
45° (one-way)	12.0'	21.5'	14.0'
Parallel (one-way)	8.0'	18.0'	14.0'
Parallel (two-way)	8.0'	18.0'	18.0'

**7.7 Off-Street Parking and Loading Area Design Requirements**

Any parking area serving a USE or USEs other than a single-family DWELLING, duplex DWELLINGS, ACCESSORY APARTMENTS, SENIOR LIVING RESIDENCE or an INDEPENDENT ADULT RESIDENCE with ten (10) or fewer residents, shall be designed in compliance with the following standards. Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage which is suitable in accordance with good engineering practices. Any parking area containing five (5) or more parking spaces shall include landscaping as required below which is satisfactory to the Permit Granting Authority (if the parking area is related to a PERMITTED USE for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, in accordance with good engineering practices, located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety and to minimize the adverse effects of the parking or loading facility on the natural environment.

- 7.7.1 Setbacks: Except where greater setbacks may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS DRIVEWAYS, common driveways or walkways, shall be located within thirty (30) feet of the front LOT line and within ten (10) feet of the side and rear LOT lines.
- 7.7.2 ACCESS DRIVEWAYS: Each LOT may have one ACCESS DRIVEWAY through its FRONT YARD, which shall be twenty-four (24) feet wide, unless in the opinion of the Permit Granting Authority (if the parking area is related to a PERMITTED USE for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, in accordance with good engineering practice for safety or other reasons, a wider and/or greater number of ACCESS DRIVEWAY is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS DRIVEWAY for one-way traffic only may be a minimum of fourteen (14) feet wide. There shall be no more than one additional ACCESS DRIVEWAY for each 200 feet of frontage, and all such additional ACCESS DRIVEWAYS shall be at least 200 feet apart on the LOT, measured from the centerline of each ACCESS DRIVEWAY. Other than secondary access for emergency use, no driveway for a non-residential principal use shall cross land in a residential zoning district in which the principal use is not allowed.

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- 7.7.3 INTERIOR DRIVEWAYS: INTERIOR DRIVEWAYs shall be at least twenty (20) feet wide for two-way traffic and fourteen (14) feet for one-way traffic.
- 7.7.4 Perimeter Landscaping Requirements: All parking areas with more than five (5) spaces and all loading areas shall be bordered on all sides with a minimum of a ten (10) foot wide buffer strip on which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area.
- 7.7.4.1 Off-street parking and loading areas which are located within or adjacent to a Residential District or a Recreation-Conservation District (whether on the side or rear) shall be screened from all adjacent LOTS in said district by a landscaped buffer strip of at least thirty (30) feet in width through the use of an opaque screen. Said screen shall be opaque from the ground to a height of at least six (6) feet with intermittent visual obstruction to a height of at least twenty (20) feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, FENCE, landscaped earth berm or densely planted vegetation in a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Stow. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide.
- 7.7.5 Interior Area Landscaping Requirements: A minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, must be planted as landscaped island areas. Planting required within the parking area is exclusive of other planting requirements, such as for shade trees planted along the STREET and shall not be included as part of any minimum OPEN SPACE required elsewhere in this Bylaw.
- 7.7.6 Plantings for Perimeter and Interior Area Landscaping Requirements shall consist of:
- 7.7.6.1 A minimum of one (1) shrub per thirty (30) square feet of landscaped island area and one (1) shade tree per every ten (10) parking spaces shall be installed, unless the Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, determines that there is sufficient existing vegetation to allow a reduction in the amount of new landscaping;
- 7.7.6.2 Shade trees shall be of a species tolerant to the climatic conditions of Stow and/or parking area conditions and be of at least two inch (2") caliper.
- 7.7.6.3 Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Stow, and be at least eighteen (18) inches in height at time of planting. Snow storage areas shall be planted with shrubs that are tolerant to weight and extended duration of snow cover.
- 7.7.6.4 Except for the portion of the landscaped island that will be under the car overhang, which shall be mulched, the area between trees and shrubs shall be covered with loam to a depth of six inches (6") and planted with turf grass or a hardy noninvasive, low-maintenance ground cover.
- 7.7.6.5 Wherever possible, the above requirements shall be met by retention of existing vegetation.
- 7.7.6.6 Planting shall be done in accordance with proper landscaping practices.

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7.7.6.7 Trees, shrubs, grass and ground cover which die or become diseased shall be replaced.

7.7.6.8 All landscaping in parking areas shall be placed so that it will not obstruct sight distance. Final locations of all plantings shall be inspected and approved by the Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, including the viability of existing vegetation retained after development and any necessary replacements thereof.

7.7.7 Lighting - Off-street parking and loading areas used after sunset shall be illuminated while in use. The height and shielding of lighting standards shall provide proper lighting without hazard to drivers or nuisance to residents, and the design of lighting standards shall be of a type appropriate to the development and Stow and otherwise in compliance with Section 3.8.1.5 of this Bylaw.

A fixture with an INITIAL DESIGN LIGHT OUTPUT of more than 2,000 lumens that shines DIRECT LIGHT into the sky or onto any DWELLING on another LOT shall be considered a NUISANCE and not proper lighting under this section.

Parking lot and driveway lighting with a total INITIAL DESIGN LIGHT OUTPUT of more than 10,000 lumens shall be subject to a Special Permit, which shall show the location, output and type of all fixtures. The total INITIAL DESIGN LIGHT OUTPUT of all fixtures shall not be greater than 6 lumens per square meter of parking lot or driveway.

7.7.8 Bonds, Securities - The Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking area), or their designee, may require a bond or other form of security to ensure the satisfactory planting of required landscaping and to ensure the survival of such landscaping for up to two (2) years following such planting. All required landscaping and plantings must be maintained in a neat, attractive appearance as a condition of the continued PRINCIPAL USE of the LOT.

**7.8 Structured Parking**

The accommodation of required off-street parking spaces in a garage, deck or other STRUCTURE shall require, in addition to all other OPEN SPACE requirements of this Bylaw, the set-aside of OPEN SPACE of an area equal to the footprint of the structured parking facility. Structured parking facilities shall not be counted in calculating the NET FLOOR AREA of a BUILDING.

## **SECTION 8**

### **SPECIAL REGULATIONS**

#### **8.1 ACCESSORY APARTMENTs**

- 8.1.1 Purpose - As provided herein, one additional DWELLING UNIT may be allowed as an ACCESSORY APARTMENT in a single-family DWELLING or ACCESSORY BUILDING located on a LOT with a single-family DWELLING for the purpose of providing small additional DWELLING UNITs without adding to the number of BUILDINGs in the Town or substantially altering the appearance of BUILDINGs, the neighborhood or the Town; increasing the range of housing accommodations; encouraging a greater diversity of population; and encouraging a more efficient and economic use of existing housing stock by enabling owners of single-family DWELLINGs larger than required for their present needs to share space and the burdens of homeownership while maintaining the single-family appearance and character of BUILDINGs, the neighborhood and the Town.
- 8.1.2 ACCESSORY APARTMENTs Allowed by Right - The BUILDING INSPECTOR may grant a building permit for one ACCESSORY APARTMENT provided that:
- 8.1.2.1 The single-family DWELLING or ACCESSORY BUILDING was in existence on or before May 6, 1991, or
- 8.1.2.2 The ACCESSORY APARTMENT is attached to or within a single-family DWELLING constructed after May 6, 1991; and
- 8.1.2.3 provided that all of the following requirements are met:
1. The ACCESSORY APARTMENT shall be a use secondary and incidental to the single-family DWELLING and shall contain no more than 700 square feet of GROSS FLOOR AREA.
  2. No more than one ACCESSORY APARTMENT shall exist on the LOT.
  3. Either the single-family DWELLING or the ACCESSORY APARTMENT shall be occupied by the owner of the LOT. For the purposes of this section, the "owner" shall be one or more individuals who holds legal or beneficial title to said LOT and for whom the DWELLING is the primary residence for voting and tax purposes.
  4. Both the single-family DWELLING and the ACCESSORY APARTMENT shall satisfy the requirements of 310 CMR 15.00 (Sanitary Code - Title 5) and Stow Board of Health regulations.
  5. The LOT on which the single family DWELLING or ACCESSORY BUILDING is located shall contain no less than 1.5 acres.
  7. Any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT.
  8. Any modification to the existing entrances on the front facade of the single-family DWELLING shall result in the appearance of a single main entrance.
  9. A minimum of two (2) off-street parking spaces shall be provided for each DWELLING UNIT. There shall be adequate provision for ingress and egress from all parking spaces.
  10. There shall be no more than one (1) driveway per LOT.

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8.1.3 ACCESSORY APARTMENTS Allowed by Special Permit - A special permit for an ACCESSORY APARTMENT may be granted by the Planning Board provided that:

- 8.1.3.1 All of the conditions and requirements of Section 8.1.2 are met, with the exception of Sections 8.1.2.3.5 and 8.1.2.3.10.
- 8.1.3.2 All conditions and requirements for approval of a special permit are satisfied.

**8.2 Duplex Residential Uses in a Residential District Subject to a Special Permit by the Planning Board**

- 8.2.1 Purposes: The duplex option is intended to achieve a broader range of housing choices within the community; to stimulate more affordable housing units through the creation of duplex development on individual LOTS within a subdivision; and to permit a developer, public agency, or developer in conjunction with a public agency, to propose duplex development in subdivisions which shall be affordable to households whose incomes meet the Town's criteria for affordable housing.
- 8.2.2 Dimensional Requirements - On LOTS that are proposed for subdivision, duplexes must be situated on individual LOTS which conform to the density and dimensional regulations of the Residential District. Each LOT shall require a minimum LOT size of 65,340 square feet, 43,000 square feet of which is "buildable" land. Under no circumstances will a special permit be granted for projects the construction of which is sited in whole or in part in the Water Resource Protection District. The maximum square footage of the total duplex STRUCTURE (both units combined) shall be no greater than 3,000 square feet of FLOOR AREA. In no event shall duplexes be permitted on more than 25% of the LOTS within a subdivision.
- 8.2.3 General Requirements - Two-family development in the Residential District may only occur within a proposed subdivision by obtaining a special permit and upon obtaining certification from the Board of Health that all waste disposal standards are met. Construction must commence within two years of obtaining the special permit and must be completed within the two years following the start, or the permit will expire.
- 8.2.4 Special Permit Requirements - Duplex development is subject to approval as provided in this subsection.
  - 8.2.4.1 Application for a special permit under this Section shall be made to the Planning Board through the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee.
  - 8.2.4.2 The application shall include the following:
    - 1. The Special Permit Granting Authority shall specify a submission fee in its Rules and Regulations and in no case shall the fee be less than \$350.00;
    - 2. all information required for a special permit;
    - 3. all information required for a subdivision;
    - 4. a legally recordable document that details the long term provisions that are required for the retention of the affordable units for affordability purposes;
    - 5. information describing the projected ownership pattern of the proposed development once completed;
    - 6. a property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement; and

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7. a site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common OPEN SPACE.

8.2.4.3 Public Hearing - The public hearing shall be held in accordance with the provisions of the Massachusetts General Laws.

8.2.4.4 Criteria of Approval - The special permit may be approved if the Special Permit Granting Authority finds that all the following conditions are met:

1. All of the criteria required for a special permit are met; and
2. There is a minimum of 10% or one DWELLING UNIT (whichever is more) and a maximum of 40% of all DWELLING UNITS within the proposed subdivision that are affordable according to the Town's published criteria.

**8.3 Cross-Country Ski Uses in the Residential District subject to a Special Permit by the Planning Board:**

Commercial cross-country ski courses on at least twenty-five (25) acres of land with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of store for the rental and sale of ski related items only, administrative office, and snack bar but not a restaurant), with a total GROSS FLOOR AREA not to exceed one thousand (1,000) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to cross-country ski related uses exceed twenty-five hundred (2,500) square feet; and a single family caretaker's residence, provided that:

- 8.3.1 no snow-making equipment shall be used;
- 8.3.2 the operation of the course, including ACCESSORY USES, trail grooming and maintenance equipment, shall be limited to the hours between 7:00 A.M. and one-half (1/2) hour after sunset;
- 8.3.3 new BUILDINGS, including improvements to existing BUILDINGS for ski related activities and new parking areas shall be screened year round from the adjacent property by evergreens and other vegetative growth of mixed variety;
- 8.3.4 no trail or new BUILDING including improvements to existing BUILDINGS for ski related activities and new parking area is within fifty (50) feet of any property line.
- 8.3.5 No so-called snowmobiles or other recreational motorized vehicles shall be permitted except for emergency or maintenance purposes.

**8.4 Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board:**

- 8.4.1 Commercial 18-hole golf courses of at least fifty-five hundred (5,500) linear yards and at least seventy-five (75) acres with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of pro shop for sale of golf related items only, administrative office, and snack bar, but not a restaurant), with a total GROSS FLOOR AREA not to exceed twenty-five hundred (2,500) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to golf related uses exceed three thousand (3,000) square feet; and a single family caretaker's residence, provided that:

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- 8.4.1.1 no fairway, new BUILDING including improvements to existing BUILDINGS for golf related activities, and new parking area is within fifty (50) feet of any property line;
- 8.4.1.2 new BUILDINGS and improvements on existing BUILDINGS for golf related activities and new parking areas shall be screened year round from adjacent property by evergreens and other vegetative growth of mixed variety;
- 8.4.1.3 the operation of the course, including ACCESSORY USES, shall be limited to the hours between one-half (1/2) hour before sunrise and one-half (1/2) hour after sunset;
- 8.4.1.4 at least forty percent (40%) of the residential zoned area of the parcel(s) devoted to the golf course and ACCESSORY USES shall be placed under a conservation restriction to the Stow Conservation Commission and approved by the Stow Board of Selectmen. Such restriction shall be for a period of time not less than thirty (30) years in duration and be evidenced by a deed in proper form and duly recorded with the Middlesex County Registry of Deeds or Land Court. Ten percent (10%) of the total residential zoned area shall be placed under a permanent conservation restriction as allowed by the provisions of Mass. General Laws Chapter 184, Sections 31 and 32. Neither the 30% area placed under conservation restriction nor the 10% area placed under a permanent conservation restriction shall contain a greater percentage of wetlands, as defined in Mass. General Laws Chapter 131, Section 40 and the Town of Stow Wetlands Protection Bylaw, than the percentage of wetlands found in the overall tract of land on which the golf course is to be located.
- 8.4.1.5 The Planning Board may require as a condition a public access pedestrian right of way of at least ten (10) feet in width provided to and along any natural watercourse or wetland in or running through the parcel or to any other portion of the parcel as deemed acceptable by the Planning Board.
- 8.4.1.6 A state licensed person shall be responsible for applying pesticides/herbicides on the golf course site. Results from an approved laboratory of surface and GROUND WATER samples shall be periodically provided to the Conservation Commission and the Board of Health, the location and frequency of testing to be determined by the Planning Board.

**8.5 PLANNED CONSERVATION DEVELOPMENT (PCD)**

- 8.5.1 Purpose - The purpose of the PCD is to allow context sensitive design of residential development that:
  - a) Provides for compact development of land in a manner that protects Stow's rural character and scenic vistas, including but not limited to viewscapes dominated by natural, agricultural, cultural or historic landmarks and features;
  - b) Mitigates disturbance of natural hydrologic flows through reduced grading and road construction;
  - c) Creates a detailed design process for the Town to provide early input into priority preservation and development areas;
  - d) Encourages the permanent preservation of OPEN LAND, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, recreation, historical and archaeological resources;
  - e) Provides more energy-efficient and cost-effective residential development; and
  - f) Reduces costs of providing municipal services.

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It is not the intent of this bylaw to make undevelopable land developable, nor to permit an increase in the number of BUILDING LOTS that would otherwise be possible on a conventional plan pursuant to the provisions of the zoning bylaws that otherwise apply, but rather to encourage the preservation of important site features.

- 8.5.2 Special Permit - PCD as set forth in this section is authorized by the Zoning Act, G.L. c.40A, s.9, and is based on the general concept of "cluster development" described therein. As the Special Permit Granting Authority, the Planning Board may grant a Special Permit for the development and construction of a PCD on all land and parcels in the Residential District subject to the following requirements.
- 8.5.3 Procedural Requirements - If the PCD requires approval under the Subdivision Control Law, G.L. c.41, the "PCD Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision by the Rules and Regulations Governing the Subdivision of Land in Stow. The application for a PCD Special Permit and for approval of a Definitive Subdivision plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.
- 8.5.3.1 In order to streamline the permitting process, if the proposed PCD involves any other use that requires a Special Permit or Site Plan Approval by the Planning Board, the proceedings for all such Special Permit and the Site Plan review shall occur in one consolidated Special Permit and/or Site Plan Approval proceeding. If the proposed PCD requires a permit from two different permit granting authorities, the Planning Board or other Permit Granting Authority may request that a joint public hearing be held and shall conduct reviews simultaneously, to the extent possible.
- 8.5.4 Application for a PCD Special Permit - Any person who desires a PCD Special Permit shall submit an application in writing which meets the requirements set forth herein and all other information which may be required by the Planning Board under its Rules and Regulations for PCDs.
- 8.5.4.1 Submission Requirements - In order to enable the Planning Board to determine whether or not a proposed PCD satisfies the purposes and standards of the PCD section of the Zoning Bylaw an applicant must present sufficient information on the environmental and OPEN LAND resources for the Board to make such a determination. The required information shall be provided in the form of the PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS described in Section 8.5.5 (Design Process) of this Bylaw.
- 8.5.4.2 Contents of an Application for a PCD Special Permit - The application for a PCD Special Permit shall be accompanied by:
- A "PCD Site Plan" demonstrating adherence to the Design Process outlined in Section 8.5.5 (Design Process) of this Bylaw, as well as any other information required by the Rules and Regulations for a PCD and this bylaw.
- 8.5.5 Design Process

The application for a PCD shall demonstrate to the Planning Board that the following design process was performed, in the order prescribed below. The design process shall be undertaken by an interdisciplinary team of qualified professionals, including but not limited to landscape architects, engineers or environmental professionals, and in conformance with the Rules and Regulations for Planned Conservation Development



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Special Permits, to determine the layout of proposed streets, parcel boundaries, building envelopes, easements and locations of all common areas and open land.

1. Calculate the gross area of the proposed PCD locus, which shall include all parcels of land that are to be developed, preserved or otherwise altered in accordance with Section 8.5 (Planned Conservation Development) of this Bylaw.
2. Calculate the size of the OPEN LAND to be preserved by multiplying the PCD locus by 60%.
3. Prepare a PROOF PLAN to determine the LOT YIELD in accordance with Section 8.5.6.2 (YIELD) of this Bylaw.
4. Identification of Conservation Resources – The Applicant shall identify and show the location of PRIMARY CONSERVATION RESOURCES and SECONDARY CONSERVATION RESOURCES. The potentially developable area of the site will consist of land outside identified PRIMARY CONSERVATION RESOURCES to the extent described in Section 8.5.1 (PCD Purpose) of this Bylaw and outside the SECONDARY CONSERVATION RESOURCES to the fullest extent practicable. It is strongly recommended that the Applicant meet with Planning Board and Conservation Commission staff during the process of identifying conservation resources.
5. Locating Dwelling Sites – Locate the approximate sites of individual dwellings within the potentially developable area, including the delineation of private yards and shared amenities if it is proposed for common ownership.
6. Locating Streets and Trails – Layout streets in order to access the individual dwellings. Any trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and/or trails.
7. Lot Lines – Draw proposed lot lines in conformance with Section 8.5.7 (dimensional requirements) of this Bylaw or areas of exclusive use if proposed for condominium or other common ownership.

8.5.6 Standards for PCDs

8.5.6.1 Minimum Tract Size - A PCD shall be permitted upon a tract of land with definite boundaries ascertained from a recorded deed(s) or recorded plan(s) which contains an area of not less than ten (10) acres in the Residential District(s).

1. The Planning Board may permit lots on directly opposite sides of a street to qualify as a single tract of land. To permit such division of a tract of land by a street, the Planning Board must find that this would fulfill the purposes of the PCD Bylaw provision and would not result in any more DWELLING UNITS than would be possible in accordance with the provisions of this Bylaw if the lots on either side of the street were developed separately.
2. Where a tract of land is divided by a zoning district boundary between any residential district and the Recreation-Conservation District, the total area of the tract of land may be used in the PCD solely for the purpose of qualifying the tract of land as a PCD, provided that the portion of the tract of land contained within the Recreation-

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Conservation District is entirely preserved as OPEN LAND within the PCD in accordance with the OPEN LAND requirements described herein.

- 8.5.6.2 YIELD (Allowable Residential LOTs) – The maximum number of residential LOTs in a PCD is determined by a PROOF PLAN as approved by the Planning Board.

The PROOF PLAN shall show site-specific development limitations that make some land less suitable for development than other land. The PROOF PLAN shall include:

- Total area of parcel(s) to be included in the PCD site plan
- Location of PRIMARY CONSERVATION RESOURCES
- Assumed infrastructure requirements for roads on all areas outside of PRIMARY CONSERVATION RESOURCES
- Topographical contours
- Minimum LOT area requirements in the Residential District (65,340 sq. ft.), in accordance with Section 4.4 (Table of Dimensional Requirements) of the Zoning Bylaw.

- 8.5.7 Dimensional Requirements - Where the dimensional requirements of the PCD differ from or conflict with other requirements of the Zoning Bylaw, the requirements established for PCDs in Section 8.5.1.7 (PCD Dimensional Requirements) of this Bylaw, shall prevail. The following requirements shall be met in all PCDs.

