

# SHARON ZONING BYLAW

## Draft #4 – April 4, 2022

Black text is existing

Yellow text is new

Strikeout is deleted

Green is change after 3/10 meeting

Blue is change after 3/30 meeting

### SECTION 1.0 PURPOSE AND AUTHORITY

**1.1 PURPOSE.** It shall be the purpose of the Sharon Zoning Bylaw (“this Bylaw”) to lessen congestion in the streets; to conserve health, to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for all persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, open parks, open space and other public requirements; ~~to conserve the value of land and buildings, to including the~~ conserve natural resources and prevent blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Sharon Planning Board and the Comprehensive Plan, if any, of the Metropolitan Area Planning Council; and to preserve and increase amenities and to restrict, prohibit, permit or regulate ~~the uses of wetlands and lands deemed subject to seasonal or periodic flooding,~~ the uses of bodies of water, including watercourses, and the development of the natural, scenic and aesthetic qualities of the community.

**1.2 AUTHORITY.** This Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.3 SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

**1.4 APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. 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.

~~2411.~~

~~Conformity. No building in any district shall be erected, altered, enlarged, extended, reconstructed, raised or moved and no lot shall be created or changed in size or shape except in conformity with the following, unless exempted by Subsection 6410 of this bylaw or by the Zoning Act, or unless the nonconformity results from the taking of a portion of the lot for a public purpose where no building is to be constructed on the portion so taken.~~

~~***6420. Other bylaws.***~~

~~Nothing contained in this bylaw shall be construed as repealing or modifying any existing bylaw of the Town, provided that where this bylaw makes greater restrictions upon buildings than are imposed by other bylaws, such greater restrictions shall prevail.~~

**1.5 AMENDMENTS.** This Bylaw may be amended from time to time in accordance with the provisions of G.L c. 40A, § 5.

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

## SECTION 2.0 DISTRICTS

### 2.1 ESTABLISHMENT.

For the purposes of this Bylaw, the Town of Sharon is hereby divided into classes of districts to be known as:

Rural 1	R1
Rural 2	R2
Suburban 1	Sub 1
Suburban 2	Sub 2
Single Residence A	SRA
Single Residence B	SRB
General Residence	GR
Housing Authority	HA
Business A	BA
Business B	BB
Business C	BC
Business D	BD
Light Industrial	LI
Professional A	Pro A
Professional B	Pro B

### 2.2 ZONING MAP.

The boundaries of the districts shall be the boundary lines shown on the map accompanying this bylaw entitled "The Town of Sharon, Massachusetts Zoning Map" dated May 7, 2007, and amended May 2, 2022, and bearing the signatures of the Planning Board, and filed in the office of the Town Clerk, which map is hereby made a part of this bylaw. The location of these boundary lines is further defined in Section 2.2.1.

**2.2.1 District Boundaries.** The location of the boundary lines of the Zoning Map shall be determined as follows:

1. Where the boundary lines are within the lines of streets or ways, the centerlines of such streets or ways shall constitute the boundary lines.
2. Where the boundary lines follow the location of property or lot lines and the exact location of the boundary lines is not indicated by means of figures, distances or otherwise, the property or lot lines shall be boundary lines.
3. Boundary lines located just outside of street lines shall parallel street lines, and all figures shown on the map between boundary lines and street lines are the distances in feet of boundary lines from street lines, such distances being measured at right angles to street lines unless otherwise indicated.

4. In all cases which are not otherwise covered by the provisions of this section, the location of boundary lines shall be determined by the distances in feet, if given, from other lines on the map, or if distances are not given, then by the scale of the map.

### 2.3 OVERLAY AND SPECIAL DISTRICTS.

The following overlay and special districts are set forth in Section 9.0 of this Bylaw.

Flood Plain Overlay District	FPOD
Water Resource Protection District	WRPD
Mixed Use Overlay District	MUOD
Smart Growth Overlay District	SGOD
Recreation and Residential Overlay District	RROD
Planned Development District	PDD

### 2.4 LOTS DIVIDED BY DISTRICT OR TOWN BOUNDARY.

**2.4.1 District Boundaries.** If a district boundary line divides any lot existing at the time such district line is adopted, the lot shall be regulated as follows: The less restrictive use regulations for any district in which the lot has frontage shall be applicable for 30 feet into the more restrictive district, and the applicable lot area, width, frontage, building location, coverage and height requirements shall be those of the district in which the majority of the lot's frontage lies.