- 8.5.7.1 The following minimum requirements shall be met:

1. Minimum frontage: 100 feet  
The Planning Board may allow for a reduction in frontage up to 50 feet if one or more of the following criteria are demonstrated to the satisfaction of the Planning Board:
  - a) The reduction will provide for improved configuration and access to areas of OPEN LAND.
  - b) The reduction will enhance preservation of PRIMARY CONSERVATION RESOURCES and SECONDARY CONSERVATION RESOURCES as identified in the design process described in Section 8.5.5 (Design Process) of this Bylaw.
  - c) The reduction will provide for development of land in a manner that protects Stow's rural character and scenic vistas
2. Minimum front, rear and side yard setbacks: 20 feet  
The Planning Board may permit smaller, or require larger setbacks and distances if it finds that alternate setbacks and distances will measurably improve the preservation of PRIMARY or SECONDARY CONSERVATION RESOURCES.
3. Minimum LOT area per DWELLING: 20,000 sq. ft.  
The Planning Board may allow for a reduction in LOT area up to 5,000 sq. ft., but not to create a lot less than 15,000 sq. ft., if the reduction of LOT size will not cause a substantial increase in the associated visual impacts of the development and where one or more of the following criteria can be demonstrated to the Planning Board's satisfaction:
  - a) The reduction will provide for improved public access to areas of Open Land.

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- b) The reduction will enhance preservation of PRIMARY CONSERVATION RESOURCES and SECONDARY CONSERVATION RESOURCES, as identified in the PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS described in Section 8.5.5 (Design Process) of this Bylaw.
- c) The reduction will provide for development of land in a manner that protects Stow's rural character and scenic vistas.

The reduction in minimum lot size does not affect the ability of the Board of Health to require sufficient area on a lot for water supply protection and the disposal of wastewater.

- 8.5.7.2 To preserve the scenic integrity of Stow's neighborhoods, including the prevalence of Stow's tree lined streets, no BUILDING shall be located within 100 feet of an existing public way.
  - 1. Where the preservation of site features, and/or physical constraints of the proposed PCD locus necessitate the drawing of proposed LOTs in a manner which impairs the scenic values of the existing streetscape, the Planning Board may require an OPEN LAND buffer.
  - 2. To preserve the scenic integrity of Stow's existing streetscapes and encourage connection between neighborhoods, the Planning Board may require a walkway along the frontage that meanders in a manner to preserve public shade trees and stone walls.
- 8.5.7.3 No principal structure constructed as part of a PCD shall be located within 100 feet of a building located outside of the PCD Locus.
- 8.5.8 The limitation on the number of lots served by a common drive under Section 6.2 (Common Drive) of the Zoning Bylaw shall not apply to lots within a PCD. Specifications for common drives within a PCD shall be included within the Planned Conservation Development Rules and Regulations.
  - 8.5.8.1 A common drive is required for reduced frontage LOTs where two (2) or more of the reduced frontage LOTs abut one another.
  - 8.5.8.2 Each common drive shall be spaced at a minimum of 100' feet measured along the frontage of the public or private way.
- 8.5.9 Parking shall be provided as required in Section 7 (Parking Regulations) of the Zoning Bylaw, provided that no more than eight (8) parking spaces shall be grouped together.
- 8.5.10 Unless specifically waived by the Planning Board pursuant to G.L. c.41, s.81-R, all streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended.
- 8.5.11 Permitted Uses - There shall be permitted in any PCD:
  - 1. Single-family DWELLINGS, single-family DWELLINGS with ACCESSORY APARTMENTS pursuant to Section 8.1 (Accessory Apartments) of the Zoning Bylaw;

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2. DUPLEX DWELLINGS which are designed to be consistent in character with the single-family DWELLINGS in the same development. Such DUPLEX DWELLINGS may be allowed provided that:
    - a. In terms of exterior appearance, the BUILDING is compatible in design, to the extent practicable, for the single-family DWELLINGS in the same development; and
    - b. not more than ten percent (10%) of the total number of LOTs are in DUPLEX DWELLINGS
    - c. In its Rules and Regulations for PCDs, the Planning Board may establish design guidelines for DUPLEX DWELLINGS, require submission of architectural floor plans and side elevation plans for all proposed DWELLINGS, and impose additional conditions affecting the design and location of DWELLINGS.
  3. Special Conditions for DUPLEX DWELLINGS - Where DUPLEX DWELLINGS are allowed, the total LOT area upon which the DUPLEX DWELLING is located shall comply with the minimum LOT area requirement(s) for a PCD's single-family DWELLING and shall not be further reduced.
  4. Accessory uses and structures incidental to principal uses indicated above.
- 8.5.12 Where a PCD's yield calculation provides for less than 10 LOTs, as set forth in Section 8.5.6.2 (YIELD) of this Bylaw, then the total number of LOTs on which DUPLEX DWELLINGS may be constructed is limited to one. Nothing in this section supercedes the requirements set forth under Section 8.9 (Inclusion of Affordable Housing) of the Zoning Bylaw.
- 8.5.13 Prohibition of Future Development - No tract, LOT, parcel or exclusive use area for which a Special Permit is granted under this section shall be further subdivided, and such restriction, which shall note that the same is for the benefit of the Town of Stow, shall be shown on the plan and set forth in the deed, to be recorded with the Registry of Deeds.
- 8.5.14 OPEN LAND Requirements
- 8.5.14.1 The OPEN LAND within a PCD shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in Section 8.5.14.6 (Allowable use of OPEN LAND) of this Bylaw, and maintained in a manner that will ensure its suitability for its intended purposes.
- 8.5.14.2 Minimum - A minimum of 60% of the gross area of the proposed PCD locus, which shall include all parcels of land that are to be developed, preserved or otherwise altered in accordance with Section 8.5 (Planned Conservation Development) of this Bylaw shall be set aside as permanently conserved OPEN LAND.

The minimum required area of the OPEN LAND shall not contain more than 50% wetlands, as defined in G.L. c.13, s.40 and the Stow Wetland Protection Bylaw.

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8.5.14.3 OPEN LAND Design Requirements – The location of OPEN LAND provided through this bylaw shall be consistent with the PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS, as well as policies contained in the Town of Stow Master Plan and Open Space and Recreation Plan. The following design requirements shall apply to the OPEN LAND:

1. Open Land shall be planned as large, contiguous areas. Long, thin strips or narrow areas of OPEN LAND shall occur only when necessary to provide for:
  - a. Enhanced access to the OPEN LAND
  - b. Vegetated buffers along wetlands
  - c. Buffers to areas of existing or potential agricultural use
  - d. Buffers to any other existing use abutting the PCD Locus if it can be shown, to the satisfaction of the Planning Board that such areas are particularly sensitive to the PCD development due to specific site characteristics
  - e. connections between open space areas.
2. OPEN LAND may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by trails.
3. Where the proposed development abuts or includes a body of water or a wetland, these areas and the 100 foot buffer to such areas should be incorporated into the OPEN LAND where feasible.
4. OPEN LAND shall be designed to encourage access from existing or proposed roads and abutting open space lands by providing for adequate upland access at least forty (40) feet wide and suitable for a footpath.
5. OPEN LAND should primarily consist of open fields and undisturbed woodlands and other natural areas, or restored areas. Lawn and landscaped areas should not generally be counted toward OPEN LAND requirements.
6. Prior to conveyance, the Planning Board may require OPEN LAND that has been degraded by extraction, site grading or similar activities to be restored, where such restoration would benefit PRIMARY CONSERVATION RESOURCES and SECONDARY CONSERVATION RESOURCES.
7. Where a proposed development abuts existing land held for conservation purposes, the development shall be designed to maximize contiguous protected land, and minimize adverse impacts to the existing conserved land. Trail connections shall be provided where appropriate. The Planning Board shall give consideration to the recommendations of the existing conservation land owner with regard to access, parking and connecting trails.

8.5.14.4 Ownership of the OPEN LAND - At the applicant's discretion and subject to Planning Board Approval, the OPEN LAND may be owned by one or more of the following:

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- a) The Town of Stow and accepted by it for park or open space use consistent with G.L. c.40A, s.9;
- b) A non-profit organization, or agency of the Commonwealth, with their consent, whose principal purpose is the conservation of OPEN LAND for any of the purposes set forth herein;
- c) A HOMEOWNERS ASSOCIATION as defined herein owned jointly in common by the owners of LOTs or units within the project.

8.5.14.4.1 Selection of ownership option "c" above requires:

- a) A conservation and/or historic restriction to a third party conservation organization or agency pursuant to G.L. c.184, s.31-33 as outlined herein;
- b) The granting of an access easement to the Town over such land sufficient to ensure its perpetual maintenance as agricultural, conservation, or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the OPEN LAND in reasonable condition, the Town may, after notice to the lot owners and after a public hearing is held, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the property owners within the development and/or to the owner of the OPEN LAND. Pursuant to G.L. c.40, s.58 the Town may file a lien against the lot or lots to ensure payment for such maintenance. Pursuant to G.L. c.40, s.57 the Town may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.

8.5.14.5 Timing – The Planning Board shall specify in its final Decision at what phase in the development any deed, restriction or other legal document necessary to permanently conserve OPEN LAND as required herein shall be recorded with the Registry of Deeds.

8.5.14.6 Allowable Use of the OPEN LAND - Such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in this Bylaw and in the deed and/or in the restriction, and maintained in a manner which will ensure its suitability for its intended purposes.

8.5.14.6.1 The OPEN LAND shall only be used for the following purposes: wildlife habitat, conservation, historic preservation, outdoor education, passive and active recreation, aquifer protection and public water supply, agriculture, horticulture, forestry, and shall be served by suitable access for such purposes. Potential, current or acceptable uses of the open land identified during the Design Process shall be noted on the PCD plan with reference in the deeds of the lots created or altered through the PCD plan approval process. Permissible uses of the OPEN LAND shall not be inconsistent with protection of the resources in the OPEN LAND.

8.5.14.6.2 The Planning Board shall permit a small portion of the Open Land, not to exceed 5%, to be paved or built upon for STRUCTURES accessory to the dedicated use or use(s) of such OPEN LAND (i.e. barns, or other farm structures, parking to facilitate public access for passive recreation, informational kiosks, pedestrian walks and bike paths) so long as the conservation values of the OPEN LAND are not compromised beyond what is reasonably necessary to facilitate the allowed uses.

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- 8.5.14.6.3 Preferably any such area to be paved or built upon shall utilize permeable pavement and/or other means of retaining natural hydrology. Treated stormwater may be discharged into the protected OPEN LAND or land subject to a restrictive covenant.
- 8.5.14.6.4 The following infrastructure may be located on the OPEN LAND as permitted or regulated by Title 5 or local Board of Health regulations, if serving the PCD, and if such use, in the opinion of the Planning Board, enhances the specific purpose of the PCD to promote better overall site planning.
- common subsurface leaching fields and other underground components of wastewater systems
  - rain gardens
  - constructed wetlands
  - any other decentralized stormwater management systems consistent with the Massachusetts Stormwater Handbook, as amended, that serve the PCD.
- 8.5.14.6.5 Easements for infrastructure outlined in Section 8.5.14.6.4 of this Bylaw shall be no larger than reasonably necessary. To the extent feasible, infrastructure referenced in Section 8.5.14.6.4 of this Bylaw shall be located to minimize any effect on the PRIMARY and SECONDARY CONSERVATION RESOURCES of the site.
- 8.5.14.6.6 The OPEN LAND may be used as the land subject to a restriction for the purpose of an aggregate calculation under Title 5 of the Sanitary Code.
- 8.5.14.7 Monumentation - Monumentation shall clearly delineate the boundaries of the protected OPEN LAND in manner that facilitates monitoring and enforcement.
- 8.5.14.8 Subdivision - Neither further division of the protected OPEN LAND into LOTs nor the use of the protected OPEN LAND toward any further building requirements on this or any other LOT is permitted;
- 8.5.14.9 Maintenance - The Planning Board shall require, in accordance with the PLANNED CONSERVATION DEVELOPMENT Rules and Regulations, the submission of an operations and maintenance plan for the OPEN LAND in the event the OPEN LAND is owned by a HOMEOWNERS ASSOCIATION, and may require an operations and maintenance plan for the OPEN LAND in the event the OPEN LAND is owned by the Town of Stow, a non-profit organization or agency of the Commonwealth. Such operations and maintenance plan is intended to ensure that stormwater facilities and utilities are properly maintained and the OPEN LAND is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials inconsistent with intended uses of the OPEN LAND as stated in Section 8.5.14.6 (Allowable Use of the OPEN LAND) of this Bylaw and/or as stated in the language of an applicable conservation or agricultural deed restriction.
- 8.5.14.10 Conveyance - At the time of its conveyance the Open Land shall be free of all encumbrances, mortgages, liens or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.
- 8.5.15 Planning Board Action - In evaluating the proposed PCD, the Planning Board shall consider the general purposes of this bylaw; information gained through the design process; site plan; the existing and probable future development of surrounding areas; and the appropriateness of the proposed layout of the lots and the proposed layout and

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use of the Open Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a Special Permit for a PCD if it finds that the proposed plan:

- a) contains an application conforming to the Design Process outlined in Section 8.5.5 (Design Process) of this Bylaw;
- b) protects and enhances the rural character and environment of Stow;
- c) provides Open Land which is of a size, shape and location that has adequate access so as to benefit the town and/or the residents of the PCD;
- d) is appropriate to the natural terrain of the tract of land to be developed;
- e) provides for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;
- f) the application sets forth a specific plan for management of all Open Land, waste disposal and drainage facilities, roadways and other improvements to be constructed in the development;
- g) complies with all other legal requirements for a Special Permit and the Zoning Bylaw, including those for a PCD; and
- h) is consistent with the Stow Master Plan or succeeding plan, as amended.

The Planning Board may require changes to the "PCD Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this bylaw provision.

- 8.5.16 Performance Guarantee - Before the issuance of any building permits for the PCD, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land. Pursuant to G.L. c.41, s.81-R, waivers from the Subdivision Rules and Regulations may be granted by the Planning Board in granting a Special Permit hereunder, provided the Board determines such waivers are in the public interest and are consistent with the purposes of Section 8.5 (Planned Conservation Development) of this Bylaw and the Subdivision Rules and Regulations.
- 8.5.17 Revisions and Amendments of PCD Special Permit - Any change in the layout of streets; LOTs; in the configuration of the OPEN LAND; in the ownership or use of the OPEN LAND; or any other change which, in the opinion of the Planning Board, would significantly alter the character of the PCD, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this bylaw if it finds that the proposed changes are substantial in nature and of public concern.

## **8.6 Phasing of Growth**

Over the past decade, the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those



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preparations. The citizens of Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.

In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.

**8.6.1 Regulations:**

- 8.6.1.1 Beginning on the effective date of this Section, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.
- 8.6.1.2 DWELLING UNITs shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.
- 8.6.1.3 All newly authorized residential units for which individual or several building permits have been issued pursuant to the Massachusetts State Building Code, 780 CMR shall count toward the growth rate limit of 35 DWELLING UNITs defined in Section 8.6.2.1 of the Zoning Bylaw.

**8.6.2 Planned Growth Rate**

- 8.6.2.1 This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit granting authority (Planning Board, Zoning Board of Appeals or BUILDING INSPECTOR) shall not approve any residential development which would result in authorizations for more than 35 DWELLING UNITs over a 730 consecutive day (two-year) period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.
- 8.6.2.2 Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.

**8.6.3 Development Schedule - Building permits for new DWELLING UNITs shall be authorized only in accordance with the following schedule:**

# of New Units in Development	Maximum DWELLING UNITs per Year*
1 - 24	4
25 - 29	5
30 - 46	6
47+	up to 15%

- \* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

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8.6.4 Modification to Schedule - The following modifications to the development schedule found in Section 8.6.3 shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and special permits) or Zoning Board of Appeals (for special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section 8.6.4.7.

8.6.4.1 Affordable Housing

1. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section 8.6.3 and shall be allowed in accordance with the following schedule:	
<u># of New Units</u>	<u>DWELLING UNITS/ Year*</u>
1-50	100%
51-80	up to 50%
80+ total units	up to 33%
	Points Assigned
2. Any development that meets the criteria found in Section 8.6.4.1, but which includes 10% to 24% of its units for low and moderate income people.	20
3. Any development that includes no affordable units that meet the criteria in Section 8.6.4.1.	-10

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8.6.4.2 Open Land/Farmland:

	Points Assigned
1. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section 8.5.4 and "open land" shall be defined as in Section 8.5.8.	
(1) Open land consisting of 4,000 to 4,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	10
(2) Open land consisting of 5,000 to 5,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	15
(3) Open land consisting of at least 6,000 square feet or more usable land area per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	20
(4) Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow (Add 5 points to the applicable category above.)	
(5) No usable open land.	-10
2. Protection and retention of farmland according to the following impacts on working farms:	
(1) Development of agricultural land, defined as land classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.	-30
(2) Provision of a permanent 100-foot buffer zone as a deed restriction, including a FENCE and screening vegetation from the property boundary of a working farm.	10

8.6.4.3 AQUIFER Protection:

	Points Assigned
1. Development in the Aquifer Protection Overlay District	
(1) Average LOT size less than two acres.	-30
(2) Average LOT size two acres or more.	-15

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- 8.6.4.4 **Planned Conservation Development** - Any proposed approval under Section 8.5 will be subject to the following schedule provided that the OPEN SPACE is deeded to the Town:

# Units in Development	Maximum DWELLING UNITS per Year*
1 - 11	8
12 - 33	9
34 - 66	30%
67 - 99	19 units or 26%
100 +	25 units or 22%

\* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of the issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

- 8.6.4.5 **Infrastructure:**

	Points Assigned
1. Any development which commits to completing all roads and utilities prior to issuance of building permits during the first year of the total project.	30
2. Any development that commits to completing all roads or utilities (one or the other) prior to issuance of building permits.	15
3. Any development which commits to completing all roads and utilities during years one to three of the project.	5
4. Any development which commits to completing all roads and utilities after the third year of the project.	-15

- 8.6.4.6 **Other** - The Planning Board (Definitive Subdivision, Approval Not Required and special permits) and Zoning Board of Appeals (special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:

1. Ability of the Town to adequately serve the proposed development with **STREETS**, utilities, drainage, educational and protective services.
2. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.
3. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.
4. Provision of housing needs for diverse population groups.
5. Commitments to improve town facilities.

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6. Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.
  7. Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems.
- 8.6.4.7 Development Schedule Modification Table - Points accumulated under Section 8.6.4.1 through 8.6.4.6 shall be totaled and the total shall modify the development schedule in Section 8.6.3 according to the following table.

<b>DEVELOPMENT SCHEDULE</b>										
<b>POINT TOTAL</b>										
# of Units	-30	-29 to -15	-14 to -1	0	1 to 5	6 to 12	13 to 20	21 to 28	29 to 36	37+
1-24	1	2	3	4	5	5	6	7	8	9
25-29	2	3	4	5	6	6	7	8	10	11
30-46	3	4	5	6	7	8	9	10	12	13
47-76	9%	10%	13%	15%	18%	21%	25%	30%	35%	40%
77-106	8%	7 units or 9%	12%	11 units or 14%	17%	20%	19 units or 23%	22 units or 27%	26 units or 31%	30 units or 35%
107+	8 units or 7%	9 units or 8%	12 units or 11%	14 units or 13%	18 units or 16%	21 units or 18%	24 units or 20%	28 units or 23%	32 units or 27%	37 units or 30%

- 8.6.5 Requirements:
- 8.6.5.1 All Definitive Subdivision, Approval Not Required and Special Permit applications shall include a proposed development schedule by the applicant.
  - 8.6.5.2 Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/LOT may become eligible for the issuance of a building permit.
  - 8.6.6 Zoning Change Protection  
The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.

**8.7 INDEPENDENT ADULT RESIDENCES**

Purpose - The purpose of INDEPENDENT ADULT RESIDENCES is to provide the opportunity for the development of housing most beneficial for the SENIOR and ELDER population of Stow at greater density than would normally be allowed provided that said LAND development:

- a) protects Stow's rural character by development of land which preserves land for conservation, OPEN SPACE, recreation, agriculture and forestry;
- b) promotes more efficient use of land while protecting natural resources, such as water resources, wetlands, flood plains and wildlife;
- c) does not detract from the livability and aesthetic qualities of the environment;

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- d) preserves unique and significant historical and archaeological resources, and scenic vistas;
  - e) is consistent with the objectives of the Zoning Bylaw;
  - f) provides a greater mixture of housing types and more energy-efficient and cost-effective residential development; and
  - g) reduces the typical costs of providing municipal services to residential developments.
- 8.7.1 Districts in which the USE is Allowed - The Planning Board may grant a special permit for the development and construction of INDEPENDENT ADULT RESIDENCES in the Business District in accordance with this Section and MGL Ch. 40A, s.9.
- 8.7.1.1 The total number of INDEPENDENT ADULT UNITS shall not exceed 6% of the total single family DWELLING UNITS in Stow.
- 8.7.2 Procedural Requirements
- 8.7.2.1 All proposed INDEPENDENT ADULT RESIDENCES shall require the record owner to obtain a special permit from the Planning Board. It is strongly recommended that an applicant submit a preliminary site plan of the proposed development for review by the Planning Board, other Town Boards, and abutters before an application for Special Permit is formally filed with the Town Clerk and the Planning Board.
- 8.7.2.2 If the INDEPENDENT ADULT RESIDENCES require approval under the Subdivision Control Law, MGL Ch. 41, the "INDEPENDENT ADULT RESIDENCES Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision by the Rules and Regulations Governing the Subdivision of Land in Stow. The application for a Special Permit for INDEPENDENT ADULT RESIDENCES and for approval of a Definitive Subdivision plan shall be filed and considered concurrently to the greatest extent possible and practicable in the Planning Board's sole judgment and determination to the extent permitted by law.
- 8.7.3 Planning Board Action - In evaluating the proposed INDEPENDENT ADULT RESIDENCES, the Planning Board shall consider the general objectives of this bylaw and of INDEPENDENT ADULT RESIDENCES in particular. It shall also consider the existing and probable future development of surrounding areas, the appropriateness of the proposed layout of the site, and the proposed layout and use of the Open Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a Special Permit for INDEPENDENT ADULT RESIDENCES if it finds that the INDEPENDENT ADULT RESIDENCES:
- a) are appropriate to the natural terrain of the tract of land to be developed;
  - b) provide for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;
  - c) the application sets forth a specific plan for maintenance of all OPEN SPACE, waste disposal and drainage facilities, roadways and other improvements to be constructed in the development;
  - d) comply in all respects to the requirements of the Bylaw and enhance the purpose and intents of INDEPENDENT ADULT RESIDENCES, and
  - e) are consistent with the Stow Master Plan or succeeding plan, as amended.