~~**2.4.2. Municipal Boundary.** If the Town line divides a lot, this bylaw shall be applied as if the entire lot were situated within Sharon.~~

**2.4.1 By Town Boundary.** When a lot is situated in part in the Town of Sharon and in part in an adjacent municipality, the provisions of this By-law shall be applied to the portion of such lot in the Town of Sharon in the same manner as if the entire lot were situated in the Town of Sharon.

## SECTION 3.0 USE REGULATIONS

### 3.1 GENERAL REGULATIONS

**3.1.1 Authorization.** No premises shall be used except as provided in the Table of Use Regulations Section 3.2, and no building or structure or part thereof shall be erected, altered or extended unless in conformance with this Bylaw. ~~unless site plan approval therefor has been granted pursuant to Subsection 6320, 6330, or as permitted by Section 6400. No premises shall be used in the Senior Living District except as provided in Subsection 4380, and no building or structure or part thereof shall be erected, altered or extended unless site plan approval therefor has been granted pursuant to Subsection 4380.~~

**3.1.2 Special Permits.** Uses authorized by special permit shall, where appropriate, be made subject to conditions, limitations and safeguards as provided in Section 10.5. Such conditions, limitations and safeguards shall be in writing and made part of the special permit by the special permit granting authority.

**3.1.3 Site Plan Approval.** In certain business districts, new construction, additions, exterior alterations or changes of use ~~in Business Districts A, B, C and D~~ shall require site plan approval as provided in Section 10.6. ~~In addition, the aforesaid activities may also require site plan approval pursuant to Subsection 6323e.~~

**3.1.4 Activities in Two Classifications.** Where an activity might be classified under more than one of the following uses, the more specific classifications shall determine permissibility; if equally specific, the more restrictive shall govern.

### 3.2 TABLE OF USE REGULATIONS

**3.2.1 General.** In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (Y). Uses designated (N) shall not be permitted in the district. Those uses that may be permitted by special permit in the district, in accordance with Section 10.5, shall be designated by identification of the Special Permit Granting Authority, which is either:

BA	Zoning Board of Appeals
PB	Planning Board
SB	Select Board

**3.2.2 Table of Use Regulations.** See Appendix A.

~~2310 General Residence, Single Residence, Suburban, Rural and Housing Authority Districts.~~

~~2311.~~

~~Permitted residential uses:~~

~~a. Residence for a single family.~~

~~b. Permanent off premises freestanding signs in accordance with Chapter 221, Signs, pertaining to facilities located in Business District D, but only if located in the northwest quadrant abutting the intersection of South Main Street and Old Post Road and within 160 feet of the intersection of the centerlines of South Main Street and Old Post Road.~~

~~e. In Housing Authority Districts only, single or multiple residence housing complete with auxiliary buildings constructed and operated by or for a housing authority organized under MGL c. 121B.~~

~~d. In General Residence Districts only,:~~

~~(1) Residence for two families.~~

~~(2) Hotel or boarding, rooming or lodging house.~~

~~2312. Permitted community service uses:~~

~~a. Religious or educational purposes on land owned or leased by a public body, religious sect or denomination, or nonprofit educational corporation.~~

~~b. Municipal building; park, water tower or reservoir.~~

~~e. Telephone exchange, provided that there is no service yard or garage.~~

~~2313. Other permitted principal uses:~~

~~a. Agriculture, horticulture or floriculture, including the sale of products raised on the premises only; market gardens; nurseries; greenhouses.~~

~~b. Earth removal as provided by Chapter 141 of the General Bylaws, Sharon, Massachusetts, Earth Removal.~~

~~e. In the Rural 2 District only, municipal indoor/outdoor recreation facilities.~~

~~d. In all residential districts under this Subsection 2310, municipal commercial solar energy systems.~~

~~2314. Permitted accessory uses:~~

~~a. Such accessory purposes as are customarily incident to the foregoing purposes and are not injurious to a neighborhood as a place of residence. However, such accessory purposes shall not include any organized business, industry, trade, manufacturing or commercial enterprise, nor the stabling or keeping of horses other than for the private use of the owners or residents of the premises.~~

~~b. Private garage with provision for not more than three motor vehicles.~~

~~e. Except within the Water Resource Protection District, customary home occupation and the sale of the products thereof, including such occupations as dressmaking, millinery, crafts, art work, and the taking as lodgers or boarders of not more than five persons not members of the family residing therein, provided for any of the above that no nonresidents (other than domestic help) are employed on the premises.~~

~~d. Except within the Water Resources Protection District, the office of a doctor, dentist, lawyer, or other professional person, or of a real estate or insurance agent; the studio of an artist, musician, photographer, or teacher of art, music or photography; provided for any of the above that no nonresidents (other than domestic help) are employed on the premises.~~