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- 8.7.3.1 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission, other Town Boards, and the Town's consulting engineer in making said findings.
- 8.7.3.2 The Planning Board may require changes to the " INDEPENDENT ADULT RESIDENCE Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary to secure the objectives of this bylaw provision.
- 8.7.4 Application for an INDEPENDENT ADULT RESIDENCE Special Permit - Any person who desires an INDEPENDENT ADULT RESIDENCE Special Permit shall submit an application in writing which meets the requirements set forth herein and all other information which may be required by the Planning Board under its Rules and Regulations for INDEPENDENT ADULT RESIDENCE.
- 8.7.4.1 Contents of an Application for a Special Permit for INDEPENDENT ADULT RESIDENCE - The application for a Special Permit for INDEPENDENT ADULT RESIDENCES shall be accompanied by an "INDEPENDENT ADULT RESIDENCES Site Plan" showing the information required by the Rules and Regulations for INDEPENDENT ADULT RESIDENCES. The information shall include, but not be limited to: topography; soil characteristics as shown on the Soil Conservation Service maps; wetlands as defined by MGL Ch. 131, s.40 and the Stow Wetlands Protection Bylaw; flood plain boundary lines; existing types of vegetation; any other unique natural, historical, archaeological and aesthetic resources; the proposed layout of the LOTs; the proposed location of INDEPENDENT ADULT RESIDENCES, garages and other accessory structures; the proposed location of roads, driveways, wells, septic systems and utilities; proposed finished grades; proposed landscaping; the proposed layout and land use plan of the OPEN SPACE in the INDEPENDENT ADULT RESIDENCE development.
- 8.7.5 Permitted USES - There shall be permitted in any INDEPENDENT ADULT LIVING RESIDENCE development:
- 8.7.5.1 INDEPENDENT ADULT UNITs
- 8.7.5.2 Accessory uses and structures incidental to principal uses indicated above.
- 8.7.5.3 Support services that are necessary to meet the needs of its residents such as but not limited to skilled nursing, medical and other health services, recreation and leisure facilities, a community center, or food services.
- 8.7.5.4 Convenience services intended primarily for its residents may be included, such as Retail Stores, Banks, Restaurants, and Service Establishments, provided that not more than 10% of the total FLOOR AREA of the development is dedicated to such uses.
- 8.7.6 Special Regulations for INDEPENDENT ADULT RESIDENCE:
- 8.7.6.1 The Planning Board may permit the SIDE YARD requirement to be eliminated so as to allow the separate sale of individual INDEPENDENT ADULT UNITs within an INDEPENDENT ADULT RESIDENCE along with its accompanying YARD area.
- 8.7.6.2 All privileges and exemptions provided to single-family residential uses or BUILDINGS under this Bylaw, as set forth in Section 3.8.1.11 or otherwise, shall also apply to INDEPENDENT ADULT RESIDENCES.
- 8.7.6.3 BUILDING design for INDEPENDENT ADULT RESIDENCES:

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- a) BUILDINGS shall be of a design similar to the architecture in historic villages of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.
- b) BUILDINGS shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.
- c) The BUILDINGS shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than fifty (50) feet of a BUILDING shall be in the same vertical plane.
- d) The BUILDINGS shall be faced with materials used in historic New England architecture. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.

**8.7.7 Special Regulations for INDEPENDENT ADULT RESIDENCES:**

- 8.7.7.1 In the Business District, no INDEPENDENT ADULT RESIDENCE development shall exceed a FLOOR AREA RATIO of 0.30.
- 8.7.7.2 INDEPENDENT ADULT RESIDENCES and INDEPENDENT ADULT UNITS shall not be eligible for subsequent conversion to conventional apartments or DWELLING UNITS.
- 8.7.7.3 Each INDEPENDENT ADULT UNIT shall be occupied by at least one person fifty-five (55) years of age or older and no INDEPENDENT ADULT UNIT shall be occupied by more than three persons. No person under the age of twenty-one (21) shall reside within an INDEPENDENT ADULT UNIT in INDEPENDENT ADULT RESIDENCES for more than three (3) months in any twelve (12) consecutive month period, which shall be set forth in a deed restriction, restrictive covenant, or other document to be recorded with the Special Permit and to run with the land in perpetuity. This requirement shall be an express condition of any Special Permit granted hereunder and shall be in such form as is satisfactory to the Planning Board, to be enforceable by any unit owners' association or by the owner in any legal action as may be permitted by law or equity.
- 8.7.7.4 A minimum of 33% of the INDEPENDENT ADULT UNITS shall comply with ADA accessibility standards for all living areas.
- 8.7.7.5 The Planning Board may require a landscaped buffer for INDEPENDENT ADULT RESIDENCES in addition to the minimum required YARD as deemed appropriate in the opinion of the Planning Board based on the size, shape, location, zoning, and uses of abutting parcels, topography, or other similar considerations for the tract of land.
- 8.7.7.6 INDEPENDENT ADULT UNITS constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.



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- 8.7.8 Dimensional Requirements for OPEN SPACE - A minimum of 30% of the total area of the tract of land to be developed as INDEPENDENT ADULT RESIDENCES shall be designated as OPEN SPACE.
- 8.7.9 Use of the OPEN SPACE - The OPEN SPACE shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the OPEN SPACE, except as otherwise provided herein.
- 8.7.9.1 Wells and sewage disposal areas or facilities may be located on the OPEN SPACE as permitted or regulated by Title 5 or local Board of Health regulations, if serving the INDEPENDENT ADULT RESIDENCES, and if such use, in the opinion of the Planning Board, enhances the specific purpose of INDEPENDENT ADULT RESIDENCES to promote better overall site planning. Septic disposal easements shall be no larger than necessary. If any portion of the OPEN SPACE is used for the purpose of a community well or leaching area, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the INDEPENDENT ADULT RESIDENCES development.
- 8.7.9.2 In addition, a portion of the OPEN SPACE may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to INDEPENDENT ADULT RESIDENCES or adjacent land if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Open Space.
- a) Ownership of the OPEN SPACE - The OPEN SPACE shall be owned in common by the owners of the INDEPENDENT ADULT RESIDENCES or by a corporation or trust owned, or to be owned, by the owners of the INDEPENDENT ADULT LIVING RESIDENCES. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the residential units.
- 8.7.9.3 In all cases, a perpetual restriction approved by the Planning Board and enforceable by the Town of Stow shall be imposed on the use of such land, providing in substance that the land be kept in its natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of INDEPENDENT ADULT RESIDENCES as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual INDEPENDENT ADULT RESIDENCES.
- 8.7.9.4 At the time of its conveyance the Open Space shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.
- 8.7.10 Streets and Utilities - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the INDEPENDENT ADULT RESIDENCES are located in a subdivision.
- 8.7.11 Performance Guarantee- Before the issuance of any building permits for INDEPENDENT ADULT RESIDENCES, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land. Special exceptions to the Subdivision Rules and

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Regulations may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 8.7 of the Bylaw.

- 8.7.12 Revisions and Amendments of an INDEPENDENT ADULT RESIDENCES Special Permit - Any change in the layout of streets, in the configuration of the OPEN SPACE, in the ownership or use of the OPEN SPACE, or any other change which, in the opinion of the Planning Board, would significantly alter the character of INDEPENDENT ADULT RESIDENCES shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this bylaw if it finds that the proposed changes are substantial in nature and of public concern.

**8.8 Intentionally left blank**

**8.9 Inclusion of Affordable Housing**

- 8.9.1 Purpose and Intent - The purpose of this Bylaw is to increase the supply of housing in the Town of Stow that is available to and affordable by low income or moderate income households who might otherwise have difficulty in finding homes in Stow, and to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of Massachusetts General Law Chapter 40B and its implementing regulations, Stow Comprehensive Permit Policy, the Stow Master Plan, and other ongoing programs within the Town of Stow. It is intended that the AFFORDABLE DWELLING UNITS authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth or its agencies, and that said units count toward Stow's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended. Through multi-family units, developers will be able to increase the number of DWELLING UNITS within a development versus conventional developments. The increased number of DWELLING UNITS is intended to offset the reduced revenue from the affordable homes. In those cases where the Inclusion of Affordable Housing may conflict or be inconsistent with Section 8.5, Planned Conservation Development (PCD) or other sections of the Town of Stow Zoning Bylaw, except as otherwise expressly provided herein, the provisions of Inclusion of Affordable Housing shall be controlling.

**8.9.2 Applicability**

- 8.9.2.1 Beginning with the effective date of this Bylaw, any development or division of land, which could result in the creation of six (6) or more DWELLING UNITS, shall require a Special Permit from the Planning Board, and shall include as a condition of said permit that:
- A. At least 10% of the units be priced for QUALIFIED AFFORDABLE HOUSING PURCHASERS;
  - B. The mix of AFFORDABLE DWELLING UNITS and market rate housing built in any one year be equivalent to the overall mix for the entire development;
  - C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth or its agencies, shall be placed on the appropriate property to

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ensure that AFFORDABLE DWELLING UNITS created under this section shall remain AFFORDABLE DWELLING UNITS in perpetuity or for as long a period as is allowed by law.

8.9.2.2 DWELLING UNITS shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of Inclusion of Affordable Housing.

8.9.3 Inclusion of Affordable Housing Regulations – The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section.

8.9.4 Provision of AFFORDABLE DWELLING UNITS - AFFORDABLE DWELLING UNITS required under Section 8.9.2.1 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board:

- A. Constructed on the locus subject to the Special Permit;
- B. Constructed on a locus different than the one subject to the Special Permit;
- C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of an equivalent number of AFFORDABLE DWELLING UNITS. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;
- D. For fractional AFFORDABLE DWELLING UNITS, the applicant shall round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units (see Section 8.9.6) proportionate to the percentage of the unit required;
- E. Preservation of existing DWELLING UNITS as AFFORDABLE DWELLING UNITS through the purchase of deed restrictions.

8.9.5 Provisions Applicable to AFFORDABLE DWELLING UNITS On- and Off-Site

8.9.5.1 Allowed types of AFFORDABLE DWELLING UNITS:

- A. Single-family DWELLINGS;
- B. Single-family DWELLINGS with ACCESSORY APARTMENTS;
- C. MULTI-FAMILY DWELLINGS, which are designed to be consistent in character with the single-family DWELLINGS in the same development. Such MULTI-FAMILY DWELLINGS may be allowed provided:
  - i. in terms of exterior appearance, the BUILDING is compatible in design and, to the extent practicable, indistinguishable from the single-family DWELLINGS in the same development; and
  - ii. there shall be no more than four (4) DWELLING UNITS in any residential BUILDING; and
  - iii. the total number of MULTI-FAMILY DWELLINGS shall not exceed 10% of the lots in the development; and
  - iv. the overall length of any residential BUILDING shall not exceed 100 feet.
- D. Accessory uses and structures incidental to principal uses indicated above and approved by the Planning Board.

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- 8.9.5.2 Siting of AFFORDABLE DWELLING UNITS. All AFFORDABLE DWELLING UNITS that are constructed on-site under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots selected for AFFORDABLE DWELLING UNITS.
- 8.9.5.3 Minimum Design and Construction Standards for AFFORDABLE DWELLING UNITS. AFFORDABLE DWELLING UNITS within market-rate developments shall be integrated with the rest of the development and shall be compatible to the extent practicable in exterior design and appearance with other units, to the extent that such regulation is not inconsistent with Massachusetts General Laws Chapter 40B, Section 3.
- 8.9.5.4 With the approval of the Planning Board, as an alternative to the requirements of Section 8.9.4.A, an applicant subject to the Bylaw may develop, construct or otherwise provide AFFORDABLE DWELLING UNITS equivalent to those required by Section 8.9.2.1 off-site. To the maximum extent practicable, all requirements of this Bylaw that apply to on-site provision of AFFORDABLE DWELLING UNITS shall apply to provision of off-site AFFORDABLE DWELLING UNITS. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.
- 8.9.6 Fees-in-Lieu of AFFORDABLE DWELLING UNIT Provision - As an alternative to the requirements of Section 8.9.2.1, and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of constructing such AFFORDABLE DWELLING UNITS, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town of Stow Affordable Housing Trust Fund, for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering AFFORDABLE DWELLING UNITS within the locus of the proposed development or off-site, as set forth in Section 8.9.6.1 below.
- 8.9.6.1. Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay fees-in-lieu of the construction. For the purposes of this Bylaw, the fees-in-lieu of the construction or provision of each AFFORDABLE DWELLING UNIT is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

**8.10 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS**

- 8.10.1 Purpose - The purpose of this section is to promote the creation of new COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address and protects public safety, minimizes undesirable impacts on residential property and neighborhoods, protects scenic, natural and historic resources, does not diminish abutting property values and provides adequate financial assurance for the eventual decommissioning of such installations.

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The provisions set forth in this section shall apply to the construction, operation, and/or repair of COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS.

- 8.10.2 Applicability - No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be ERECTED or installed except in compliance with the provisions of this Section and other applicable Sections of the Zoning Bylaw, as well as state and federal law. Such use shall not create a nuisance, which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisance as determined by the Special Permit/Site Plan Approval Granting Authority.
- 8.10.2.1 The construction and use of a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION with 250 kW or larger of rated NAMEPLATE CAPACITY within the Industrial, Commercial District and Refuse Disposal District shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.
- 8.10.2.2 Construction and use of a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION with 250 kW or larger of rated NAMEPLATE CAPACITY in the Residential, Business and Recreation Conservation District shall be subject to Special Permit and Site Plan Approval from the Planning Board in accordance with the additional requirements specified herein.
- 8.10.2.3 This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.
- 8.10.3 General Requirements
- 8.10.3.1 Lot Requirements - A COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION may be permitted on a lot, which contains an area of not less than three (3) acres.
- 8.10.3.2 Visual Impact - The visual impact of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances, shall be mitigated. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered to avoid adverse visual impacts as deemed necessary by and in the sole opinion of the Special Permit/Site Plan Approval Granting Authority. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.
- 8.10.3.3 Compliance with Laws, Ordinances and Regulations - The construction and operation of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be consistent with all applicable local regulations and bylaws, and state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of A SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be constructed in accordance with the State Building Code.

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- 8.10.3.4 Utility Notification - No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be constructed until evidence has been given to the Special Permit/Site Plan Approval Granting Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Proof of a mutual agreement with the utility company shall be provided to the Special Permit/Site Plan Approval Granting Authority. Off-grid systems shall be exempt from this requirement. If the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION goes on grid, it shall comply with this requirement.
- 8.10.3.5 Maintenance - The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Police Chief, Emergency Medical Services and Special Permit/Site Plan Approval Granting Authority. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
- 8.10.3.6 Emergency Services - The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. The owner or operator shall provide an emergency response plan. The emergency response plan is subject to the approval of the Special Permit/Site Plan Approval Granting Authority, the Fire Department and the Police Department, and shall include at a minimum, explicit instructions on all means of shutting down the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 8.10.3.7 Safety and Security – Safety and measures of security shall be subject to the approval of the Special Permit/Site Plan Approval Granting Authority, the Fire Department and the Police Department.
- 8.10.4 Design Standards .
- 8.10.4.1 Lighting - Lighting of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances shall not be permitted unless required by the Special Permit/Site Plan Approval Granting Authority, Special Permit/Site Plan Approval Decision or required by the State Building Code. Where used, lighting shall comply with the requirements of Section 3.8.1.5 (exterior lighting) of the Zoning Bylaw.
- 8.10.4.2 Signs and Advertising - Section 6.3 (Signs) of the Zoning Bylaw does not apply to this Section. Signage for COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be limited in size as determined by the Special Permit/Site Plan Approval Granting Authority.

COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall not be used for displaying any advertising except for reasonable identification of the owner or operator of the COMMERCIAL SOLAR

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PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION and emergency contact information.

- 8.10.4.3 Utility Connections - All utility connections from the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be underground unless specifically permitted otherwise by a Special Permit/Site Plan Approval Decision. Electrical transformers and inverters to enable utility interconnections may be above ground if required by the utility provider.
- 8.10.4.4 Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION or otherwise prescribed by applicable laws, regulations and bylaws.
- 8.10.4.5 Appurtenant Structures - All appurtenant structures to COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS shall be subject to all applicable bylaws and regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements.
- 8.10.5 Modifications  
All substantive material modifications to a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION made after issuance of the Special Permit/Site Plan Approval Decision shall require modification to the Special Permit/Site Plan Approval Decision.
- 8.10.6 Abandonment and Removal
- 8.10.6.1 Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be considered abandoned when it fails to operate for more than one year without the written consent of the Special Permit/Site Plan Approval Granting Authority. If the owner or operator of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.
- 8.10.6.2 Removal Requirements - Any COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which has reached the end of its useful life or has been abandoned, shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Special Permit/Site Plan Approval Granting Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
1. Physical removal of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, structures, equipment, security barriers and transmission lines from the site.
  2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

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3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit/Site Plan Approval Granting Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

8.10.7 Financial Surety

Proponents of COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Special Permit/Site Plan Approval Granting Authority, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Before issuance of any building permits for the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, such construction and installation shall be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land to the extent applicable and/or the regulations adopted pursuant to the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Bylaw for this purpose.

8.10.8 Special Permit and Site Plan Approval Decisions

Special Permit and Site Plan Approval decisions shall conform to the requirements of this Section, section 9.2 and 9.3 of the Zoning Bylaw and other relevant Sections of the Zoning Bylaw.

All COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Special Permit and Site Plan Approval Decisions shall be valid for a twelve (12) month period unless renewed or extended by the Special Permit/Site Plan Approval Granting Authority following application made by the applicant. There is no limit to the number of renewals or extensions the special Permit/Site plan Approval Granting Authority may grant for a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWALBE ENERGY INSTALLATION.



## **SECTION 9**

### **ADMINISTRATION**

#### **9.1 Board of Appeals**

The Board of Appeals under this Bylaw shall be the existing Board of Appeals established in accordance with Section 12 of Chapter 40A and Article 3, Section 12 of the General Bylaws of the Town. The Board of Appeals shall constitute the permit granting authority and the special permit granting authority, except as otherwise provided in the Bylaw, and shall exercise the powers contained in Chapter 40A, Section 14 of the General Laws, as amended.

#### **9.2 Special Permits**

- 9.2.1 Special Permit Granting Authority - Certain uses are designated in the Bylaw as requiring a special permit. The Board of Appeals, the Planning Board or the Board of Selectmen are herein designated as a Special Permit Granting Authority for specific purposes. Wherever specific designation is not made, the Planning Board shall be deemed the Special Permit Granting Authority. The Board of Appeals, the Planning Board or the Board of Selectmen may grant special permits for such designated uses as authorized in this Bylaw and shown in the Table of Principal Uses.
- 9.2.2 Rules and Regulations and Fees - Each Special Permit Granting Authority shall promulgate, adopt and, from time to time, amend rules and regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall prescribe as a minimum:
- 9.2.2.1 the size, form, contents, style and number of copies of plans and specifications;
  - 9.2.2.2 the town boards or agencies from which the Special Permit Granting Authority may require reports; and
  - 9.2.2.3 fees sufficient to cover reasonable costs incurred by the Town in the review and administration of special permits.
- 9.2.3 Petition - Any person seeking to obtain a special permit (hereinafter referred to as the Petitioner) shall file a petition with the Town Clerk, and the required number of copies of said petition, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority. Each petition shall be completed on the proper forms and accompanied by the information required by the Special Permit Granting Authority as set forth in its rules and regulations.
- 9.2.4 Reports from Town Boards or Agencies - The Special Permit Granting Authority shall transmit forthwith one copy each to the Planning Board, Zoning Board of Appeals, BUILDING INSPECTOR, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the Special Permit Granting Authority for their written reports. Failure of any such board or agency to make a recommendation within thirty-five (35) days of receipt of said petition shall be deemed lack of opposition by said board or agency in accordance with the provisions of Chapter 40A of the General Laws. However, additional comments from any such board or agency may be received prior to the close of the public hearing.

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- 9.2.5 Public Hearing and Decision - The Special Permit Granting Authority shall hold a public hearing after proper notification in accordance with the provisions of Chapter 40A of the General Laws no later than sixty-five (65) days after the filing of a petition. As all uses requiring a special permit also require site plan approval, one public hearing shall be deemed sufficient for both the special permit petition and the application for site plan approval. The decision of the Special Permit Granting Authority shall be made within ninety (90) days following the date of the public hearing. The Special Permit Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to obtain additional information in order to make an informed decision. The required times for a public hearing and said action may be extended by written agreement between the petitioner and the Special Permit Granting Authority, a copy of which is filed with the Town Clerk.
- 9.2.6 Mandatory Findings by Special Permit Granting Authority - The Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed use and development:
- 9.2.6.1 is in harmony with the purpose and intent of this Bylaw;
  - 9.2.6.2 will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;
  - 9.2.6.3 is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use;
  - 9.2.6.4 includes sufficient mitigating measures which shall be implemented as part of the special permit for any adverse effects noted in the Development Impact Statement, reports from town boards and agencies, reports from consultants and public hearings;
  - 9.2.6.5 will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
  - 9.2.6.6 will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads. A significant effect on level of service is a projected use of greater than five percent (5%) of the reserve capacity of a road segment or turning movement by the proposed use at the completion of its development. Reserve capacity calculations are to be done by a registered professional engineer using accepted methods of traffic analysis and shall include both projected growth in traffic during the period of development and projected traffic from other uses and developments which have applied for approval under the Zoning Bylaw prior to the close of the public hearing;
  - 9.2.6.7 will result in no significant effect on level of service for any service provided by the Town, including fire, police and ambulance. Proof of no significant effect is the lack of need for the Town to add equipment and/or staff specifically due to the development;
  - 9.2.6.8 will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;
  - 9.2.6.9 will result in no transport by air or water of erodible material beyond the boundary line of the LOT ( See also Section 3.8. Use Regulations, General);
  - 9.2.6.10 will provide adequate provision for pedestrian traffic; and

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9.2.6.11 will comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

9.2.7 Special Permit Conditions - The Special Permit Granting Authority shall impose such conditions, safeguards and limitations as it deems appropriate to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow including, but not limited to:

9.2.7.1 Limitation of size, number of occupants, method and time of operation, lighting, signage and extent of facilities;

9.2.7.2 Dimensional setback requirements greater than the minimum required by this Bylaw;

9.2.7.3 Modification of the exterior features or appearances of the STRUCTURE(S);

9.2.7.4 Screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, FENCES, plantings or other devices, including a program of maintenance for said screening which will continue for the life of the permitted use;

9.2.7.5 Continuing provision for adequate and legal disposal of all solid waste, sewage, REFUSE and any other potential pollutant generated by any use;

9.2.7.6 A program of snow storage or removal to continue for the life of the permitted project;

9.2.7.7 Inclusion of measures to ensure GROUND WATER protection, and to ensure the proposed development will not redirect existing surface water runoff such that there would be adverse impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;

9.2.7.8 Provision of easements, restrictions and other means enabling other uses in accordance with the Bylaw;

9.2.7.9 Requirement of off-street parking and other special features;

9.2.7.10 Regulation of number, design and location of access drives, drive-up windows and other traffic measures;

9.2.7.11 Provision for the safety and convenience of pedestrian traffic;

9.2.7.12 Requirement for performance bonds or other security; and

9.2.7.13 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land. If said devices are of a new technology or design not in general use, it shall be the petitioner's responsibility to provide sufficient information to verify the safety and efficacy of said technology or devices to the satisfaction of the Town of Stow through all the appropriate boards.

9.2.7.14 A sidewalk, walkway or path shall be required along the entire frontage of a LOT. The Special Permit Granting Authority may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists. Said sidewalks, walkways or paths may be located on the LOT or within the layout of the STREET, with the Town's permission, depending on the nature of the work and upon obtaining whatever permits are required, construction, alterations of existing STRUCTURES and parking areas/LOT, and changes in use are designed in a manner which complies with the provisions of the Bylaw as to demonstrate

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protection of visual and environmental qualities and property values of the Town, and assurances of adequate drainage of surface water and safe vehicular and pedestrian access, and all other requirements of the Bylaw.

- 9.2.8 Time Limitation on Special Permit - A special permit shall lapse if a substantial use thereof has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the Special Permit Granting Authority, not to exceed two years from the date of grant thereof, in accordance with Chapter 40A, Section 9 of the General Laws.
- 9.2.8.1 A reasonable extension of said time, but not more than two additional years, may be granted by the Special Permit Granting Authority after a public hearing has been held where good cause is shown. Any request to the Special Permit Granting Authority for such extension of time shall be submitted to the Special Permit Granting Authority and a copy to the Stow Town Clerk at least sixty (60) days prior to the date when the special permit is due to lapse. Failure to submit such a request as prescribed herein shall be sufficient cause for the Special Permit Granting Authority to deny the requested time extension.
- 9.2.9 Maintenance of Special Permit - A periodic review, at least annually, shall be conducted by the Special Permit Granting Authority to ensure compliance with the conditions imposed within the special permit. The BUILDING INSPECTOR shall assist the Special Permit Granting Authority in the review. Notification of any deficiencies found through said review shall be forwarded to the property owner and special permit holder. Failure to rectify said deficiencies may result in rescission of the special permit or other zoning enforcement proceedings. Upon determination by the Special Permit Granting Authority that the conditions of the special permit have been met, no such further review shall be conducted.
- 9.2.10 Effective Date of Special Permit - No special permit or any modification or extension thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South Registry of Deeds or Land Court. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.
- 9.2.10.1 No construction activity, including site alteration, for any use or STRUCTURE authorized by the special permit shall take place on the proposed development site until all relevant documents including easements are approved, executed, filed with the appropriate Special Permit Granting Authority and recorded in the Middlesex County South Registry of Deeds or Land Court.

**9.3 Site Plan Approval**

- 9.3.1 Site Plan Approval Granting Authority - Certain uses are designated in the Table of Principal Uses as requiring site plan approval. The Board of Appeals, Planning Board or the Board of Selectmen may grant site plan approval in accordance with the standards set forth in this Bylaw. Wherever a specific designation is not made, the Planning Board shall be deemed the Site Plan Approval Granting Authority.

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- 9.3.2 Rules and Regulations and Fees - Each board designated as a Site Plan Approval Granting Authority in the Table of Principal Uses, or otherwise so designated in the Bylaw, shall promulgate, adopt and, from time to time, amend rules and regulations, not inconsistent with the provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall prescribe as a minimum:
- 9.3.2.1 the size, form, contents, style and number of copies of plans, applications and specifications;
  - 9.3.2.2 the town boards or agencies from which the Site Plan Approval Granting Authority may require reports; and
  - 9.3.2.3 fees sufficient to cover reasonable costs incurred by the Town in the review and administration of site plan approval.
- 9.3.3 Projects Requiring Site Plan Approval - Site plan approval and a building permit shall be required for any of the following uses, as set forth below or in the Table of Principal Uses:
- 9.3.3.1 The construction or exterior alteration of a business or commercial STRUCTURE or parking area/LOT;
  - 9.3.3.2 The construction or exterior alteration of an industrial STRUCTURE or parking area/LOT;
  - 9.3.3.3 Notwithstanding that any particular use is an allowed use, site plan approval is also required for the following:
    - 1. single family DWELLING with ACCESSORY APARTMENT;
    - 2. BED AND BREAKFAST HOME;
    - 3. BOARDING HOUSE or ROOMING HOUSE;
    - 4. permanent BUILDING or STRUCTURE for the sale of farm produce;
    - 5. in the Business District, uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA; and
    - 6. in the Commercial and Industrial Districts, uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA;
  - 9.3.3.4 Change from one permitted use to another permitted use of an existing STRUCTURE or LOT;
  - 9.3.3.5 Change in or establishment of an area for vehicle parking, loading, storage or vehicular access; and
  - 9.3.3.6 Any other use specified in the Table of Principal Uses which indicates a special permit or site plan approval is required.
- 9.3.4 The Site Plan Approval Granting Authority may waive any or all requirements of site plan approval process for external enlargements or alterations of less than 10% or five hundred (500) square feet, whichever is less, of the existing FLOOR AREA if the Site Plan Approval Granting Authority finds that the requirements of this Bylaw have been met.

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- 9.3.5 Purpose - The purpose of site plan approval is to ensure that new construction, alterations of existing STRUCTURES and parking areas/LOT, and changes in use are designed in a manner which complies with the provisions of the Bylaw as to demonstrate protection of visual and environmental qualities and property values of the Town, and assurances of adequate drainage of surface water and safe vehicular and pedestrian access, and all other requirements of the Bylaw.
- 9.3.6 Application - Any person who seeks to obtain site plan approval shall file a written application, signed by the applicant and the current property owner, with the Site Plan Approval Granting Authority, and forthwith file a copy with the office of the Town Clerk. The applicant shall submit said application, including the date and time of filing, certified by the Town Clerk, to the appropriate office of the Site Plan Approval Granting Authority, accompanied by the required number of copies of the site plan in accordance with the rules and regulations.
- 9.3.7 Reports from Town Boards or Agencies - The Site Plan Approval Granting Authority shall transmit forthwith one copy each to the Planning Board, Zoning Board of Appeals, BUILDING INSPECTOR, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the Site Plan Approval Granting Authority for their written reports. Failure of any such board or agency to make a recommendation within thirty-five (35) days of receipt of said application shall be deemed lack of opposition by said board or agency. However, additional comments from any such board or agency may be received prior to the close of the public hearing.
- 9.3.8 Public Hearing and Decision - The Site Plan Approval Granting Authority shall hold a public hearing no later than sixty-five (65) days after the filing of an application. If the site plan approval is sought in conjunction with a special permit, one hearing and decision shall suffice for both site plan approval and special permit. The decision of the Site Plan Approval Granting Authority shall be made within ninety (90) days following the date of the public hearing. The Site Plan Approval Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to gather additional information in order to make an informed decision. Such continuance shall not automatically extend the required time limits set forth herein. The required time limits for a public hearing and/or decision may be extended by written agreement between the applicant and the Site Plan Approval Granting Authority. A copy of such agreement shall be filed in the office of the Town Clerk. Failure by the Site Plan Approval Granting Authority to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the site plan approval.
- 9.3.9 Time Limitation on Site Plan Approval - Site plan approval shall lapse if construction has not commenced, except for good cause, within a period of time to be specified by the Site Plan Approval Granting Authority, not to exceed two (2) years from the date of grant thereof.
- 9.3.10 A reasonable extension of said time, but not more than two (2) additional years, may be granted by the Site Plan Approval Granting Authority where good cause is shown. Any request for such extension of time shall be submitted to the Site Plan Approval Granting Authority and a copy to the Stow Town Clerk at least thirty (30) days prior to the date when the site plan approval is due to lapse. Failure to submit such a request as prescribed herein shall entitle the Site Plan Approval Granting Authority to deny the requested time extension.

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**9.3.11 Site Plan Design Criteria** - The purpose of the following site plan design criteria is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety, and to the suitability of a proposed use on a site. Before the granting of any site plan approval, the Site Plan Approval Granting Authority shall determine compliance with the following:

- 9.3.11.1 The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow in accordance with, but not limited to, the following:
1. Site development shall minimize impacts on wetlands, steep SLOPES, flood plains, hilltops;
  2. Site development, including building sites and STRUCTURES proposed thereon, should not obstruct scenic views from publicly accessible locations;
  3. Sites shall be developed so as to preserve unique natural or historical features;
  4. Site development shall minimize deforestation, vegetation and soil removal and shall avoid grade changes;
  5. Development of the site shall be in accordance with OPEN SPACE provisions of the Bylaw; and
  6. Screening of objectionable features, including, but not limited to, exposed storage areas, storage tanks, machinery, service areas, truck loading areas, and utility BUILDINGS and STRUCTURES, from abutting properties and roadways shall be year-round and provided in the site development plan;
- 9.3.11.2 No BUILDINGS and STRUCTURES, except driveways, roads and septic systems, shall be located outside the DEVELOPABLE SITE AREA, and the DEVELOPABLE SITE AREA shall be clearly identified on the plan and shall meet the requirements of the definition in Section 1.3;
- 9.3.11.3 Architectural style should be in harmony with the prevailing character and scale of BUILDINGS in the neighborhood and the town through the use of similar building materials, screening, roof and wall lines and other architectural features. Variation in detail, form and siting should be used to provide visual interest and avoid monotony. Proposed site development shall provide adequate light, air circulation and separation between BUILDINGS;
- 9.3.11.4 The development shall be served with adequate water supply and waste disposal systems. For STRUCTURES to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a registered professional engineer and approval by the Board of Health;
- 9.3.11.5 The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Unless waived by the Site Plan Approval Granting Authority, a traffic study plan shall be prepared by a registered professional engineer and shall prescribe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site;
- 9.3.11.6 The site plan shall show adequate proven measures to prevent pollution of surface or GROUND WATER, to prevent erosion and sedimentation, and to prevent significant changes in GROUND WATER levels, increased runoff and potential for flooding.



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Drainage shall be designed so that the rate and volume of runoff from the site shall not be increased, and abutting properties and ways, the neighborhood and community amenities will not be adversely impacted;

- 9.3.11.7 The development shall not excessively burden town services and infrastructures. To that end, the development shall place no more than the minimum demands on town services and infrastructures as may be reasonably taken care of on site or by alternate means. If the foregoing is not reasonably feasible, the site plan approval shall include provisions to assure that adequate provision for any significant increase in demands on town services and infrastructures which result from the development are provided or secured by the applicant;
  - 9.3.11.8 Electric, telephone, natural gas, cable television and other such utilities and services shall be underground unless otherwise authorized by the Site Plan Approval Granting Authority;
  - 9.3.11.9 The site plan shall comply with all zoning requirements for parking, loading, lighting, dimensions, environmental performance standards, and all other provisions of this Bylaw; and
  - 9.3.11.10 Before approval of a site plan, the Site Plan Approval Granting Authority may request the applicant make modifications in the proposed design to ensure that the above criteria are met.
- 9.3.12 Findings by the Site Plan Approval Granting Authority - The Site Plan Approval Granting Authority, in order to grant site plan approval, shall find the proposed use of the site consistent with the uses permitted in the district in which the site is located and shall give due consideration to the reports received under Section 9.3.7. Prior to the granting of any site plan approval, the Site Plan Approval Granting Authority shall find that the site plan:
- 9.3.12.1 Protects the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment;
  - 9.3.12.2 Provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;
  - 9.3.12.3 Provides an adequate, convenient and safe arrangement of parking and LOADING SPACES in relation to the proposed uses of the site;
  - 9.3.12.4 Provides adequate and safe methods of disposal of REFUSE or other wastes resulting from the uses permitted on the site;
  - 9.3.12.5 Will not derogate from the purpose of this Bylaw; and
  - 9.3.12.6 Complies with all applicable requirements of this Bylaw.
- 9.3.13 Final Action by the Site Plan Approval Granting Authority - Final action in connection with site plan approval shall consist of either:
- 9.3.13.1 a determination that the proposed project as set forth in the application constitutes a suitable development and is in compliance with the criteria set forth in this Bylaw, and the approval thereof; or

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9.3.13.2 a written denial of the application stating the reasons for such denial.

9.3.14 As-Built Plan - At the time the BUILDINGS contained within the development site are ready for occupancy and prior to the issuance of an Occupancy Permit by the BUILDING INSPECTOR, the applicant shall have prepared and certified by a registered professional engineer or land surveyor an "As-Built Plan" drawn with dark lines on a medium acceptable for recording with the Middlesex County Registry of Deeds or Land Court showing the following:

9.3.14.1 property boundary lines;

9.3.14.2 location of all BUILDINGS and other STRUCTURES, including utility sheds, storage areas and storage tanks;

9.3.14.3 actual widths, lengths and bearings of all boundary lines of STREETS, driveways, parking lots/areas, drainage structures and easements;

9.3.14.4 grades of streets, driveways, parking lots/areas, drainage structures, pipes and easements; and

9.3.14.5 locations of all pipes and utilities.

Said "As-Built Plan" shall be accepted by the Site Plan Approval Granting Authority prior to the issuance of any Occupancy Permit.

#### **9.4 Procedures**

All procedure, time periods, hearings, actions taken and the adoption of rules and requirements shall be in accordance with Chapter 40A of the General Laws, as amended by Chapter 808 of the Acts of 1975, and any subsequent amendments thereto.

#### **9.5 Planning Board Associate Member**

The Planning Board under this Bylaw may appoint one (1) Associate Member, and the chairman may designate said Associate Member, to sit on the Planning Board for purposes of action on a special permit application in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

#### **9.6 Enforcement**

The provisions of the Bylaw and any amendments thereto shall be administered and enforced by the BUILDING INSPECTOR.

9.6.1 Building Permits - Building permits are required in accord with the State Building Code.

9.6.2 Certificate of Occupancy - Certificates of occupancy are required in accord with the State Building Code.

9.6.3 Violations and Enforcement - Enforcement shall be in accord with provisions of the State Building Code.

9.6.4 Penalty for Violation - The penalty for violation of this Bylaw shall be a fine of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, three hundred dollars (\$300) for the third offense and three hundred dollars

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(\$300) for each succeeding offense. Each day that a violation continues shall constitute a separate offense.

**9.7 Amendment**

This Bylaw may from time to time be changed by amendment, addition or repeal by a town meeting in a manner provided in Section 5 of Chapter 40A of the General Laws.

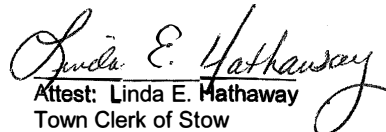
**9.8 Validity**

Where this Bylaw imposes a greater restriction upon the use, height and the area of STRUCTURES or the use of premises than is imposed by other bylaws, the provisions of this Bylaw shall control. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

**9.9 Exemptions - Religious, Educational, Agricultural or Municipal Uses**

Nothing in this Bylaw shall be construed to limit or prohibit the use of land in any district, or any BUILDING or STRUCTURE, for any church or religious purpose, for any non-profit educational purpose which is religious, sectarian, denominational or public, for agricultural use except piggeries or raising animals for fur, or for any municipal purpose with the exception of a REFUSE disposal area. Such uses shall nevertheless conform to the dimensional, parking and BUILDING coverage requirements of this Bylaw.

A true copy.

  
Attest: Linda E. Mathaway  
Town Clerk of Stow

*Appendix*

*History of Zoning Bylaw Amendments*

**History of Zoning Bylaw Amendments**

March 3 and 4, 1969

(Approved by Attorney General May 22, 1969)

**ZONING MAP:**

- Included in the Industrial District a parcel of land on the westerly side of Hudson Road, adjoining and southerly of the existing Industrial District and beginning at a point on the westerly side of Hudson Road at the northerly side of Athens Street. And further, by redefining the southerly line of the existing Industrial District as a segment of a straight line from the intersection of Edson Street and Hudson Road to the town bound at Maple Street.
- Included in the Recreation-Conservation District the land on both sides of Assabet Brook, from the point where Potash Brook joins Assabet Brook downstream to the point where the Assabet Brook joins the existing flood plain zone which extends northerly of the Assabet River, along Assabet Brook, and which lies within two hundred (200) feet of the center line of Assabet Brook.
- Included in the Industrial District a strip of land along the westerly side of Boxboro Road, by the Boxborough town line and by the easterly line of the existing Industrial District.

Voted to accept the provisions of General Laws Chapter 40A, Section 8 concerning reconsideration of changes in the zoning bylaw after unfavorable action.

November 24, 1969

(Approved by Attorney General June 16, 1970)

**Minor amendments**

March 2 and 3, 1970

(Approved by Attorney General June 16, 1970)

Section VII-B: I Inserted subsection 5, cluster zoning.

March 3, 1971

(Approved by Attorney General April 12, 1971)

Zoning Map: Changed from Residential to Commercial a parcel of land between Great Road and Delaney Street next to the Bolton Line.

November 1, 1971

(Approved by Attorney General February 25, 1972)

Section XI Amended to provide a municipal exemption for certain purposes.

October 5, 1972

(Approved by attorney General August 27, 1973)

Section III-A "Establishment of Districts": added "6. Wetlands District".  
 Section III-C "Location of Boundaries of Districts": added paragraph 7.  
 Section VI "Use Regulations": added subsection "G. Wetlands District"  
 Section VII-B-4 Amended  
 Zoning Map Amended to add "Wetlands District"

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
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October 15, 1973

(Approved by Attorney General November 13, 1973)

- Section VII-B "Area, Frontage, Yard, & FLOOR AREA Requirements" and the accompanying table for the Residential District:
- Column entitled "Minimum LOT Area in Square Feet", changed the number "40,000" to read "65,340".
  - Column entitled "Minimum Contiguous LOT Frontage in Feet", changed the number "150" to read "200"
- Section VII-B-5-b-(4) Second sentence: changed "40,000 square feet" to read "65,340 square feet".
- Section VII-B-6-c Added paragraph (3) to read:  
"Those lots within the cluster, but having frontage on existing roads, must meet the frontage and area requirements of the District without regard to the provisions of this section."

May 6, 7, 8 and 20, 1974

(Approved by Attorney General October 7, 1974)

- Section VII-B-5-b-(4) Added the words "In a wetlands district or" to the third sentence of the section.
- Section VII-B-5-b-(8) Added the words "if it is not in a Wetlands District" to the second sentence of the section.

May 5, 6, 7 and 8, 1975

(Approved by Attorney General September 9, 1975)

- ZONING MAP Included within the Wetlands District all land subject to periodic flooding by adopting the following changes, and amended the zoning map of the Town accordingly:
- Section III-A "Establishment of Districts" changed item 6 to read "6. Flood Plain/Wetlands District.
- Section III-C "Location of Boundaries of Districts": added a new paragraph 8.
- Section VI "Use Regulations" paragraph G: struck out the words "Wetlands District" wherever they appear and substituted therefore the words "Flood Plain/Wetlands District".
- Section VI-G-1 "Uses Permitted": added a new paragraph g.
- Section VII-B-4 Amended to read:  
"4. In no case shall a BUILDING or structure of sewage disposal area hereafter be located, constructed or substantially improved in a Flood Plain/Wetlands District or within thirty (30) feet of the bank or boundary of a stream, river, watercourse, flood plain or wetland except as provided in Section V-D and Section VI-G-1-g. "Substantial improvement", for the purposes of this section, shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either before the improvement is started, or in the case where the structure has been damaged and is being restored, before the damage occurred."
- Section V-D "New Construction and New Uses": deleted the language in its entirety and inserting a new Section V-D to read: "D. No BUILDING except piers, warfs or other structures to serve boats shall be ERECTED below the flood contour lines as shown on the maps and plans set forth in Section III-C-8 of this bylaw, as indicated on and incorporated in by reference on the zoning map

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
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accompanying this bylaw, except upon a special permit granted by the Board of Appeals as hereinafter provided for in Section VI-G-1-g."

November 10, 1975

(Approved by Attorney General February 23, 1976)

Section III-A	"Establishment of Districts": added a new district "3a. Compact Business District".
Section VI	"Use Regulations": added a new subsection H. "H. Compact Business District.
Section VII-B	"Area, Frontage, Yard and FLOOR AREA Requirements" table: added Compact Business District and Footnotes (7), (7A) and (8).
Zoning Map	Rezoned from Residential to Compact Business two parcels of land on the easterly side of Gleasondale Road, beginning at a point approximately 334 feet from the easterly corner of Great Road and Gleasondale Road and extending southerly along the easterly side of Gleasondale Road to the southern boundary of the parcel containing the Post Office.