~~2315. Uses allowed on special permit (from the Board of Appeals except as indicated):~~

~~a. Residential uses:~~

~~(1) Conversion to create one or more dwelling units, as specified at Subsection 4210.~~

~~(2) In Single Residence, Suburban and Rural Districts, municipal building conversion as specified at Subsection 4220 if authorized by the Select Board.~~

~~(3) Flexible development under Section 4300, including (in Suburban Districts only) multifamily developments.~~

~~(4) Nursing homes.~~

**b. Community service uses:**

~~(1) Playground, hospital, sanitarium, religious or educational purposes, other than uses specified by Subsection 2312a, or other public or semi-public institution of philanthropic or charitable character, but no correctional institutions.~~

~~(2) Cemetery not conducted for profit.~~

**e. Other principal uses:**

~~(1) Animal or veterinary hospitals, kennels or similar provision for breeding dogs in a greater number than three, provided all structures used for housing animals are located 200 feet from any lot line.~~

~~(2) Public stable; private garage with provisions for more than three motor vehicles or group garage.~~

~~(3) Club, except a club which carries on a business or is in the nature of a business.~~

~~(4) Natural gas custody transfer facilities or gate stations as provided in Section 4700.~~

**d. Accessory uses:**

~~(1) Scientific use accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, provided that the Board finds that the proposed accessory use does not substantially derogate from the public good.~~

~~(2) The shop of a carpenter, electrician, machinist, paperhanger, plumber, photographer or similar artisan, resident on the premises, and provided the building of said shop is not closer than 50 feet to the line of the way and not closer than 20 feet to any property line.~~

~~(3) An office, studio, or home occupation as described at Subsection 2314 having up to three subordinate nonresident positions accommodated on the premises.~~

~~(5) Activities similar to those permitted under Subsection 2314 but not specifically included there.~~

~~(6) In General Residence and Single Residence Districts, off street parking spaces accessory to Professional District uses on special permit as provided for in Subsection 3112.~~

## ~~2320 Business Districts.~~

**~~2321. Permitted residential uses:~~**

~~a. In Business Districts A, B and C, single or two family dwellings.~~

~~b. In Business District A, up to two apartment units when located above a nonresidential ground floor use.~~

~~e. In Business District D, residences subject to the provision of affordable housing.~~

[Added 11-6-2017 STM by Art. 2]

**~~2322. Permitted community service uses:~~**

~~a. Municipal building, religious or educational uses, nonprofit civic or religious service organizations; post office; telephone exchange, provided that there is no service yard or garage.~~

~~b. Religious or educational purposes on land owned or leased by a public body, religious sect or denomination, or nonprofit educational corporation in accordance with subjects which zoning may not regulate in accordance with MGL c. 40A, § 3.~~

~~2323. Permitted commercial uses. The following uses are permitted subject to the building floor area limitations, parking space thresholds, and performance criteria set forth herein. The uses enumerated hereinafter are permitted, provided that~~

~~a. Business or professional office; bank; medical or dental clinic for outpatients.~~

~~b. Retail stores.~~

~~e. Business services related to the type of business permitted in this district, such as duplication services, newspaper printing, medical or dental laboratories.~~

~~d. In Business District B only, workshops of the following: carpenters, plumbers, or similar artisans primarily working on fixed household installations or cars.~~

~~e. In Business Districts A, B and C, other craftsmen's shops for the fabrication, alteration or maintenance of hand-portable goods and household furnishings, such as cabinet makers, upholsterers, etc., to be delivered on the premises, and further provided as follows:~~

~~f. In Business Districts A and C only, artist's studio or art gallery.~~

~~g. Places for the preparation and serving of food, provided all customers on the premises are seated at tables or counters.~~

~~h. Preparation and retail sale on the premises of food to be consumed off the premises.~~

~~i. Personal services, such as day care, barber, beauty shop, health or fitness club, photographer, shoe repair, and tailor.~~

~~(2) Medical or dental offices; financial institutions such as banks, savings institutions, credit unions, and credit institutions; and real estate, insurance, investing, or securities firms.~~

~~(3)~~

~~Business services, whether or not related to the type of business permitted in the district, such as office cleaning, packaging, shipping, and similar business services.~~

~~(4) Personal services, such as hair salon and similar personal services.~~

~~(5) Theater and multiscreen movie complex.~~

~~(6) Hotel.~~

~~(7) Warehouse stores.~~

~~(8) Club and membership stores.~~

~~(9) Facilities licensed by the Massachusetts Executive Office of Education or successor agency if applicable, including day care or child care facilities complying with "Large Group and School Age Child Care Program" licensing requirements and including facilities complying with "Center and School Based Early Education and Care Program" or "After School and Out of School Time Program" licensing requirements.~~

~~(10) Stores serving as drop-off and pick-up locations for cleaning and laundry services, excluding laundromats and any on-site processing.~~

~~(11) Illumination of parking areas pursuant to Subsection 2328.~~

~~2324. Other permitted principal uses.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a. Agriculture, horticulture or floriculture on parcels of more than five acres.~~



~~b. In Business District D, residences in residential or mixed-use buildings subject to the provision of affordable housing in accordance with the following:~~

~~e. Business District D development.~~

~~2326.~~

Uses and accessory uses allowed by special permit from the Board of Appeals:

[Amended 11-6-2017 STM by Art. 2]

~~a. e.~~

~~In Business Districts A, B, and C, theater, hall or other place of indoor or outdoor amusement.~~

~~d. Clubs operated as a business.~~

~~e. In Business Districts B and C, apartments over nonresidential establishments as provided in Subsection 4230.~~

~~f. In Business District A, multiple residence buildings containing three or more dwelling units used either exclusively for residential uses or containing a mix of permitted residential and nonresidential uses as provided in Subsection 4240.~~

~~g. Drive-through services serving the customer while seated in a car for banks within Business District B.~~

~~h. In Business Districts B, C and D, accessory scientific use, provided that the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.~~

~~i. In Business Districts B and D, funeral parlors.~~

~~j. Religious or educational purposes other than those specified by Subsection 2322.~~

~~k. In Business District B only, the following:~~

~~(1) Gasoline service station; automobile display room.~~

~~(2) Outdoor storage and display of goods for sale, whether as a principal or accessory use, but not including secondhand goods or parts, nor bulk goods such as lumber or gravel, provided all outdoor storage and display is screened from side and rear lot lines in the manner described in Subsection 3117.~~

~~(3) Storage buildings for goods to be repaired or sold at retail directly to the consumer or temporarily stored for the consumer.~~

~~l. In Business District D only, the following:~~

~~(1) Amusement and recreation uses, excluding each of the following: adult use as defined in Subsection 4120; racing and racetrack use; permanent circus, carnival, and fair use; and casino, bingo, bookie, betting, and gaming use (provided, however, that lottery ticket sales as a component of retail use shall not be considered as gaming use). In computing floor area, floor area ratio, and building coverage limits, places of outdoor amusement shall be considered as having a floor area of 100 square feet for every 200 square feet of land in outdoor amusement use.~~

~~(2) Drive-through services serving the customer while seated in a car for restaurant, bakery, coffee shop, bank, and pharmacy establishments.~~

~~(3) Memory care dementia special care unit (DSCU) as defined in 105 CMR 150.023.~~

~~(4) Licensed or certified health care facility or agency which is licensed by the Massachusetts Executive Office of Health and Human Services Department of Public Health Division of Health Care Facility Licensure and Certification or successor agency as applicable, including the following:~~

- ~~(i) Health care center which may include urgent care services, primary care services, specialist services, clinics, outpatient facilities, diagnostic and lab services, day surgery, rehabilitation and sports medicine, mental health, and similar medical services provided that no overnight patient beds are provided;~~
- ~~(ii) Certified home health agencies, hospices, physical therapy and speech pathology facilities, renal dialysis facilities, and temporary nursing agencies.~~
- ~~(5) Research and development facilities, provided that only domestic wastewater (sanitary sewage as defined in 310 CMR 15.002) is discharged to any wastewater treatment plant within a Water Resources Protection District.~~
- ~~(6) For-profit education services, including elementary and secondary school, junior college, college, university, and vocational school.~~
- ~~(7) Training and conference center.~~
- ~~(8) Retail postal, parcel post, delivery service, and postal box uses.~~
- ~~(9) Congregate housing as authorized by MGL c. 121B, § 39, that provides a shared living environment with separate sleeping quarters and shared common facilities which are designed to integrate the housing and services needs of persons aged 60 and over or qualified disabled and that have applied to the Sharon Housing Authority.~~
- ~~(10) Retail sale of gasoline and diesel fuel accessory to retail stores.~~

~~{Added 10-12-2020 ATM by Art. 26}~~

~~m. Natural gas custody transfer facilities or gate stations as provided in Section 4700.~~