May 3, 4 and 5, 1976

(Approved by Attorney General August 10, 1976)

Section V	Added a new paragraph F. to provide for a special permit for various lots of at least 40,000 square feet and 150 feet of frontage.
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November 17, 1976

(Approved by Attorney General February 28, 1977)

Section III-A	"Establishment of Districts": added a new district "7. Refuse Disposal District".
Section VI	"Use Regulations": added a new subsection "I. Refuse Disposal District".
Section VII	"Site Plan Approval": inserted after the words "Board of Appeals" wherever they occur the words "or the Board of Selectmen, whichever applies".
Section VII-F	Deleted the last sentence and inserted in place thereof: "The public hearing on the special permit and site plan shall be held within sixty-five (65) days after the filing of an application for special permit, and final action taken within ninety (90) days of the date of the public hearing, pursuant to the provisions of Chapter 40A of the Massachusetts General Laws, as amended by Chapter 808 of the Acts of 1975. Failure to act within the specified time shall constitute approval."
Section VII-B	"Area, Frontage, Yard and FLOOR AREA Requirements" table: added Refuse Disposal District and Footnotes (9), (9A) and (10).
Section VII-E	"Signs": struck out the first part of the first sentence and paragraph 2 and inserted in its place "2. in Business, Commercial, Industrial and Refuse disposal Districts additional signs are permitted as follows:" Paragraph 2, subparagraph b: inserted after the words "industrial park" the words "or a refuse disposal facility".

Appendix	History of Zoning Bylaw Amendments
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May 2, 3 and 4, 1977  
(Approved by Attorney General August 18, 1977)

Zoning Map	Rezoned from Residential to Refuse Disposal a portion of a parcel of land located in Stow and Hudson, containing approximately thirty-four (34) acres in Stow.
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May 1 and 2, 1978  
(Approved by Attorney General August 18, 1978)

Amended in order to bring zoning bylaws into conformity with the provisions of Chapter 808 of the Acts of 1975 and the new Chapter 40A of the General Laws.

Section I	"Purposes": deleted and a new Section 1 inserted.
Section II-C	Deleted the words "Building Code" and inserted the words "State Building Code".
Section II-M	"Non-Conforming Uses, Structures and Lots": deleted and added a new
Section M.	
Section III-B	Adopted the revised and updated zoning district map dated April 5, 1978; deleted the present date of the map and added the date of the new map in its place.
Section III-B	Deleted all the language after the words "Town Clerk" and added language in place thereof.
Section III-C-3	Added at the end of the sentence "in existence and as recorded at the time of the adoption of or amendment to the Zoning Map".
Section III-C-8	Adopted updated flood plain maps by deleting the last sentence and adding in its place; "Boundary lines of the flood plain elsewhere in the Town shall be the limits of the "Special Flood Hazard Areas" delineated on maps entitled "FIA Flood Hazard Boundary Maps", Nos. HO1-HO11 inclusive, Town of Stow, revised December 6, 1977 and on file with the Town Clerk."
Section IV	Deleted title and introductory sentence and added " <u>Continuance of Existing, Non-Conforming Uses and Structures</u> A pre-existing , non-conforming use or structure may continue. However:"
Section IV-A	Added a new first sentence: "No pre-existing, non-conforming uses or structures may be extended or altered except upon application for a special permit and a finding by the Board of Appeals that such change is not substantially more detrimental to the neighborhood than the existing non-conforming use."
Section IV-C	Deleted the words "one (1) year" and inserted the words "two (2) years".
Section IV-D	Deleted the words "non-conforming BUILDING" and added in place thereof the words "non-conforming single or two family DWELLING or agricultural structure:."
Section VI-F-1-a	Deleted the words "Building Code of the Town of Stow" and inserted in place thereof "State Building Code".
Section VI-F-1-h	Added a new subsection h. Scientific Uses.
Section VII-B	"Area, Frontage, Yard, and FLOOR AREA Requirements" table: deleted the entries in the last column under "minimum FLOOR AREA: and the existing footnote (5) and added in place thereof a new footnote (5).
Section VII-B-5-e	Deleted the second sentence and inserted in place thereof "if in the opinion of the Board of Appeals the granting of a permit would not be in harmony with the general purpose and intent of the Zoning Bylaw, this shall be deemed good and sufficient reason for not granting a permit.

Appendix	History of Zoning Bylaw Amendments
Section VII-B-5-f	Deleted the end of the first sentence the words "forty-five (45) days within which to submit such report: and added in place thereof the words "thirty-five (35) days from the date of receipt within which to submit such report.
Section VIII-A, B, C	Deleted in each section the words "Building Code of the Town of Stow; or "Stow Building Code" and inserted in place thereof the words "State Building Code.
Section IX	Deleted reference to " Section 14 of Chapter 40A: and inserted in place thereof the words "Section 12 of Chapter 40A and Article 3, Section 12 of the General Bylaws of the Town: and added an additional sentence at the end to read "The Board of Appeals shall constitute the permit granting authority and the special permit granting authority, except as otherwise provided in the Zoning Bylaw, and shall exercise the powers contained in Chapter 40A, Section 14 of the General Laws, as amended."
Section X	Deleted the reference to Section 6 of Chapter 40A and inserted in its place the words "Section 5 of Chapter 40A."
Section XI	Deleted title and added in its place the title "Religious Educational, Agricultural or Municipal Uses"; added the word "non-profit" before the words "educational purpose" and the words "for agricultural use except piggeries or raising animals for fur: before the words "or for any municipal purpose"; added a sentence to the end of the Section - "such uses shall nevertheless conform to the dimensional, parking and BUILDING coverage requirements of this bylaw".
Section XIII	Added this Section entitled "Procedure".

October 5, 1981

(Approved by Attorney General January 25, 1982)

Added Section XIV	"Suspension of Airport or landing Field Uses and Site Plan Approvals for Such Use: to provide a nine-month moratorium on those uses. Section VI-B-1 Deleted subparagraph g. in its entirety and inserted a new subparagraph g. "Professional office or home occupation, provided that:"
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May 3 and 4, 1982

(Approved by Attorney General October 12, 1982)

Section III-C	Deleted paragraph 7 in its entirety and substituted in place thereof a new paragraph 7 in order to define the wetlands map reference.
Section VII-D	"Off-Street Parking and Loading Areas": deleted paragraph 2 in its entirety and substituted a new paragraph 2 "Design of Off-Street Parking and Loading Spaces".



<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
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June 28, 1982  
(Approved by Attorney General October 12, 1982)

Section VI-A-1	Deleted paragraph f and substituted in place thereof a new paragraph f regarding display and sale or offering for sale farm produce.
Section VI-A-2	Deleted from paragraph b the words "airports or landing fields".
Section VII-F	Deleted paragraph F in its entirety and substituted in place thereof a new paragraph F to provide for Level 1 special permit (site plan approval).
Section VII-G	Renumbered to Section VII-H
Section VII-H	Renumbered to Section VII-I
Section VII-G	(new) inserted to provide for Level 2 special permit.
Site Plan Approval:	
Special Permit:	Deleted the words "site plan approval: wherever they appeared and substituted in place thereof the words "Level 2 special permit".
Section XIV	Deleted the words "special permit: wherever they appeared and substituted in place thereof the words "Level 2 special permit". Deleted "Suspension of Airport or Landing Field Uses and Site Plan Approvals for Such Use".

May 2, 3, 4 and 25, 1983  
(Approved by Attorney General August 26, 1983)

Section VII-B-4	Deleted from the first sentence the words "thirty (30)" and adopted the words "one hundred (100)".
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May 6, 7 and 8, 1985  
(Approved by Attorney General August 5, 1985)

Section VII-A-1	Added second sentence regarding tower, chimney, etc., heights.
Section VII-A-3	Deleted and substituted new sentence.

December 9, 1985  
(Approved by Attorney General February 24, 1986)

Section VII-E	Signs - deleted existing paragraph E and adopted new paragraph E.
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May 5, 6 and 7, 1986  
(Approved by Attorney General July 25, 1986)

Section II	Definitions - added the words "parking lots, driveways, roads and septic systems".
Section III-C	Added subparagraph 9
Section VI-A	Recreation-Conservation District - deleted subparagraph 1.e. and relettered subparagraph 1.f. and 1.g. to 1.e and 1.f.
Section VII-D-1	Off-Street Parking and Loading Areas - deleted existing second paragraph of subparagraph f. and added new subparagraphs g. and h.

Appendix	History of Zoning Bylaw Amendments
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January 27 and 28, 1987  
(Approved by Attorney General April 21, 1987)

Section VI-C	Business District - added second sentence to subparagraph d. of paragraph 1.
Section VII	Added a new paragraph J. - Common Drives.
Section VII-B	Added paragraph 6 re "hammerhead lots".
Section VII-B	Added second sentence to footnote (1).
Section VII-B	Added footnote (11) to Footnote to Chart (superseded by vote of May 4, 5, and 6, 1987 as procedural defect was discovered).
Zoning Map	Included in Residential District all of the land contained in five existing Red Acre Road parcels.

May 4, 5 and 6, 1987  
(Approved by Attorney General August 24, 1987)

Section VI-F-1	Added a new subparagraph i. - Drainage.
Section VII-B	Deleted paragraph 7 and added new paragraph 6 re hammerhead lots.
Section VII-B	Added footnote (111) to tow columns of the Chart and added footnote (11) to Footnote to Chart.
Section VII-F-1	Level 1 Special Permit - deleted first paragraph and adopted new first paragraph.

January 19, 1988  
(Approved by Attorney General February 18, 1988)

Section III-A	Added Water Resource Protection District.
Section III-C	Added subparagraph 10.
Section VI	Added paragraph J. Water Resource Protection District.
Section VII-B	Added Water Resource Protection District to the Chart and added Footnote (12).
Zoning Map	Added legend re Water Resource Protection District. Rezoned from Industrial to Residential approximately 8.7045 acres off Gleasondale Road, identified as Parcel No. 3 on stow Property Map Sheet U-8.

May 2 and 3, 1988  
(Approved by Attorney General August 25, 1988)

Section II	Definitions - added "Green space".
Section VI-A	Recreation-Conservation District - amended paragraph 1.d and added paragraph 2.e.
Section VI-B	Residential District - amended paragraph 1.d.; deleted and replaced paragraph 2.b.
Section VI-C	Business District - deleted in its entirety and replaced.
Section VI-D	Commercial District - deleted in its entirety and replaced.
Section VI-E	Industrial District - deleted in its entirety and replaced.
Section VII-B	Footnote to Chart - added Footnote (13).
Section VII-F	Level 1 Special Permit - deleted in its entirety and replaced with "Special Permit".
Section VII-G	Level 2 Special Permit - relabelled Section VII-F.7.
Section VII-H	Earth Removal - relettered to section VII-G.
Section VII-I	Trailers and Mobile Homes - relettered to Section VII-H.

Appendix	History of Zoning Bylaw Amendments
Zoning Map	Rezoned from Recreation-Conservation to Residential approximately 1.5 acres on the easterly side of Box Mill Road, identified as Parcel No. 2 on Stow Property Map Sheet R-22.
Section I	Purposes - added "to achieve housing choices and a range of housing costs".
Section II	Definitions - added "ACCESSORY APARTMENT", "BED AND BREAKFAST HOME or ESTABLISHMENT", "FENCE", "Slope", "Wall".
Section IV	Continuance of Existing, Non-Conforming Uses and Structures - added second paragraph to A.
Section VI-B	Residential District - added new paragraph 1.i "BED AND BREAKFAST HOME"; added new paragraph 2. f "BED AND BREAKFAST ESTABLISHMENT"; added new paragraph 2.g. "Nursing homes or elderly care facilities".
Section VI-B	Residential District - added new paragraphs 3. and 4. "Accessory Residential Uses on One-Family Lots"; added new paragraph 4. "Duplex Residential Uses in the Residential District....".
Section VI-C	Business District - added "BED AND BREAKFAST ESTABLISHMENT or HOME: to paragraphs 1.a and 3.a.
Section VI-D	Commercial District - added "BED AND BREAKFAST ESTABLISHMENT or HOME: to paragraph 2.a; added new paragraph 3.i. "BED AND BREAKFAST ESTABLISHMENT or HOME".
Section VI-E	Industrial District- added new paragraph 3.h. "conversion of existing residence to BED AND BREAKFAST ESTABLISHMENT or HOME".
Section VI-F	General - added new paragraph 1.j. "Erosion control".
Section VII-B	Area, Frontage, Yard, and FLOOR AREA Requirements - replaced paragraph 1.
Section VII-K	Added "FENCES".
Section VIII-D	Penalty for Violation - deleted and replaced.
Section XIV	Added "Phasing of Growth".
Zoning Map	Rezoned from Industrial to Residential approximately 32,800 square feet of Parcel 49 and approximately 1,300 square feet of Parcel 52 on Stow Property Map Sheet R-10.
Section VI-B	Residential District - added new paragraph 6. "Cross Country Ski Uses".
Section VI-B	Residential District - added new paragraph 7. "Golf Course Uses"
Section VI-B	Residential District - deleted from paragraph 2.d. "golf courses, ski areas and tows".

Appendix	History of Zoning Bylaw Amendments
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May 7, 1990

(Approved by Attorney General September 13, 1990)

Section II	Definitions - added "DEVELOPABLE SITE AREA: and "Open Space".
Sections VI, VII, IV, VI, VII, XIV	Deleted the words "Level 1" and Level 2" with reference to special permits
Section VI	Use Regulations - added "Table of Principal Uses".
Sections VI-C.1, VI-D.2, VI-E.2.	Deleted "Green Space: and inserted "Open Space".
Section VI-D	Commercial District - deleted from paragraph 3. the existing subparagraph i. and inserted new subparagraphs i., j. and k.
Section VI-F	Use Regulations - added new subparagraph 3. re exterior lighting in the Residential District.
Section VII-B	Table of Requirements to Be Satisfied Entirely Within Each District - added to footnote (3) "Driveways are allowed within front yards.
Section VII	Development of sites and Locations of BUILDINGS and Structures - deleted paragraph F. "Special Permits: and inserted new paragraph F. " Special Permits".
Section VII	Development of Sites and Locations of BUILDINGS and Structures - added paragraph I. "Site plan Approval".
Section XIII	Procedure - added second paragraph re appointment by Planning Board of one associate member.
Zoning Map	Rezoned from Industrial to Residential portions of Hudson Road Parcels 6 and 7, stow Property Map Sheet R-2.

November 13, 1990

(Approved by Attorney General February 7, 1991)

Section III-C	Location of Boundaries of Districts - deleted from the last sentence of paragraph 8. "revised December 6, 1977: and inserted "as revised".
Sections IV-A, V-C, V-D, V-E, V-F, VI-D.3	Deleted "Level 1" and "Level 2" with reference to special permits.

May 6, 1991

(Approved by Attorney General September 13, 1991)

Section II	Definitions - added to "FLOOR AREA:, "FLOOR AREA, GROSS".
Section VI-B	Residential District - deleted paragraph 3. and 4. and inserted new paragraph 3. "ACCESSORY APARTMENTS:.
Section VI-F.1	Use Regulations -added new subparagraph k. "Special Provisions to Enhance Access for Handicapped Persons".
Section VII-B	Area, Frontage, Yard, and FLOOR AREA Requirements - deleted paragraph 4. and inserted new paragraph 4.
Section VII-D	Off-Street Parking and Loading Spaces - deleted and inserted new paragraph D. "Parking Standards".

Appendix	History of Zoning Bylaw Amendments
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January 21, 1992  
(Approved by Attorney General March 5, 1992)

Section II	Definitions - added "CHILD CARE FACILITY: and "FAMILY DAY CARE HOME"; added to "FLOOR AREA", "FLOOR AREA, NET".
Section III-C	Location of Boundaries of Districts - deleted last sentence of subparagraph 8. and inserted new sentence.
Section IV	Continuance of Existing Non-Conforming Uses and structures - added paragraph E.
Section VI-B.1	Residential District - added subparagraph j. "CHILD CARE FACILITY: and subparagraph k. "FAMILY DAY CARE HOMES".
Section VI-B.2	Residential District - deleted "nursery and kindergarten schools: from subparagraph a.
Section VI-B.6	Residential District, Golf Course Uses - deleted last sentence of subparagraph a.(4) and inserted new sentence.
Section VI-C.1	Business District - added subparagraph d. "CHILD CARE FACILITY".
Section VI-D.1	Commercial District - added subparagraph b. "CHILD CARE FACILITY".
Section VI-E.1	Industrial District - added subparagraph b. "CHILD CARE FACILITY".
Section VI-H.1	Compact Business District - added subparagraph a. "CHILD CARE FACILITY".
Section VII-F.6	Special Permits - replaced subparagraph f.

**Zoning Map**      Changed from Industrial to Residential:

1991 Property Map	Address
Map U-8, Parcel 7	1,2,& 3 Rockbottom Road
Map U-8, Parcel 8	473 & 475 Gleasondale Road
Map U-8, Parcel 9	471 Gleasondale Road
Map R-10, Parcel 53	Hudson Road

Changed from Industrial/Recreation-Conservation to Residential

1991 Property Map	Address
Map U-8, Parcel 10	469 Gleasondale Road

Changed from Recreation-Conservation/Residential to Residential

1991 Property Map	Address
Map U-8, Parcel 11	461, 463, 465, 467 Gleasondale Road
Map U-8, Parcel 12	Gleasondale Road
Map U-8, Parcel 13	457, 459 Gleasondale Road
Map U-8, Parcel 15	Off Gleasondale Road
Map U-8, Parcel 35	506, 508 Gleasondale Road
Map U-8, Parcel 37	516 Gleasondale Road

Changed from Industrial/Residential to Residential

1991 Property Map	Address
Map R-2, Parcels 10, 10A	189 Hudson Road
Map R-2, Parcel 11	179 Hudson Road
Map R-2, Parcel 12	173 Hudson Road
Map R-2, Parcel 13	151 Hudson Road
Map R-2, Parcel 14	147 Hudson Road
Map R-2, Parcel 15	143 Hudson Road
Map R-2, Parcel 16	Goshen Lane
Map R-2, Parcel 17	Goshen Lane

<b>Appendix</b>	<b>History of Zoning Bylaw Amendments</b>
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<b>1991 Property Map</b>	<b>Address</b>
Map R-2, Parcel 19A	Off Goshen Lane
Map R-2, Parcel 20	194 Maple Street
Map R-3, Parcel 12	722 Great Road
Map R-3, Parcel 13	12 Old Bolton Road
Map R-3, Parcel 18	Old Bolton Road
Map R-3, Parcel 23	32 Maple Street
Map R-3, Parcel 27	Stiles Farm Road
Map R-3, Parcel 27A	Stiles Farm Road
Map R-8, Parcel 19	Taylor Road
Map R-8, Parcel 20	181 Taylor Road
Map R-8, Parcel 21	171 Taylor Road
Map R-8, Parcel 22	163 Taylor Road
Map R-10, Parcel 55	81 Hudson Road
Map R-18, Parcel 6	71 Taylor Road
Map R-18, Parcel 8	63 Taylor Road
Map R-18, Parcel 9	51 Taylor Road
Map R-18, Parcel 13	158 Boxboro Road
Map R-18, Parcel 14	166 Boxboro Road
Map R-18, Parcel 15	170 Boxboro Road
Map R-18, Parcel 16	176 Boxboro Road
Map R-18, Parcel 17	182 Boxboro Road
Map R-18, Parcel 23	212 Boxboro Road

Changed from Industrial/Residential to Industrial

<b>1991 Property Map</b>	<b>Address</b>
Map R-2, Parcel 19	Off Goshen Lane
Map R-3, Parcel 12A	Off Great Road
Map R-7, Parcel 35	302 Boxboro Road

Changed from Industrial/Residential to Industrial/Residential

<b>1991 Property Map</b>	<b>Address</b>
Map R-10, Parcel 56	79 Hudson Road
Map R-10, Parcel 58	Hudson Road

Changed from Industrial/Business/Residential to Industrial/Residential

<b>1991 Property Map</b>	<b>Address</b>
Map R-10, Parcel 65	642 Great Road

December 8, 1992

(Approved by Attorney General March 15, 1993)

Section VII-B	Deleted paragraph 4. concerning activity within 100 feet of the bank or boundary of a stream, river watercourse, flood plain or wetland.
Zoning Map	Renumbered existing paragraphs 5 and 6 to read "4" and "5". Rezoned from Industrial/Residential to Residential a parcel of approximately three acres identified as Parcel No. 1 on Stow Property Map Sheet R-11 (134 Hudson Road). Rezoned from Industrial/Residential to Industrial the parcel of land identified as Parcel No. 22 on Stow Property map Sheet R-18 on Boxboro Road.

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
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May 3, 4, 5 and 6, 1993  
(Approved by Attorney General July 27, 1993)

Zoning Bylaw Recodification

Note: The Attorney General approved the recodified Zoning Bylaw on July 27, 1993 except that Section 3.2.1.10 (2) was stricken and deleted.