~~**2327.**~~

~~Business District D requirements.~~

~~{Amended 11-6-2017 STM by Art. 2}~~

~~a. The objective of Business District D is to accommodate residential, retail, office and other uses in locations where a large development area is available with suitable access to Interstate 95, where impacts to neighboring residential areas can be minimized, and adverse traffic and where environmental impacts can be mitigated. In connection with the creation of the Business District D and the addition of any land to the Business District D, the Select Board shall be authorized and directed to seek agreement from the owners of land located in the Business District D concerning public benefits to be provided in connection with proposed development, including without limitation the gift or dedication of land for conservation, education, flood prevention, recreation, water supply, or other public purposes.~~

~~b. All uses and accessory uses permitted or allowed by special permit must conform to the objective of the district.~~

~~**2328.**~~

~~**2330 Light Industrial District.**~~

~~**2331.** Permitted light industrial uses. The following are permitted, except that if the proposed building, building addition or change of use exceeds the floor area or parking space thresholds of Subsection 2334a, the use shall be allowed only by special permit. Additionally, certain uses require site plan approval pursuant to Subsection 6323.~~

~~a. Manufacturing: assembly, manufacturing, and packaging, subject to the exclusions of Paragraph (12) hereof:~~

~~(1) Canvas, cloth, cork, felt, fiber, glass, metal, sheet metal, paper, plastic, textile, and wood products from previously prepared materials;~~

~~(2) Electrical, laboratory, medical, dental, office, store, sterilization, and water purification apparatus, devices, machinery, and equipment;~~

- ~~(3) Instruments, musical instruments, optical goods, clocks and watches or other precision apparatus, devices, machinery, and equipment;~~
- ~~(4) Apparel, apparel accessory, and footwear products;~~
- ~~(5) Aerospace, boat, rail, and vehicle parts and components;~~
- ~~(6) Pharmaceuticals and personal care products;~~
- ~~(7) Machine tools;~~
- ~~(8) Food products;~~
- ~~(9) Bottling works;~~
- ~~(10) Jewelry;~~
- ~~(11) Toys, novelties, and sporting goods;~~
- ~~(12) Wood product manufacturing shall exclude planning and sawmill operations. Food product manufacturing and packaging shall exclude fish or meat, sauerkraut, vinegar, yeast, and fat and oil rendering.~~
- b. Research and development and laboratories:**
  - ~~(1) Research and development (R&D) facilities;~~
  - ~~(2) Experimental laboratories;~~
  - ~~(3) Testing laboratories.~~
- e. Warehousing storage and distribution:**
  - ~~(1) Wholesale sales, offices and showrooms;~~
  - ~~(2) Warehousing and wholesale merchandise storage and distribution of materials, supplies, equipment, and manufactured products, whether or not produced on the premises.~~
- d. Office:**
  - ~~(1) General and professional offices;~~
  - ~~(2) Municipal offices.~~
- e. Retail:**
  - ~~(1) Retail sales and services;~~
  - ~~(2) Funeral establishments;~~
  - ~~(3) Restaurants and catering;~~
  - ~~(4) Dry cleaners, excluding on-site cleaning or processing.~~
- f. Nursery school, daycare center or other agency for the day care of children, and adult daycare center.**
- g. Theater.**
- h. Wellness center and health club.**
- i. Medical and dental:**
  - ~~(1) Medical and dental offices and laboratories;~~
  - ~~(2) Medical and dental and clinics;~~
  - ~~(3) Medical development, research, experimental, or testing laboratories and facilities;~~
  - ~~(4) Hospitals and/or comprehensive health care system;~~
  - ~~(5) Home health care.~~
- j. Miscellaneous:**
  - ~~(1) Printing and publishing establishments;~~

~~(2) Public utilities, service yards, and electrical switch gear and transforming stations;~~

~~(3) Repair, maintenance, and service industries;~~

~~(4) Machine shops;~~

~~(5) Shop and/or showroom of a builder, carpenter, cabinetmaker, caterer, electrician, painter, paperhanger, plumber, sign painter, upholsterer, heating and ventilation contractor, or other tradesman.~~

~~2332. Other permitted principal uses:~~

~~a. Religious or educational uses on land owned or leased by a public body, religious sect or denomination, or nonprofit educational corporation;~~

~~b. Agriculture, horticulture or floriculture;~~

~~c. Business services supporting businesses located in the district;~~

~~d. Personal services such as, but not limited to, barber and beauty shops, health club, membership club, photographer, shoe repair, tailor, and other personal service uses;~~

~~e. General retail and wholesale landscaping equipment, supply and service business.~~