May 31, June 1 and June 2, 1994  
(Approved by Attorney General August 26, 1994)

- |                   |  |
|-------------------|--|
| Section 1.3.19    | Delete the words "of a DWELLING UNIT".   |
| Section 3.2.10.10 | Add "2. Maximum NET FLOOR AREA of 4,000 square feet".  |
| Section 3.8.3.1   | Delete the words "Section 3.8.4" in the first sentence and insert the words "Section 3.8.1.5". |
| Section 7.7.8     | Delete the words "Section 3.8.5" in the last sentence and insert the words "Section 3.8.1.5".  |

May 2 and June 5, 1995  
(Approved by Attorney General July 21, 1995)

- |                  |   |
|------------------|---|
| Section 2.2      | Accept new Zoning Map dated May 1, 1995   |
| Section 3.3.2.2  | Add "U. S. Post Office"   |
| Section 3.5.3.10 | Add "banks, U. S. Post Office"  |
| Section 8.5      | Replace "cluster" special permit provision with "Planned Conservation Development" special permit |

June 3 and 4, 1996  
(Approved by Attorney General August 15, 1996)

- |                 |   |
|-----------------|---|
| Section 4.3     | Replace "Area, Frontage, YARD, and FLOOR AREA Requirements"           |
| Section 4.4     | Replace "Table of Dimensional Requirements"                           |
| Section 4.4     | Replace "Footnotes to Table of Dimensional Requirements"              |
| Section 9.2.7.8 | Delete Section 9.2.6.8 in its entirety (Provision for OPEN SPACE....) |
| Section 9.2.9   | Replace "Maintenance of Special Permit"                               |

May 18, 1998  
(Approved by Attorney General August 24, 1998)

- |                 |   |
|-----------------|---|
| Section 8.6.1.1 | Remove time limitation of the Phased Growth Bylaw |
| Section 8.6.3   | Amend Development Schedule and footnote           |
| Section 8.6.4.4 | Amend schedule and add footnote                   |
| Section 8.6.4.7 | Amend table                                       |

**Appendix**

**History of Zoning Bylaw Amendments**

**November 1998**

**(Approved by Attorney General February 25, 1999)**

Section 1.3.3	Amend definition "ACCESSORY BUILDING"
Section 1.3.6	Add definition "INDEPENDENT LIVING RESIDENCE"
Section 1.3.7	Add definition "INDEPENDENT LIVING UNIT"
Section 1.3.10	Delete words "or LOT"
Section 1.3.18	Add definition "FLOOR AREA RATIO"
Section 1.3.23	Delete definition of "Green Space"
Section 1.3.25	Add definition "LOT"
Section 1.3.34	Add definition "MULTI-PFAMILY DWELLING"
Section 1.3.47	Add definition "USE, ACCESSORY"
Section 1.3.48	Add definition "USE, PRINCIPAL"
Section 3.2.2.7	Delete the words "or elderly care facilities"
Section 3.3.2.8	Add Assisted Living Residence as use permitted by Special Permit in the Business District
Section 3.8.1.12	Add new Section – Wireless Communication Facility
Section 3.10	Add Wireless Communication Facilities to Table of Principal Uses and footnote 9 change the line that reads "Nursing Homes or Elderly Care Facility" to read "Nursing Home"
Section 3.11	Add new Section - Special Requirements for Wireless Communication Facilities
Section 4.3.2.5	Add new Section – LOT Shape
Section 4.5	Add new Section 4.5 - Special Provisions and Exceptions to Dimensional Regulations
Section 4.5.1	Add new Section 4.5.1 – Dimensional Regulations for Assisted Living Residence
Section 6.1.7	Delete Section 6.1.7 in its entirety
Section 7.3.3.3	Add new row to Parking Regulation table for INDEPENDENT LIVING RESIDENCE
Section 7.7	Amend first sentence of Section 7.7 (Off-Street Parking and Loading Area Design Requirements)
Section 8.7	Add new Section – INDEPENDENT LIVING RESIDENCE
Section 9.2.7.14	Add new Section 9.2.7.14 (sidewalks, walkways, paths)
Zoning Map Amendment:	<p>Rezone the following parcels from Residential to Recreation/Conservation</p> <p>Map R-4, Parcel 39A and 43</p> <p>– off Harvard Road</p> <p>Map R-8, Parcel 7A</p> <p>- off Taylor Road</p> <p>Map R-9, Parcels 43, 44, 45, 46, 47, 48, 49, 50, 51, 53 and 54</p> <p>- off Wedgewood Road</p>



Appendix	History of Zoning Bylaw Amendments
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February 16, 2000  
(Approved by Attorney General May 1, 2000)

Section 1.3.52	Amend definition "Street"
Section 6.3	Signs – Amend Sections 6.3.1.3, 6.3.3.1.1, 6.3.6.6, 6.3.6.7, 6.3.7.3, 6.3.7.4 and 6.3.7.5.3
Zoning Map Amendment:	Rezone the following parcels from Residential to Recreation/Conservation:
	Flagg Hill Conservation Land
	Map Sheet R-19, Parcels 1, 3, 8 and 11.
	Map Sheet R-20, Parcels 6, 10, 10-2, 10-3, 10-4, 10-5
	Heath Hen Meadow Brook Conservation Land
	Map Sheet R-18, Parcels 29-1 and 31-2
	Captain Sargent Land
	Map Sheet R-31, Parcels 15 and 43
	Deer Field Lane Conservation Land
	Map Sheet U-11, Parcel 39C-1
	Gardner Hill Conservation Land
	Map Sheet R-29, Parcels 74-A, 74-2, 85-B and 105
	Memorial Field
	Map Sheet R-29, Parcel 104
	Marble Hill Conservation Land
	Map Sheet R-9, Parcel 80
	Annie Moore Conservation Land
	Map Sheet R-3, Parcel 35
	Pine Bluff Recreation Area
	Map Sheet U-3, Parcel 12

February 12, 2001  
(Approved by Attorney General May 9, 2001)

Section 2.1	Amend Section 2.1.2 by adding "Wireless Service Facility District"
Section 2.3	Add new Section 2.3.11 "Boundaries of the Wireless Service Facility District"
Section 3.1	Delete Section 3.1.2.6 "Wireless Communication Facilities"
Section 3.2	Delete Section 3.2.3.5 "Wireless Communication Facilities"
Section 3.3	Delete Section 3.3.1.5 "Wireless Communication Facilities"
Section 3.9	Amend Section 3.9.1 "Non-Conforming Uses or Structures"
Section 3.9.5	Replace with New Section 3.9.5 "Non-Conforming Uses and Structures"
Section 3.10	Amend Section 3.10 "Table of Principal Uses"
Section 3.11	Delete Section 3.11 "Wireless Communications Facilities" - Replace with New Section 3.11 "Wireless Service Facilities"
Section 3.12	Add New Section 3.12 "Wireless Communications Facilities Moratorium"
Section 4.4	Amend Section 4.4 (Table of Dimensional Requirements) by adding a new footnote 4
Section 4.5	Amend Section 4.5 by adding a New Section 4.5.2
Zoning Map Amendment:	Amend the Recreation-Conservation District Line on Parcels 24, 25, 25A and 25B, Shown on Property Map Sheet U-10

Appendix	History of Zoning Bylaw Amendments
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June 6, 2002

(Approved by Attorney General September 25, 2002)

- |              |   |
|--------------|---|
| Section 1.3  | Add new Section 1.3.4 "Active Adult Neighborhood"                                   |
|              | Add new Section 1.3.5 "Affordable Dwelling Unit"                                    |
|              | Add new Section 1.3.47 "Qualified Affordable Housing Purchaser"                     |
| Section 2.1  | Add new Section 2.1.2 "Active Adult Neighborhood District"                          |
| Section 2.3  | Add new Section 2.3.12 - boundaries of the Active Adult Neighborhood District       |
| Section 3.10 | Add "Active Adult Neighborhood" to Table of Principal Uses                          |
|              | Add new Footnote (10)   |
| Section 4.4  | Add new Footnote (5) to Table of Dimensional Requirements                           |
| Section 4.5  | Add new Section 4.5.3 "Special Provisions & Exceptions to Dimensional Requirements" |
| Section 8.8  | Add new Section 8.8 "Active Adult Neighborhood (AAN)"                               |

January 13, 2003

(Approved by Attorney General March 3, 2003)

- |             |  |
|-------------|--|
| Section 8.8 | Amend Section 8.8.1 Active Adult Neighborhood (AAN) - Purpose - third sentence |
|-------------|--|

May 21, 2003

(Approved by Attorney General September 9, 2003)

- |              |   |
|--------------|---|
| Section 3.10 | Add Footnote (11) to several uses                                       |
| Section 5.2  | Correct reference in Section 5.2.1.1.7                                  |
| Section 8.8  | Amend Section 8.8.3 by deleting existing section and adding new section |
| Section 8.9  | Add Section 8.9 "Inclusion of Affordable Housing"                       |

October 25, 2003

(Approved by Attorney General December 2, 2003)

- |              |  |
|--------------|--|
| Section 3.3  | Amend Section 3.3 by adding new Section 3.3.4 (Access to Industrial-zoned land)  |
| Section 3.10 | Amend Section 3.10 by adding new Business Use  |
| Section 7    | Amend Section 7.2.3 by deleting the existing section and adding new section 7.2.3, 7.2.3.1 and 7.2.3.2 (Relief from Parking Regulations) |
| Section 7    | Amend Section 7.2.5 by deleting Section 7.2.5.5 and renumbering the remaining subsections (Reserved Parking Spaces)                      |
| Section 7    | Amend Sections 7.5.5, 7.6.1, 7.7.3, 7.7.5, 7.7.6, 7.7.7.2, 7.7.7.4, 7.7.7.8 and 7.8 (Parking)  |
| Section 7    | Delete Section 7.7.1 (Parking)   |

**Zoning Map Amendment:**

Amend Zoning District Map by amending Business District Line on Parcel 65, shown on Property Map Sheet R-10 (Great Road), as shown on Plan entitled "Plan of Land in Stow, Massachusetts", dated October 20, 2003, prepared by Stamski and McNary, Inc.

Appendix	History of Zoning Bylaw Amendments
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May 17, 2004  
(Approved by Attorney General August 18, 2004)

- |           |  |
|-----------|--|
| Section 6 | Amend Sections 6.2 and 6.2.1 by adding new Section 6.2.6 (Common Drives)   |
| Section 8 | Amend Section 8.5.6.4 by deleting Sub-Section 1 and replacing with new Sub-Section 1, deleting Sub-Section 2 and replacing with new Sub-Section 2, deleting Sub-Section 3 and replacing with new Sub-Section 3   |
| Section 9 | Amend Section 8.5.7.2 (Planned Conservation Development)<br>Amend Sections 9.3.3.3 and 9.3.3.5 (Site Plan Approval)<br>Zoning Map Amendment:<br>Amend Zoning District Map by rezoning Business portion of certain parcel of land on Great Road to Industrial, as shown on Plan entitled "Town of Stow – Proposed Zoning Map Change – Parcel 65, Map R-10", dated September 25, 2003, identified on Stow Assessors' Records as Map R-10, Parcel 65.<br><br>Amend Zoning District Map by rezoning Residentially zoned portions of 2 parcels of land on Great Road to Business, identified on Stow Assessors' Records as Map R-29, Parcels 83 and 85A.. |

May 17, 2005  
(Approved by Attorney General July 13, 2005)

- |             |  |
|-------------|--|
| Section 8.5 | Amend Section 8.5.1, by changing the bullets to letters<br>Amend Section 8.5.4, by changing the words "Growth Management Plan" in the last bullet to "Master Plan" and changing the format from bullets to letters |
| Section 8.6 | Amend Section 8.5.10, by changing the format from bullets to letters<br>Amend Section 8.6.4.4, by changing the words "Open Space Residential Development" to " <u>Planned Conservation Development</u> "           |
| Section 8.8 | Add a new section 8.8.12   |
| Section 9.3 | Amend Section 9.3.11.2 by changing the reference to section "1.3.1.2" to "1.3.16"  |

October 24, 2005  
(Approved by Attorney General January 20, 2006)

- |             |  |
|-------------|--|
| Section 1.3 | Amend Section 1.3.39 (definition for Multi-Family Dwelling)  |
| Section 1.3 | Amend Section 1.3.42, by changing the word "impermeable" to "permeable"  |
| Section 4.1 | Amending Section 4.1.2, by adding the words "commercial, or industrial"  |
| Section 4.4 | Amend correct the section number referenced in footnote (1) from "7.7.5.1" to "7.7.4.1"  |
| Section 6.2 | Amending Section 6.2.2, by adding a second sentence  |
| Section 6.6 | Amend Section 6.6.3  |
| Section 8.1 | Amend Section 8.1.2.3 by adding the words "secondary and" to subsection 1; correcting the reference "(Sanitary Code – Title V)" to "(Sanitary Code – Title 5)" and deleting the current language in subsection 6 and replacing it with the words "this subsection language deleted October 24, 2005" |
| Section 8.9 | Amending Section 8.9.2.1, by changing the word "will" to "could" in the second line, Amend Section 8.9.2.1, by deleting the words "subject to Massachusetts General law Chapter 41 Sections 81-K through 81-   |

Appendix	History of Zoning Bylaw Amendments
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GG,"Amend Section 8.9.6, by changing the words "Housing Authority or its designee" to " Affordable Housing Trust Fund"

December 13, 2005

(Approved by Attorney General - April 4, 2006)

- |             |  |
|-------------|--|
| Section 3.8 | Amend Section 3.8.1.10, Subsection 3 by replacing the words "areas" with the word "area" and the words "two acres" with the words "one acre",Amend Section 3.8.1.10 by adding a new Subsection 7 |
| Section 3.9 | Delete the first paragraph of Section 3.9 and the entirety of Section 3.9.1 and substituting new section 3.9 and section 3.9.1 and adding new sections 3.9.6 and 3.9.7                           |
| Section 6.2 | Add a new Subsection 6.2.7.  |

May 1, 2006

(Approved by Attorney General - June 14, 2006)

- |             |  |
|-------------|--|
| Section 3.8 | Amend Section 3.8.1.9 (drainage), by deleting Subsection 2 |
| Section 8.6 | Amend Section 8.6.1.2 and 8.6.1.3 (Phasing of Growth)      |

May 7, 2007

(Approved by Attorney General - August 13, 2007)

- |                      |   |
|----------------------|---|
| Section 1.3          | Remove subsection numbers and list Definitions in alphabetical order<br>Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"<br>Change Definition of BED and BREAKFAST ESTABLISHMENT |
| Add new Definitions: | EXTERIOR LIGHT<br>FULL-CUTOFF FIXTURE<br>INITIAL DESIGN LIGHT OUTPUT<br>PUBLIC STREETLIGHT  |
| Section 3.2          | Add new Section 3.2.3.5 - Uses not otherwise permitted in the Residential District  |
| Section 3.3          | Add new Section 3.3.2.9 - Uses not otherwise permitted in the Business District   |
| Section 3.3.2.8      | Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"   |
| Section 3.4          | Add new Section 3.4.2.6 - Uses not otherwise permitted in the Compact Business District   |
| Section 3.5          | Add new Section 3.5.3.12 - Uses not otherwise permitted in the Commercial District  |
| Section 3.6          | Add new Section 3.6.3.9 - Uses not otherwise permitted in the Industrial District   |
| Section 3.8.1.5      | (Exterior Lighting) Add new subsections 3.8.1.5.1, 3.8.1.5.2, 3.8.1.5.3, 3.8.1.5.4, 3.8.1.5.5, 3.8.1.5.6 and 3.8.1.5.7  |
| Section 3.11         | Delete Wireless Service Facility Section and insert in Section 5 (Overlay Districts) as a new Section 5.3   |
| Section 4.5          | Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"   |
| Section 5.3          | Wireless Service Facility Section moved from Section 3.11   |
| Section 5.4          | Active Adult Neighborhood Section moved from Section 8.8  |
| Section 6.3          | (Agricultural Signs) Amend subsections 6.3.3.1, 6.3.4.1 and 6.3.4.2   |
| Section 7.3.3.3      | Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"   |
| Section 7.7          | Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"   |
| Section 7.7.7        | Add two new paragraphs  |
| Section 8.7          | Change the title "ASSISTED LIVING" to "INDEPENDENT ADULT"   |

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
Section 8.8	Delete Active Adult Neighborhood Section and insert in Section 5 (Overlay Districts) as a new Section 5.4
Section 9.3.11.2	DEVELOPABLE SITE AREA – Amend reference to Definition Section 1.3
<u>December 3, 2007</u> (Approved by Attorney General - March 26, 2008)	
Section 3.1	Deleting the words "swamp land" and inserting the word "wetlands"
Section 3.1.1	Delete the word "permitted" and insert the word "allowed",
Section 3.1.1.4	Insert the words "cross country ski areas, and"
Section 3.1.1.5	Delete the reference to paragraphs "b and c" and inserting the reference to paragraphs "3.1.1.2 and 3.1.1.3",
Section 3.1.1.7	New Section
Section 3.1.1.8	New Section
Section 3.1.2.6	New Section
Section 8.3.5	Insert the words "or other recreational motorized vehicles"
Section 8.4.1	Delete the words "but not a" and inserting "/"
<u>May 6, 2008</u> (Approved by Attorney General – August 25, 2008)	
Section 3.12	Delete Wireless Communications Facilities Moratorium
Section 4.3.2.6	Change subsection letters a), b) and c) to numbers 1), 2) and 3)
Section 4.3.2.7	Add new subsection 1)
Section 5.3.7.6	Replace the word STRUCTURE with the words BUILDING or STRUCTURE" and change subsection letters a), b) and c) to numbers 1), 2) and 3)
<u>May 4, 2009</u> (Approved by Attorney General – August 31, 2009)	
Section 1.3	Definitions – Developable Site Area
Section 5.4.3	Active Adult Neighborhood – amend to exclude provisions of Section 8.9.4.1.C.iii, Inclusion of Affordable Housing
Section 5.4.6	Active Adult Neighborhood – amend dimensional standards by defining OPEN SPACE
Section 5.4.9	Active Adult Neighborhood – amend affordable housing standards to comply with Section 8.9, Inclusion of Affordable Housing Delete Subsections B through F Amend Subsection G by adding "and middle income purchasers"
Section 9.2.8	Erroneously omitted due to scriveners error. Reinserted in Zoning Bylaw including amendments through May 6 <sup>th</sup> 2014.
Section 9.2.9	Erroneously omitted due to scriveners error. Reinserted in Zoning Bylaw including amendments through May 6 <sup>th</sup> 2014.
Section 9.2.10	Erroneously omitted due to scriveners error. Reinserted in Zoning Bylaw including amendments through May 6 <sup>th</sup> 2014.
Section 9.3.11.2	Site Plan Approval – DEVELOPABLE SITE AREAS

Appendix	History of Zoning Bylaw Amendments
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October 20, 2009

(Approved by Attorney General – February 5, 2010)

- Section 3.2 Residential District Uses (Agricultural uses)- amended Section 3.2.1 by adding a new subsection 3.2.1.12, amended Section 3.2.2.5, and amended Section 3.2 by adding a new subsection 3.2.2.8
- Section 4.3 Area, Frontage, YARD, and FLOOR AREA Requirements- amended Subsection 4.3.2.1 (LOT area).
- Section 5.3 Wireless Service Facility- Amend Section 5.3.7.1 by deleting subsection e.

May 3, 2010

(Approved by Attorney General – June 17, 2010)

- Section 2.3 Location of Boundaries of Districts (Flood Plain/Wetlands) – amended Section 2.3.8 by adding the new subsection 2.3.8
- Section 5.1 Flood Plain/Wetland District – amended Section 5.1 by adding Sections 5.1.2, 5.1.2.1, 5.1.3, 5.1.4, 5.1.5

November 7, 2011

(Approved by Attorney General – December 9, 2011)

- Section 1.3 Add new Definitions "COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION" and "NAMEPLATE CAPACITY"
- Section 3 Adding new subsections 3.1.2.7, 3.2.3.6, 3.3.2.10, 3.5.1.4, 3.6.1.4, 3.7.3 and 3.7.3.1 "COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION"
- Section 3.10 Add COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION to Table of Principal Uses
- Section 8 Add new Section 8.10 "COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION"

October 28, 2013

(Approved by the Attorney General – January 14, 2014)

- Section 8.9.4 Amend fractional AFFORDABLE HOUSING UNIT equivalent fee in lieu of units, changing "may" to "shall" round up.

(Approved by the Attorney General – February 24, 2014)

- Section 10 Add new Section 10 "Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS."

May 6, 2014

(Approved by the Attorney General – August 12, 2014)

- Section 1.3 Amend Definitions for Developable Site Area to delete "wetland" from Floodplain District and add MARIJUANA, MARIJUANA INFUSED PRODUCT (MIP), MEDICAL MARIJUANA TREATMENT CENTER,

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
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**MEDICAL USE OF MARIJUANA, REGISTERED MARIJUANA DISPENSARY (RMD).**

- Section 2 Amend Subsection 2.2 Establishment of Zoning Districts to delete "wetland" to read "Floodplain." Add REGISTERED MARIJUANA DISPENSARY DISTRICT to Subsection 2.1.2.
- Section 2.3 Location of Boundaries of Districts - Delete Subsection 2.3.7. Add new Subsection 2.3.13. Amend Subsection 2.3.8 to update FEMA Flood Insurance Rate Maps.
- Section 3 Amend Subsection 3.3.2 by adding Subsection 3.3.2.11. Amend Subsection 3.10 (Table of Principle Uses) by adding "Retail Store as Part of a REGISTERED MARIJUANA DISPENSARY" to commercial uses. Amend Subsection 3.10 by adding a new footnote.
- Section 4.3 Amend Subsection 4.3.2.1, 4.3.2.3, 4.3.2.4 to delete "wetland" from Floodplain District.
- Section 5 Amend Section 5 Overlay Districts, subsections 5.1, 5.1.1.5, 5.1.1.7, 5.4.6 by deleting "wetland" from Floodplain District. Amend Section 5 by adding new Subsection 5.5 REGISTERED MARIJUANA DISTRICT. Amend Subsection 5.1.2.1 Base Flood Elevation Data and Subsection 5.1.4 Other Regulations.

February 11, 2015

(Sections Reinserted after erroneously omitted due to scriveners error)

- Section 6 Amend Subsection 6.1.3.2, and 6.1.4 to delete "wetland" from Floodplain District.
- Section 9.2.8 Reinserted after erroneously omitted due to scriveners error in Zoning Bylaw including amendments through May, 2009.
- Section 9.2.9 Reinserted after erroneously omitted due to scriveners error in Zoning Bylaw including amendments through May, 2009.
- Section 9.2.10 Reinserted after erroneously omitted due to scriveners error in Zoning Bylaw including amendments through May, 2009.

Appendix	History of Zoning Bylaw Amendments
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May 4, 2015

(Approved by the Attorney General - August 10, 2015)

- Section 2.2 Amend Zoning Map, changing Assessors Map R-4 Parcel 39A from Recreation Conservation District to Residential District for an area approximately 65,340 s.f.
- Section 10 Delete Section 10 "Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS."

November 16, 2015

(Approved by the Attorney General – March 10, 2016)

- Section 1.3 Deleted definition of MINING OF LAND
- Section 5.2 Amend Subsection 5.2.1.1(7) to delete reference to "MINING of land," replacing with language consistent with Section 6.5.
- Amend Subsection 5.2.5.3 to delete reference to MINING OF LAND definition.
- Section 6.5 Remove Earth Removal Bylaw reference and replace with reference consistent with Article 17 of the Stow General Bylaws as amended at November 16, 2015 Town Meeting.

May 2, 2016

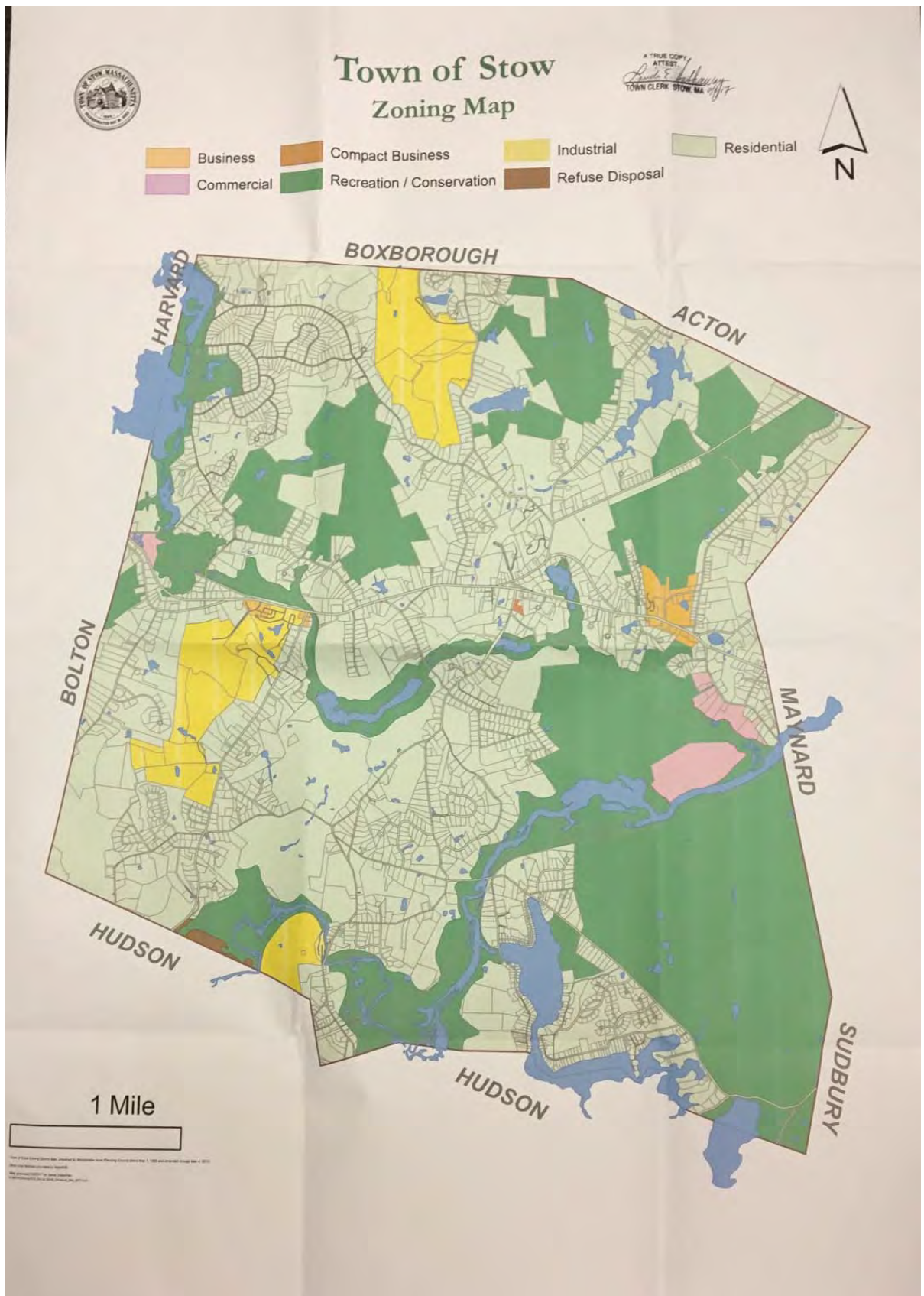
(Approved by the Attorney General – August 10, 2016)

- Section 1.3 Added new definitions for HOMEOWNERS ASSOCIATION, PLANNED CONSERVATION DEVELOPMENT, **PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS** (full title omitted from t.m.vote. to be corrected 2017), YIELD, OPEN LAND, PRIMARY CONSERVATION RESOURCES, SECONDARY CONSERVATION RESOURCES, and PROOF PLAN.
- Section 8.5 Revised Section 8.5 PLANNED CONSERVATION DEVELOPMENT
- Section 8.5.1 Revised Purpose Section
- Section 8.5.3.1 Created new section to include allowance of joint public hearing for PCD.
- Section 8.5.4 Deleted Section 8.5.4 and Subsection 8.5.4.1-8.5.4.2 in its entirety and replaced with new subsection 8.5.4 – Application for a PCD Special Permit, 8.5.4.1 – Submission Requirements, and 8.5.4.2 – Contents of an Application for a PCD Special Permit.



<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
Section 8.5.5	Deleted existing Section 8.5.5 and 8.5.5.1 and replaced with new Section 8.5.5 – PLANNED CONSERVATION DEVELOPMENT DESIGN PROCESS
Section 8.5.6	Revised Section 8.5.6 and 8.5.6.1 to reference new definition of OPEN LAND. Replaced Section 8.5.6.2 with new section referencing new definitions of YIELD and PROOF PLAN. Deleted Sections 8.5.6.3, 8.5.6.4, and 8.5.6.5 in its entirety.
Section 8.5.7	Revised Section 8.5.7 and 8.5.7.1 to allow for reduced minimum frontage to 50 feet and allow the Planning Board flexibility in dimensional standards. Replaced Section 8.5.7.2 to reference a 100 foot setback for BUILDINGS from a public way. Deleted existing Section 8.5.7.3 and replaced with new section. Deleted Sections 8.5.7.4, and 8.5.7.5 in its entirety.
Section 8.5.8	Deleted existing Sections 8.5.8 and Subsections 8.5.8.1, 8.5.8.2, 8.5.8.3, 8.5.8.4, 8.5.8.5 and replaced with new Section 8.5.8, 8.5.8.1, 8.5.8.2 regarding Common Driveway requirements.
Section 8.5.9	Deleted existing Sections 8.5.9, subsections 8.5.9.1, 8.5.9.2, 8.5.9.3, 8.5.9.4, and 8.5.9.5 to be replaced with Section 8.5.9 – Parking.
Section 8.5.10	Deleted existing Sections 8.5.10 and Subsections 8.5.10.1, 8.5.10.3, 8.5.10.4 to be replaced with new Section 8.5.10 regarding reference to Subdivision Rules and Regulations.
Section 8.5.11	Deleted existing Sections 8.5.11 and Subsection 8.5.11.1 in its entirety and replaced with Section 8.5.11 – Permitted Uses.
Section 8.5.12	Deleted existing Section 8.5.12 in its entirety and replaced with new Section 8.5.12 regarding applicability of Inclusionary Housing provisions.
Section 8.5.13	Added new Section 8.5.13 – Prohibition of Future Development
Section 8.5.14	Added new Section 8.5.14 – OPEN LAND REQUIREMENTS, new Subsections 8.5.14.1, 8.5.14.2, and 8.5.14.3 regarding dimension and design of OPEN LAND. new Subsection 8.5.14.4 – Ownership of the OPEN LAND, new Subsection 8.5.14.4.1 – Selection of Ownership Options, 8.5.14.5 – Timing, 8.5.14.6 – Allowable Use of the OPEN LAND, 8.5.14.6.1, 8.5.14.6.2, 8.5.14.6.3, 8.5.14.6.4, 8.5.14.6.5, and 8.5.14.6.6 regarding use of the OPEN LAND.
Section 8.5.14.7	Added new Section 8.5.14.7 – Monumentation
Section 8.5.14.8	Added new Section 8.5.14.8 – Subdivision
Section 8.5.14.9	Added new Section 8.5.14.9 – Maintenance
Section 8.5.14.10	Added new Section 8.5.14.10 – Conveyance
Section 8.5.15	Added new Section 8.5.15 – Planning Board Action

<i>Appendix</i>	<i>History of Zoning Bylaw Amendments</i>
Section 8.5.16	Added new Section 8.5.16 – Performance Guarantee
Section 8.5.17	Added new Section 8.5.17 – Revisions and Amendments



DEPARTMENT OF PUBLIC UTILITIES  
CHECKLIST FOR FILING OF ZONING EXEMPTION PETITIONS

The following checklist is intended to serve as guidance for persons filing petitions for exemption from a municipal zoning ordinance or bylaw pursuant to G.L. c. 40A, § 3, or pursuant to §6 of Chapter 665 of the Acts of 1956. Petitioners must complete all three parts of the form and submit a copy of the completed form with the petition at the time of filing.

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**PART 1: GENERAL INFORMATION**

Petitioner name: *NSTAR Electric Company d/b/a Eversource Energy*

Description of land or structures for which exemption is sought: *Exemptions are sought for modifications to the existing Sudbury Substation located on Boston Post Road in Sudbury and for the construction of a new 115-kV underground transmission line along an unused railroad right-of-way and public roads in Sudbury, Hudson and Stow.*

Municipality: *Sudbury, Hudson and Stow*

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**PART 2: CONTENTS OF FILING**

The filing (petition and accompanying documentation) must contain, at a minimum, the following information:

- A demonstration that the petitioner is a public service corporation that may seek a zoning exemption pursuant to G.L. c. 40A, § 3, with supporting documentation as necessary.
- A list of the sections of the zoning ordinance or bylaw from which the petitioner seeks an exemption, together with a summary of each such section and an explanation of why exemption from that section is needed, with supporting documentation as necessary.
- A description of the use of land or structures which are the subject of the exemption request, and an explanation of the purpose of the proposed use.

- An explanation of the public benefits to be provided by the proposed use of land or structures, with a supporting analysis and a description of the methods used to develop this analysis.
- A description of alternatives to the proposed use of land or structures, including the use of existing structures or facilities.
- An analysis of the environmental or other impacts of the use of land or structures, during both construction and operation. This analysis could include, without limitation, impacts on land use at or near the site, on wetlands or water resources at or near the site, visual and noise considerations, traffic and access considerations, public safety considerations, air pollutant emissions, or the use of hazardous substances.
- A list of all permits required for the proposed use of land or structures prior to construction, during construction and during operation.

NOTE: All information provided in the filing (including the petitioners' analysis of the need for each exemption sought) must be adopted by witnesses who will be able to testify and respond to questions at evidentiary hearings. The petitioner should be prepared to identify which witness will adopt which part of the filing no later than three weeks after the filing date.

### **PART 3: ATTACHMENTS**

The following documents must be submitted with the petition:

- An attested copy of the municipality's complete zoning ordinance or bylaw, as in effect at the date of filing.
- Copies of any zoning decisions or related municipal actions taken with respect to the proposed use of land or structures.
- A United States Geological Survey map (1:24,000 or 1:25,000 scale and in color) of the area, showing the locus of the land or structures.

- A diagram of the site of the proposed use, showing property boundaries, existing and proposed structures, and other use areas (e.g., roadway, parking, and materials storage/transfer areas) at the site.
- Either: (1) a copy of the Environmental Notification Form (“ENF”) for the project and the Certificate of the Secretary of Environmental Affairs on such ENF; or (2) an affidavit from the petitioner stating that the proposed use does not require the filing of an ENF. If an Environmental Impact Report (“EIR”) is required, and has been submitted to the MEPA Office at the time of filing, a copy of the EIR(s) and any related Certificates also should be submitted with the petition.
- Draft MEPA Section 61 findings relating to the proposed use of land or structures, if an EIR is required for the proposed use.
- A draft hearing notice (hard copy and electronic form in Microsoft Word).
- Filing fee: A check for \$100.00, made payable to Commonwealth of Massachusetts.

All of the information requested above has been included in the Zoning Exemption Filing and attachments submitted with this form.



\_\_\_\_\_  
Signature

April 20, 2017

\_\_\_\_\_  
Date

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES**

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Petition of NSTAR Electric Company d/b/a  
Eversource Energy for Approval to Construct  
and Operate a New 115-kV Transmission Line  
from Sudbury to Hudson Pursuant to  
G.L. c. 164, § 72

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D.P.U. 17-83

**PETITION OF NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY FOR  
APPROVAL OF A NEW 115-kV UNDERGROUND TRANSMISSION LINE  
PURSUANT TO G.L. c. 164, § 72**

**I. INTRODUCTION**

Now comes NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”), seeking a determination from the Department of Public Utilities (the “Department”) that, pursuant to G.L. c. 164, § 72 (“Section 72”), the Company’s proposal to construct and operate an approximately 9-mile, 115-kilovolt (“kV”) transmission line (the “New Line”) between Eversource’s Sudbury Substation (Station #342) located in Sudbury (“Sudbury Substation”), and Hudson Light & Power’s Municipal Substation at Forest Avenue in Hudson (“Hudson Substation”) is necessary, serves the public convenience and is consistent with the public interest.<sup>1</sup> The New Line, together with the related modifications at the Sudbury Substation, is referred to as the “Sudbury-Hudson Transmission Reliability Project” or the “Project.”

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<sup>1</sup> Hudson Light & Power (“HLPD”) is not a co-petitioner with Eversource in this proceeding. Pursuant to an agreement between the Company and HLPD, the Eversource petition to the Siting Board is filed in conjunction with, and in support of, HLPD’s plans to undertake the construction of three new 115-kV breakers at the Hudson Substation. The Company will not construct, own, operate or maintain any transmission facilities at Hudson Substation.

In support thereof, the Company states as follows:

1. Eversource, with a principal place of business at 800 Boylston Street, 17th Floor, Boston, Massachusetts 02199, is an electric company as defined by G.L. c. 164, § 1 and, therefore, is authorized to transmit electricity. NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-85, at 6 (2016) (“NSTAR Woburn Substation”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-02, at 6-7 (2015) (“NSTAR Hopkinton”); NSTAR Electric Company, D.P.U. 14-55/14-56, at 12 (2015) (“NSTAR Belmont”).

2. The Company is represented by Catherine J. Keuthen, Esq. and Cheryl A. Blaine, Esq., Keegan Werlin LLP, 265 Franklin Street, Boston, MA 02110.

3. The New Line satisfies the Department’s standards under Section 72 because the Project is needed and will serve the public interest by providing additional transmission capacity within the area designated by ISO New England Inc. as the Marlborough Subarea of Sub-Area D, which encompasses the municipalities of Berlin, Framingham, Grafton, Hudson, Marlborough, Northborough, Shrewsbury, Stow, Southborough and Westborough (the “Marlborough Subarea”).

4. Simultaneously herewith, the Company is also filing: (i) a petition with the Energy Facilities Siting Board (the “Siting Board”) requesting the approval of the construction of the Project pursuant to G.L. c. 164, § 69J (the “Section 69J Petition”) (EFSB 17-02); (ii) a petition with the Department requesting that the Department grant specific and comprehensive exemptions from the zoning bylaws of the Towns of Sudbury, Hudson and Stow pursuant to Section 3 of G.L. c. 40A (the “Zoning Petition”) (D.P.U. 17-82); and (iii) a motion with the Department to refer this Section 72 Petition and the Zoning Petition to the Siting Board and to consolidate the three petitions for review by the Siting Board.



5. Pursuant to G.L. c. 164, § 72, an electric company seeking approval to construct a transmission line must file a petition with the Department for:

[A]uthority to construct and use or to continue to use as constructed or with altered construction a line for the transmission of electricity for distribution in some definite area or for supplying electricity to itself or to another electric company or to a municipal lighting plant for distribution and sale . . . and shall represent that such line will or does serve the public convenience and is consistent with the public interest . . . The department, after notice and a public hearing in one or more of the towns affected, may determine that said line is necessary for the purpose alleged, and will serve the public convenience and is consistent with the public interest.

6. The Department, in making a determination under G.L. c. 164, § 72, considers all aspects of the public interest in making a determination under G.L. c. 164, § 72. Boston Edison Company v. Town of Sudbury, 356 Mass. 406, 419 (1969); NSTAR Belmont at 10; NSTAR Electric Company, D.P.U. 13-177/13-178, at 41 (2015) (“NSTAR Seafood Way”); NSTAR Electric Company, D.P.U. 13-126/13-127, at 40 (2014) (“NSTAR Electric Avenue”). All factors affecting any phase of the analyses performed by a company in connection with the public interest and public convenience are weighed fairly by the Department in a determination under G.L. c. 164, § 72. Town of Sudbury v. Department of Public Utilities., 343 Mass. 428, 430 (1962).

7. In evaluating petitions filed under G.L. c. 164, § 72, the Department examines: (1) the present or proposed use and any alternatives identified; (2) the need for, or public benefits of, the present or proposed use; and (3) the environmental impacts or any other impacts of the present or proposed use. NSTAR Belmont at 11; NSTAR Seafood Way at 41; NSTAR Electric Avenue at 40.

8. In determining whether a proposed project is reasonably necessary for the public convenience or welfare, the Department balances the interests of the general public against the

local interest and determines whether the line is necessary for the purpose alleged and will serve the public convenience and is consistent with the public interest. NSTAR Belmont at 11; NSTAR Seafood Way at 41; NSTAR Electric Avenue at 40. The Department undertakes “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [make an] examination of the local and individual interests that might be affected.” New York Central Railroad v. Department of Public Utilities, 347 Mass. 586, 592 (1964); see NSTAR Belmont at 10.

9. The Section 69J Petition, including its Attachment A, a document entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Sudbury-Hudson Transmission Reliability Project* (the “Analysis”), is incorporated herein by reference and made a part hereof. The Project is more particularly described in Section 1 of the Analysis. The Analysis provides the factual basis for the Company’s conclusion that the Project meets the consistent standards of the Siting Board and Department under G.L. c. 164, §§ 69J and 72, respectively, because the Project is necessary to provide a reliable energy supply for the Commonwealth while minimizing cost and environmental impacts.

10. Comprehensive information regarding the need for the Project is set forth in Section 2 of the Analysis. The primary purpose of the Sudbury-Hudson Transmission Reliability Project is to address reliability needs on the existing transmission system in the Marlborough Subarea. As described more fully in Section 2 of the Analysis and as documented in the Greater Boston Area Updated Needs Assessment, dated January 2015, certain contingencies at existing peak load levels would cause low voltage situations and the potential for thermal overloads on the existing 115-kV and 69-kV lines serving the Marlborough Subarea, leading to an unacceptably high level of loss of load. The Project addresses this need by adding the New Line.

Providing additional transmission line capacity will ensure continued compliance with applicable federal and regional transmission reliability standards and criteria, and will maintain reliable electric service to several area substations serving the 115-kV systems in this area.

11. In addition to the Company's proposed Project, the Company identified potential alternatives to address the identified needs. In evaluating alternatives, the Company considered issues relating to the reliability, complexity, cost, and the time required to implement them in order to address the identified needs in an efficient, reliable, and long-lasting manner while balancing issues of cost and environmental impacts. The alternative approaches included: (1) a No-Build Alternative; (2) two transmission solutions: (i) a new 115-kV transmission line between Sudbury Substation and Hudson Substation and (ii) an alternative that would include a 115-kV line and other transmission facility improvements; and (3) non-transmission alternatives ("NTAs") such as energy efficiency, demand response programs and distributed generation. The Project alternatives that were considered are described in Section 3 of the Analysis.

12. The Company also undertook a thorough and objective analysis to identify the best routes for the new transmission line based on an evaluation of environmental impacts, reliability, and cost. The Company assessed a large range of potential routes and designs (overhead or underground construction) for the new transmission line, taking into consideration input received from the communities and other stakeholders. The route selection process resulted in the selection of the Project, a Noticed Variation, and a Noticed Alternative Route. The Project includes an approximately 9-mile, underground route between the Sudbury and Hudson Substations, primarily along an inactive corridor owned by the Massachusetts Bay Transportation Authority ("MBTA"). The Noticed Variation includes an overhead transmission line along the same MBTA corridor as the Project. The Noticed Alternative Route, which is

approximately 10.3 miles long, is a geographically distinct route that travels underground within public roadways. The routing options that were considered are described in Section 4 of the Analysis.

13. The Company has conducted detailed analyses of the environmental impacts of the Project, has identified the relevant impacts and has proposed measures to minimize impacts associated with the construction and operation of the Project. Comprehensive information regarding the minimization of impacts for the Project is set forth in Section 5 of the Analysis.

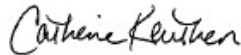
14. As required under Section 72, and in support of this Petition, a description of the Project and an estimate of its costs are included in the Analysis. The Department's Section 72 Checklist is provided as Exhibit A to this Petition and a draft hearing notice (including an electronic version in MS Word format) is being provided along with the Section 69J Petition. In further compliance with the Department's Section 72 Checklist, USGS locus maps and diagrams of the proposed transmission line routes can be found in Section 4 of the Analysis. A list of all permits required for the Project is found in Section 6 of the Analysis. The Company plans to file the Environmental Notification Form ("ENF") with MEPA shortly. The Company will file with the Department a copy of the Certificate on the ENF once it is issued.

**WHEREFORE**, the Company respectfully requests that the Department (or, as appropriate, the Siting Board), pursuant to its authority under G.L. c. 164, § 72, and after due notice and a public hearing, determine that the construction of the Project is necessary for the purposes stated and will serve the public convenience and be consistent with the public interest, and thus, authorize the Company to construct and operate the Project.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY d/b/a  
EVERSOURCE ENERGY**

By its attorneys,

A handwritten signature in cursive script, appearing to read "Catherine Keuthen".

Catherine J. Keuthen, Esq.  
Cheryl A. Blaine, Esq.  
Keegan Werlin LLP  
265 Franklin Street  
Boston, MA 02110  
(617) 951-1400

Dated: April 20, 2017

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY  
CHECKLIST FOR REQUESTING AUTHORIZATION TO CONSTRUCT AN  
ELECTRIC TRANSMISSION LINE PURSUANT TO G.L. c. 164, § 72**

The following checklist is intended to serve as guidance for persons filing petitions pursuant to G.L. c. 164, § 72 for authority to construct an electric transmission line, or to take land by eminent domain for the construction of an electric transmission line. Petitioners seeking authority to construct an electric transmission line must complete Parts 1, 2 and 3 of this form and submit a copy of the completed form with the petition at the time of filing. Petitioners seeking authority to take land by eminent domain for a transmission project also must complete Part 4 of this form.