~~2333.~~

~~Permitted accessory uses:~~

~~a. Such accessory uses as are customarily incident to the foregoing uses, including the use of structures and land for showrooms for display purposes only, as well as storage, power plants, water storage structures or reservoirs, sewage treatment plants and chimneys;~~

~~b. Outside display of goods for display and sales on the premises accessory to a permitted main use such as, but not limited to, retail stores, shops and salesrooms, conducted in a completely enclosed building on the same premises.~~

~~2334.~~

~~Uses and accessory uses allowed by special permit (from the Board of Appeals, except as noted):~~

~~a. Uses allowed pursuant to Subsection 2331 where the proposed building, addition or change of use results in more than 100,000 square feet of gross floor area or more than 250 parking spaces;~~

~~b. Facilities for the sale, leasing, rental or servicing of new and used automobiles and trucks, trailers, and boats, provided that all servicing is carried on within one or more buildings, and provided further that a Class 1 agent's or seller's license (as defined in MGL c. 140, § 58) shall be held by the user of the premises;~~

~~c. Earth removal pursuant to Chapter 141, Earth Removal, of the Town Code;~~

~~d. Commercial indoor and/or outdoor recreational uses, including recreational uses that include a training component such as, but not limited to, skateboard park, tennis, swimming, skating, sports fields and courts, golf driving range, miniature golf course, batting cages, go-carts, bumper boats, indoor racing tracks, and other similar uses;~~

~~e. Open or outside storage of materials, supplies, equipment, construction equipment, and manufactured products, in a storage yard, provided that the storage is appropriately screened in accordance with all applicable sections of the Zoning Bylaw;~~

~~f. Outdoor storage or overnight parking of buses, trucks, or other vehicles whose gross vehicle weight, as determined by the Massachusetts Registry of Motor Vehicles, equals or exceeds 10,000 pounds;~~

~~g. Paved parking lots and/or parking spaces, including commercial parking not serving the primary use(s) on the lot;~~

~~h. Temporary parking lots;~~

- ~~i. Drive-in windows for restaurants, banks, dry cleaners, or any other personal services;~~
  - ~~j. Self storage facilities;~~
  - ~~k. Motel or hotel, provided that the following are complied with:
 
    - ~~(1) Minimum floor area per unit, not including corridors and public floor areas, shall be 240 square feet;~~
    - ~~(2) No motel or hotel unit floor elevation shall be located below the mean grade level of the land;~~
    - ~~(3) No more than 10% of the public floor area (lobby, function rooms, restaurants) shall be used for accessory commercial uses such as newsstands, barber or beauty shops, vending machines, gift shops or offices other than those offices necessary to the management of the motel.~~~~
  - ~~l. Natural gas custody transfer facilities or gate stations as provided in Section 4700.~~
  - ~~m. Adult entertainment uses pursuant to Section 4100. These uses shall not be considered accessory uses.~~
  - ~~n. Registered marijuana dispensaries and marijuana establishments as provided in Section 3600. These uses shall not be considered accessory uses.~~
- ~~[Added 5-7-2018 ATM by Art. 22]~~

~~2335.~~

~~Within the Light Industrial District, all uses shall comply with the design standards listed herein. All such standards may be waived as part of the site plan review process.~~

~~2340 Professional Districts.~~

~~2341. Permitted residential uses:~~

- ~~a. Residence for a single family.~~

~~2342. Permitted community service uses:~~

- ~~a. Religious or educational purposes on land owned or leased by a public body, religious sector denomination, or nonprofit educational corporation.~~

~~2343. Permitted health services and related uses. In Professional District B, permitted health services and related uses:~~

- ~~a. Assisted living residence.~~

~~2344. Other permitted principal uses:~~

- ~~a. Agriculture, horticulture or floriculture on lots of five acres or more, including the sale of products raised on the premises only; market gardens; nurseries; greenhouses;~~
- ~~b. Earth removal as provided by Chapter 141, Earth Removal.~~

~~2345. Permitted accessory uses:~~

- ~~a. Such accessory purposes as are customarily incident to the foregoing purposes, and are not injurious to neighboring uses.~~
- ~~b. At grade parking facilities.~~

~~2346. Uses allowed on special permit from the Board of Appeals:~~

~~a. Business or professional offices; medical or dental offices and clinics for outpatients only, including signs as permitted in the Business A District under the Sharon Sign Bylaw;<sup>H</sup>~~

~~[1]Editor's Note: See Ch. 221, Signs.~~

~~b. Natural gas custody transfer facilities or gate stations as provided in Section 4700.~~