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**PART 1: GENERAL INFORMATION**

Petitioner name: *NSTAR Electric Company d/b/a Eversource Energy*

Description of proposed transmission line and route: *Construction of an approximately 9 mile, 115-kV transmission line between Eversource Energy's Sudbury Substation (Station #342) on Boston Post Road (Route 20) in Sudbury and Hudson Light & Power Department's Substation at Forest Avenue in Hudson mostly along an existing right-of-way owned by the Massachusetts Bay Transportation Association.*

Seeking eminent domain authority: • Yes ☒ No ☐

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**PART 2: CONTENTS OF PETITION**

The petition must contain, at a minimum, the following information:

- A description of the proposed transmission line (voltage, above or below ground, height and type of structures to be used if above ground) and the anticipated route.
- An explanation of the purpose of the transmission line, and a discussion of the public interest or convenience that would be served by the construction and operation of the transmission line, with a supporting analysis and a description of the methods used to develop this analysis.
- A description of alternatives to the transmission line project, including (but not limited to) upgrades to existing transmission lines and substations.
- An analysis of the environmental or other impacts of the transmission line, during both construction and operation. This analysis could include, without limitation, impacts on land use along or near the route, on water, wetlands and habitat resources along or near the route, visual and noise considerations, traffic and access considerations, public safety considerations, or the use of hazardous substances.
- A list of all permits required for construction of the transmission line.

**NOTE:** All information provided in the petition must be adopted by witnesses who will be able to testify and respond to questions at evidentiary hearings. Such adoption may occur subsequent

to the filing of the petition. The petitioner should be prepared to identify which witness will adopt which part of the petition no later than three weeks after the petition is filed.

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**PART 3: ATTACHMENTS**

The following documents must be submitted with the petition:

- A United States Geological Survey map (1:24,000 or 1:25,000 scale and in color) of the area, showing the transmission line route.
- Diagrams of the transmission line route, showing all existing and proposed rights-of-way, representative views of the placement of existing and proposed transmission lines within the rights-of-way, and locations of water, wetland, and habitat resources within the surrounding area.
- Either: (1) a copy of the Environmental Notification Form (“ENF”) for the transmission project and the Certificate of the Secretary of Environmental Affairs on such ENF; or (2) an affidavit from the petitioner stating that the proposed use does not require the filing of an ENF. If an Environmental Impact Report (“EIR”) is required, and has been submitted to the MEPA Office at the time of filing, a copy of the EIR(s) and any related Certificates also should be submitted with the petition.
- Draft MEPA Section 61 findings relating to the transmission project, if an EIR is required.
- A draft hearing notice (hard copy and on diskette in Microsoft Word or in WordPerfect 8.0 or higher).
- Filing fee: A check for \$100.00, made payable to Commonwealth of Massachusetts.

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**PART 4: ADDITIONAL REQUIREMENTS FOR EMINENT DOMAIN**

The following additional documents must be submitted with the petition if the petitioner is seeking to take land or easements by eminent domain for the transmission line:

- A map of the transmission line route, showing the towns through which it will pass, the public ways, railroads, railways, navigable streams and tidewaters which it will cross, and the extent to which it will be located upon private land, or upon, under or along public ways and places.
- A description of each parcel or easement to be taken for the transmission project, together with the name and address of each affected property owner.

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All of the information requested above has been included in the Petition and attachments submitted with this form.



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Signature

April 20, 2017

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Date

Petition of NSTAR Electric Company d/b/a  
Eversource Energy Pursuant to G.L. c. 164, § 69J  
for Approval to Construct, Operate and Maintain  
a New 115-kV Transmission Line in the Towns of  
Sudbury, Hudson and Stow and the City of  
Marlborough and to Make Modifications to an  
Existing Substation in Sudbury

## I. INTRODUCTION

1 HLPD is not a co-petitioner with Eversource in this proceeding. Pursuant to an agreement between the Company and HLPD, the Eversource petition to the Siting Board is filed in conjunction with, and in support of, HLPD's plans to undertake the actual construction of three new 115-kV breakers at the Hudson Substation. The Company will not construct, own, operate or maintain any transmission facilities at Hudson Substation.



1. Eversource is a Massachusetts corporation and an “electric company” as defined by G.L. c. 164, § 69G and is subject to the provisions of G.L. c. 164, §§ 69H-69R.

2. Pursuant to Section 69J, an electric company seeking to construct a “facility” must obtain approval from the Siting Board. Pursuant to G.L. c. 164, § 69G, jurisdictional facilities are defined to include a “new electric transmission line having a design rating of 69 kilovolts or more and which is one mile or more in length on a new transmission corridor” and any “ancillary structure which is an integral part of the operation of any transmission line which is a facility.” The proposed New Line is approximately 9 miles in length, has a design rating of 115 kV and is located along a new transmission corridor.

## **II. PROJECT DESCRIPTION**

3. The transmission system of the Company is an integral part of the bulk power system delivering electricity to customers in New England. To maintain the integrity of this system, the Company must ensure that adequate transmission capacity exists to meet existing and projected load requirements. As a transmission provider, Eversource must also maintain its system consistent with the reliability standards and criteria developed by: (1) the North American Electric Reliability Corporation, which sets the minimum standards for electric power transmission for all of North America; (2) the Northeast Power Coordinating Council, Inc.; and (3) ISO New England Inc. (“ISO-NE”). These reliability standards and criteria expressly require transmission owners, planners and operators to design and test their systems to withstand representative contingencies as specified in the criteria. If the area transmission system does not have sufficient capability to serve forecasted load under the conditions specified in these reliability criteria, the Company must plan and implement system additions and upgrades to address the identified performance issues.

4. The Project is one of approximately 40 individual transmission projects to emerge from an extended transmission study process conducted by ISO-NE and its Greater Boston Working Group to identify and address reliability needs of the transmission system that serves much of Massachusetts and southern New Hampshire. This study process ultimately resulted in the issuance of the Greater Boston Area Updated Transmission Needs Assessment, dated January 2015 (“Updated Needs Assessment”), and the selection of a set of transmission projects, including the Sudbury-Hudson Transmission Reliability Project, as the preferred solution to meet the identified needs. In February 2015, ISO-NE made public its preferred solutions to address these needs, which were a series of transmission projects, including the proposed Project. The Greater Boston Area Transmission Solutions Study, dated August 12, 2015, details the development and comparison of alternative solutions and the performance of the preferred solution set of transmission projects.

5. The Company proposes to construct, operate and maintain the New Line, which will be installed in the municipalities of Sudbury, Hudson, Stow and Marlborough.

6. In addition to the New Line, the Company would also undertake improvements at the Sudbury Substation, including two new 115-kV breakers and a 115-kV shunt reactor. Although not part of the Project, HLPD would install three new 115-kV breakers at Hudson Substation to support the New Line, and make other related modifications, including reconfiguring the existing transmission lines to a ring bus design.

7. Simultaneously herewith, the Company is filing with the Department of Public Utilities (the “Department”): (a) a petition pursuant to G.L. c. 40A, § 3 for specific and comprehensive zoning exemptions from the zoning bylaws of the Towns of Sudbury, Hudson and Stow in connection with the Project (D.P.U. 17-82); and (b) a petition requesting approval of

the New Line in accordance with G.L. c. 164, § 72 (“Section 72 Petition”) (D.P.U. 17-83). The Company is also filing motions with the Department and the Siting Board requesting that the Department refer the Section 72 Petition to the Siting Board and that the Siting Board consolidate both petitions for its review. See G.L. c. 25, § 4; G.L. c. 164 § 69H(2). The Company incorporates by reference the Section 72 Petition together with all of its exhibits into this Section 69J Petition. The Section 69J Petition and Attachment A appended thereto, a document entitled *Analysis to Support Petitions Before the Energy Facilities Siting Board – Sudbury - Hudson Transmission Reliability Project* (the “Analysis”), provide the factual basis for determining that the Project is necessary in order to maintain a reliable supply of electricity in the Commonwealth while balancing issues of cost and environmental impacts.

### **III. STANDARD OF REVIEW**

8. In accordance with Section 69J, before approving a petition to construct a proposed energy facility, the Siting Board requires an applicant to justify its proposal in four phases. First, the Siting Board requires the applicant to show that additional energy resources are needed (see Analysis, Section 2). Second, the Siting Board requires the applicant to establish that, on balance, its proposed project is superior to alternative approaches in terms of reliability, cost and environmental impact, and in its ability to address the identified need (see Analysis, Section 3). Third, the Siting Board requires the applicant to show that it has considered a reasonable range of practical facility siting alternatives and that the proposed site (or route) for the facility is superior to a noticed alternative site (or route) in terms of cost, environmental impact and reliability of supply (see Analysis, Sections 4 and 5). Finally, the applicant must show that its plans for construction of its new facilities are consistent with the current health, environmental protection and resource use and development policies as developed by the

Commonwealth (see Analysis, Section 6). As demonstrated throughout the Analysis, the Project satisfies the Siting Board's standards and relevant precedent for jurisdictional facilities.

**A. The Project Is Needed.**

9. Section 69J provides that the Siting Board should approve a petition to construct if it determines that the petition meets certain requirements, including that the plans for the construction of the applicant's facilities are consistent with the policies stated in G.L. c. 164, § 69H to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. In carrying out its statutory mandate with respect to proposals to construct energy facilities in the Commonwealth, the Siting Board evaluates whether there is a need for additional energy resources to meet: (1) reliability objectives; (2) economic efficiency objectives; or (3) environmental objectives. New England Power Company d/b/a National Grid, EFSB 13-2/D.P.U. 13-151-13-152, at 6 (2014) ("NEP Salem"); New England Power Company d/b/a National Grid, EFSB 12-1/D.P.U. 12-46/47, at 5 (2014) ("NEP/IRP"); New England Power Company d/b/a National Grid and Western Massachusetts Electric Company, 18 DOMSB 323, at 336 (2012) ("Hampden County"); NSTAR Electric Company, EFSB 10-2/D.P.U. 10-131/132, at 4 (2012) ("Lower SEMA"); Western Massachusetts Electric Company, 18 DOMSB 7, at 25 (2010) ("GSRP Decision"). Accordingly, the need for a particular facility can be demonstrated by showing need on any (or all) of those three bases. ECC Remand, 1 DOMSB 213, at 411-12 & n.264 (1993); see, e.g., NEP Salem, at 6; NEP/IRP, at 5; Hampden County, at 336; Lower SEMA, at 4.

10. To ensure reliability, each transmission and distribution company establishes planning criteria for construction, operation, and maintenance of its transmission and distribution system. NEP Salem, at 6; NEP/IRP, at 5; Hampden County, at 336; Lower SEMA, at 4.

Compliance with the applicable planning criteria can demonstrate a “reliable” system. See, e.g., NEP Salem, at 6; NEP/IRP, at 5; Hampden County, at 336; Lower SEMA, at 4.

11. To determine whether system improvements are needed, the Siting Board: (1) examines the reasonableness of the Company’s system reliability planning criteria; (2) determines whether the Company uses reviewable and appropriate methods for assessing system reliability over time based on system modeling analyses or other valid reliability indicators; (3) determines whether the relevant transmission and distribution system meets these reliability criteria over time under normal conditions and under reasonable contingencies, given existing and projected loads; and (4) determines whether acceleration of conservation and load management programs, and pursuant to c. 249 of the Acts of 2004, the use of other alternatives to the facility, including other methods of transmitting or storing energy, might eliminate or slow the need for such additional energy resources.<sup>2</sup> NEP Salem, at 6-7; NEP/IRP, at 5; Hampden County, at 336; Lower SEMA, at 4; New England Power Company d/b/a National Grid, 18 DOMSB 173, at 181-82 (2011).

12. When a petitioner’s analysis of system reliability and facility requirements is driven, at least in part, by load projections, the Siting Board reviews the underlying load forecast. NEP Salem, at 7; NEP/IRP, at 5; Hampden County, at 336; Lower SEMA, at 5. The Siting Board requires that forecasts be based on substantially accurate historical information and reasonable statistical projection methods that include an adequate consideration of conservation and load management. G.L. c. 164, § 69J; NEP Salem, at 7; NEP/IRP, at 5-6; Hampden County, at 336-37; Lower SEMA, at 5. To ensure that this standard has been met, the Siting Board

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<sup>2</sup> Pursuant to c. 249 of the Acts of 2004, applicants proposing a new transmission line are required to provide “. . . (3) a description of alternatives to the facility, such as other methods of transmitting or storing energy . . . or a reduction of requirements through load management . . .” In addition, applicants are required to demonstrate that “projections of the demand for electric power . . . include an adequate consideration of conservation and load management.” G.L. c. 164, § 69J.

requires that forecasts be reviewable, appropriate and reliable. NEP Salem, at 7; NEP/IRP, at 6; Hampden County, at 337; Lower SEMA, at 5. A forecast is reviewable if it contains enough information to allow a full understanding of the forecast method; a forecast is appropriate if the method used to produce the forecast is technically suitable to the size and nature of the company to which it applies; and a forecast is considered reliable if its data, assumptions and judgments provide a measure of confidence in what is most likely to occur. NEP Salem, at 7; NEP/IRP, at 6; Hampden County, at 337; Lower SEMA, at 5.

13. The primary purpose of the Sudbury – Hudson Transmission Reliability Project is to provide additional transmission capacity within the area designated by ISO-NE as the Marlborough Subarea of Sub-Area D, which encompasses the municipalities of Berlin, Framingham, Grafton, Hudson, Marlborough, Northborough, Shrewsbury, Stow, Southborough and Westborough.

14. As described more fully in the Analysis, and as documented in the Updated Needs Assessment, certain 69-kV and 115-kV lines serving the Marlborough Subarea would overload under various contingencies at existing peak load levels, which would lead to a voltage collapse and the consequent loss of service to over 400 MW of load (approximately 80,000 customers). The Project will address this need with a new 115-kV transmission line between Sudbury Substation and Hudson Substation. In doing so, it will ensure continued compliance with applicable federal and regional transmission reliability standards and criteria, and will maintain reliable electric service to area substations serving the Marlborough Subarea.

**B. The Company Properly Considered Alternatives to the Project.**

15. The Siting Board is required to evaluate proposed projects to ensure a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest

possible cost. See G.L. c. 164, § 69H. In addition, Section 69J requires a proposed project proponent to present alternatives to the proposed facility which may include: (a) other methods of transmitting or storing energy; (b) other sources of electrical power or natural gas; or (c) a reduction of requirements through load management. NEP Salem, at 17.

16. In implementing its statutory mandate, the Siting Board requires a petitioner to show that, on balance, its proposed project is superior to alternative approaches in terms of reliability, cost, environmental impact, and ability to meet a previously identified need. NEP Salem, at 17; NEP/IRP, at 25-26; Hampden County, at 347; Lower SEMA, at 29. In addition, the Siting Board requires a petitioner to consider reliability of supply as part of its showing that the proposed project is superior to alternative project approaches. NEP Salem, at 17-18; NEP/IRP, at 26; Hampden County, at 347; Lower SEMA, at 29.

17. The Company has comprehensively identified and analyzed various alternatives to address the identified needs for the Project. In order to determine the approach that best balances reliability, cost and environmental impact, and in accordance with Section 69J and Siting Board precedent, the Company evaluated a series of project approach alternatives for their potential to address the needs identified in the Updated Needs Assessment. Section 3 of the Analysis describes the detailed analyses undertaken by the Company to identify and evaluate alternative means to address the needs identified in Section 2, including: (1) a No-Build Alternative; (2) non-transmission alternatives (“NTAs”) such as energy efficiency, demand response programs and distributed generation; and (3) an alternative transmission solution. The Company first rejected the No-Build Alternative after determining that this approach would not address the identified transmission reliability needs. Next, the Company evaluated two transmission alternatives that could address the needs in the Marlborough Subarea, concluding

that a new transmission line between the Sudbury and Hudson Substations, together with improvements at those stations, is the superior transmission alternative. Finally, the Company concluded that no feasible or practical NTA to this Project could address the identified need. The Company's analysis showed that any hypothetical NTA that could be identified would be unprecedented in scope, costly, and difficult to implement with an in-service date comparable to that of the Project.

18. The Company's analysis demonstrates that the Project is superior to the other transmission and non-transmission alternatives studied. The proposed Project will best address the thermal overloads, low voltage and potential loss of more than 400 MW of load needs identified in the Updated Needs Assessment, with the least environmental and construction impacts and at the lowest cost. Accordingly, the new transmission line between Sudbury Substation and Hudson Substation was advanced to the transmission routing analysis presented in Section 4 of the Analysis.

**C. The Company Properly Evaluated Alternative Routes.**

19. The Siting Board has a statutory mandate to implement the policies of G.L. c. 164, §§ 69J-69Q to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. G.L. c. 164, §§ 69H, 69J. Further, Section 69J requires the Siting Board to review alternatives to planned projects, including "other site locations." In implementing this statutory mandate, the Siting Board requires a petitioner to demonstrate that it has considered a reasonable range of practical siting alternatives and that the proposed facilities are sited at locations that minimize costs and environmental impacts while ensuring supply reliability. NEP Salem, at 34; NEP/IRP, at 41; Hampden County, at 366. To do so, an applicant must satisfy a two-pronged test: (1) the applicant must first establish that it



developed and applied a reasonable set of criteria for identifying and evaluating alternative routes in a manner that ensures that it has not overlooked or eliminated any routes that, on balance, are clearly superior to the proposed route; and (2) the applicant must establish that it identified at least two noticed sites or routes with some measure of geographic diversity. NEP Salem, at 34-35; NEP/IRP, at 41; Hampden County, at 366.

20. The Company engaged in a comprehensive route selection process to determine the best routes for the new transmission line based on an evaluation of environmental impacts, reliability, and cost. The Company assessed a large range of potential routes and designs (overhead or underground construction) for the new transmission line, taking into consideration input received from the communities and other stakeholders. The route selection process, which resulted in the selection of the Project, a Noticed Variation, and a Noticed Alternative Route, is described in Section 4 of the Analysis. The Project includes an approximately 9-mile, underground route between the Sudbury and Hudson Substations, primarily along an inactive railroad corridor owned by the Massachusetts Bay Transportation Authority (“MBTA”). The Noticed Variation includes an overhead transmission line along the same MBTA corridor as the Project. The Noticed Alternative Route, which is approximately 10.3 miles long, is a geographically distinct route that travels underground within public roadways.

**D. The Environmental Impacts, Cost and Reliability of the Project, the Noticed Variation and the Noticed Alternative Route Have Been Appropriately Evaluated.**

21. In implementing its statutory mandate to ensure a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost, the Siting Board requires a petitioner to show that its proposed facility is sited at a location that minimizes costs and environmental impacts while ensuring a reliable energy supply. To determine whether such a showing is made, the Siting Board requires a petitioner to demonstrate

that the proposed site for the facility is superior to the noticed alternative on the basis of balancing cost, environmental impact and reliability of supply. NEP Salem, at 39; NEP/IRP, at 46-47; Hampden County, at 370; Lower SEMA, at 57.

22. An assessment of all impacts of a proposed facility is necessary to determine whether an appropriate balance is achieved both among conflicting environmental concerns as well as among environmental impacts, cost and reliability. A facility that achieves that appropriate balance meets the Siting Board's statutory requirement to minimize environmental impacts at the lowest possible cost. NEP Salem, at 40; NEP/IRP, at 47; Hampden County, at 370; Russell Biomass, LLC and Western Massachusetts Electric Company, 17 DOMSB 1, at 34 (2009) ("Russell 2009").

23. In order to determine if a petitioner has achieved the proper balance among various environmental impacts and among environmental impacts, cost and reliability, the Siting Board determines if the petitioner has provided sufficient information regarding environmental impacts and potential mitigation measures to enable the Siting Board to make such a determination. The Siting Board then determines whether environmental impacts would be minimized. Similarly, the Siting Board must find that the petitioner has provided sufficient cost and reliability information in order to determine if the appropriate balance among environmental impacts, cost and reliability is achieved. Russell 2009, at 34-35; Cape Wind Decision, at 65; Cambridge Electric Light Company, 12 DOMSB 305, at 335 (2001).

24. Accordingly, the Siting Board examines the environmental impacts, reliability and cost of the proposed facilities along the various routes to determine: (1) whether environmental impacts would be minimized; and (2) whether an appropriate balance would be achieved among conflicting environmental impacts as well as among environmental impacts,

cost and reliability. In this examination, the Siting Board compares the preferred and alternative routes to determine which is superior with respect to providing a reliable energy supply for the Commonwealth with a minimum impact to the environment at the lowest possible cost. NEP Salem, at 40; NEP/IRP, at 47; Hampden County, at 370; Russell 2009, at 34-35; Cape Wind Decision, at 65.

25. The Company conducted a comprehensive analysis of the environmental impacts of the Project and has appropriately minimized and mitigated the environmental impacts associated with the construction of the Project. The Project will also achieve an appropriate balance among conflicting environmental concerns as well as among environmental impacts, reliability and cost. The cost, reliability and environmental impacts analysis are set forth in Section 5 of the Analysis.

**E. The Project Meets the Siting Board's Consistency Standards in Accordance With Precedent.**

26. Section 69J states, inter alia, that the Siting Board shall approve a petition to construct a facility if it determines that "plans for expansion and construction of the applicant's new facilities are consistent with current health, environmental protection, and resource use and development policies as adopted by the Commonwealth."

27. The Project is necessary to ensure the reliable supply of electricity to customers in the Marlborough Subarea. Section 6 of the Analysis demonstrates that the construction and operation of the Project is consistent with current health, environmental protection and resource use and development policies as adopted by the Commonwealth of Massachusetts.

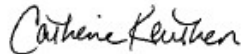
**WHEREFORE**, Eversource respectfully requests that, pursuant to G.L. c. 164, § 69J, the Siting Board conduct a public hearing on this Petition (and on any matters referred to the Siting Board from the Department) and take such other action as may be necessary to: (i) grant the

authority to construct the Project as more particularly described in the attached Analysis; (ii) find that such construction is required in order to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost; (iii) and (iii) find that the construction of the Project is consistent with current health, environmental, and resource use and development policies as adopted by the Commonwealth of Massachusetts and the policies stated in G.L. c. 164, § 69H.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY d/b/a  
EVERSOURCE ENERGY**

By its attorneys,



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