~~2347.~~

~~3.2~~

### 3.3 ACCESSORY USES

**3.3.1 General.** Accessory uses are allowed as set forth in the Table of Use Regulations, Section K. In addition, other accessory uses are allowed provided they meet the definition of “accessory use,” which is “a use incidental and subordinate to the principal use, and located on the same lot.” ~~occupying less than 25% of the habitable floor area on the premises and less than 50% of the lot area.~~

**3.3.2 Accessory Uses in the Residential Districts.** Accessory uses in the Residential Districts shall comply with the following standards:

1. The business or profession must be owned and operated by a person residing on the premises.
2. The business or profession shall be “subordinate” and “incidental” to the ~~occupy no more than 25% of~~ the habitable floor area of the dwelling and any accessory building used in the business or profession.
3. The off-street parking requirements of Section 6.1 must be met. However, no accessory business shall be allowed which would require more than four parking spaces. Parking areas shall be separated from public ways and adjoining lots by screening as described at **Section 6.1.10.**
4. There shall be no building alteration resulting in a nonresidential character, or visible parking of commercial vehicles **in excess of 15,000 gvw.**
5. No parking and no impervious surfaces other than walks and driveways shall be located within a required front yard setback.
6. There shall be no sale of articles produced elsewhere than on the premises.

7. There shall be no evidence of the business or profession discernible off the premises through persistent or excessive sound, or through glare, vibration, heat, humidity, smell, smoke, dust or other particulates, exterior storage or display, or other discernible effects.

**3.3.3 Accessory Uses in the BA, BB, BC and BD Districts.** Accessory uses in the BA, BB, BC and BD Districts shall comply with the following standards:

1. Accessory uses shall be customarily incidental and subordinate to the the principal use located on the same lot.
2. Such accessory uses may include outdoor storage or display of parts, materials or inventory; Enclosed storage of parts, materials or inventory in excess of the amounts reasonably required for work to be done on the premises or goods to be delivered on the premises; Drive-through services serving the customer while seated in a car, ~~except for drive through services authorized by special permit in Subsection 2326 below.;~~ and Vending machines, unless placed within a building or a parking lot.

**3.4 HOME OCCUPATIONS**

**3.4.1 Home Occupation - As of Right.** One home occupation may be allowed as of right at a locus, provided that:

1. It is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. It is clearly incidental and secondary to the use of the premises for residential purposes;
3. It does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
4. It does not utilize exterior storage of material or equipment;
5. It does not exhibit any exterior indication, including signs, of its presence or any variation from residential appearance;
6. It does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees;
7. It is registered as a business with the Town Clerk.

**3.4.2 Home Occupation - By Special Permit.** One home occupation may be allowed at a locus

by special permit issued by the Planning Board, provided that:

1. It fully complies with Sections 3.4.1.2, 3.4.1.3, 3.4.1.4 and 3.4.1.7, above.
2. It is conducted within 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 ~~two~~ **three** additional employees;
3. It does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with this Bylaw;
4. A special permit for such use is granted by the Board, 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. Such special permit shall be limited to the time of the transfer of the property.



## SECTION 4.0 DIMENSIONAL REGULATIONS

### 4.1 GENERAL DIMENSIONAL REGULATIONS.

**4.1.1 Conformity.** No building in any district shall be erected, altered, enlarged, extended, reconstructed, raised or moved and no lot shall be created or changed in size or shape except in conformity with the Tables of Dimensional Regulations, Appendix B, unless exempted by this Bylaw or the Zoning Act., ~~or unless the nonconformity results from the taking of a portion of the lot for a public purpose where no building is to be constructed on the portion so taken.~~

**4.1.2 Table of Dimensional Regulations.** See Appendix B.

**4.1.3 Lot Shape, Width and Frontage.** It shall be the purpose of these regulations to prevent the subdivision of properties into irregularly shaped lots which undermine the intent of this Bylaw, as well as to prevent the creation of lots which are so distorted in configuration as to be detrimental to public health, safety, welfare, convenient and harmonious development and use of the land, or future clarity of ownership and identification of property lines.

1. Lot width shall be measured at the required minimum street setback lines. Lot width shall be measured in a straight line between the intersection of the street setback line and the side lot lines. On corner lots, the lot width shall be measured from the side lot line to the intersecting street property line.

2. Each lot shall have frontage on a street or way, such frontage shall measure not less than 2/3 of the required minimum lot width. Each lot shall have its primary means of access onto said street or way. The principal means of access for residential lots shall be through said frontage.

3. The minimum distance between side lot lines from the frontage to the front of the primary structure on the lot shall be 50 feet.

4. No principal structure having a permitted use shall hereafter be erected or placed, on any lot unless the lot is substantially regular in shape. Substantially regular in shape shall mean that a lot has a Shape Factor (SF) of 30.0 or less. Shape Factor shall be determined by dividing the square of the perimeter of the lot measured in linear feet, by the area of the lot measured in square feet:  $SF=(p \times p)/A$ .

a. A lot may have a Shape Factor exceeding 30.0 if a portion of the lot itself meets the minimum lot area requirement and has a Shape Factor of 30.0 or less and which portion includes minimum street frontage.

b. The requirements of subsections a and b are hereby declared to be area and width requirements within the meaning of General Law, Chapter 40A, Section 6 (fourth paragraph, first sentence).

~~For any lot created or altered in shape after the effective date of this regulation, any portion of the lot that is narrower than 1/2 of the required minimum lot width, or less than 60 feet, whichever is greater, as measured in any direction, shall not be counted toward the required lot area; furthermore, in the event that such narrow portion of the lot connects separate wider portions of a lot in a dumbbell configuration, the smaller of the connected sections shall also be excluded.~~

5. For any lot created or altered in shape after the effective date of this regulation, each lot shall be adequate in shape to entirely contain a horizontal circle with a minimum diameter equal to the required lot frontage, within which circle there shall be a potential building site outside of the minimum setback from wetlands.

~~Any lot created before adoption of this Zoning Bylaw amendment and conforming to then-applicable requirements shall be considered a conforming lot for purposes of this bylaw. This regulation shall not apply, furthermore, to any lot created or altered in shape after the effective date of this regulation, when the irregularity of the lot is created by a taking by eminent domain or if a portion of the lot is conveyed for a public purpose for which the land could have been taken.~~

**4.1.4 Building Location Requirements.** Building setback requirements shall apply to enclosed porches, decks, pergolas, carports, and cantilevered stories, to fences (except Business and LI districts) exceeding six feet in height, to swimming pools exceeding two feet in depth and 250 sq. ft. in surface area, and to all structures other than the above fences, a wall or other customary yard accessory (tennis or basketball court). Basement bulkheads, and stairs which serve as a means of egress shall be exempt from setback requirements.

Building location requirements apply to projections such as enclosed porches and hanging stories except where permitted as yard or court encroachments under the Commonwealth of Massachusetts State Building Code, to fences (except in Business and Light Industrial Districts) exceeding six feet in height, to swimming pools exceeding two feet in depth and 250 square feet in surface area, and to all structures other than the above fences, a wall or other customary yard accessory.

**4.1.5 Corner Visibility.** No structures, fence, parking space, planting or sign shall be maintained between a plane 2 1/2 feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within a triangle bounded by the adjacent street sidelines and a straight line drawn between points on such lot line 30 feet from the intersection of the street sidelines or extension thereof. Poles, posts, guys for street lights and other utility services, and tree trunks bare of leaves and branches shall not be considered obstructions to vision within the meaning of this provision.

**4.1.6 Driveways.** All driveways shall be constructed to provide adequate access for all emergency vehicles as determined by the Town Engineer and Fire Chief. Driveways shall not exceed a grade of 10% unless either a special waiver or a service disclaimer is obtained from the Fire Chief.

## **4.2 SPECIAL DIMENSIONAL REQUIREMENTS**

**4.2.1 Reduced Frontage Lots.** In any residential district, the minimum frontage and the minimum lot width may be reduced to 25 feet, and the requirement in Section 4.1.3.4 may be waived, provided that the lot conforms to each of the following:

1. Contiguous lots having reduced lot frontage as provided by this Section shall not be maintained in common ownership.
2. The minimum street setback shall be increased by 100 feet over the minimum street setback otherwise required by all other provisions of this Bylaw.
3. The minimum setback from side lot lines and the minimum setback from rear lot lines shall be increased over the setbacks otherwise required by all other provisions of this Bylaw as follows:
  - a. In Single Residence A and Suburban 1 Districts by 125 feet additional;
  - b. In Single Residence B and General Residence Districts by 75 feet additional;
  - c. In Rural 1 and Suburban 2 Districts by 150 feet additional; and
  - d. In Rural 2 Districts by 200 feet additional.
4. The minimum lot area shall be increased by 100% over the lot area otherwise required by all other provisions of this Bylaw.
5. The minimum distance between side lot lines from the frontage to the front of the primary structure on the lot shall be 20 feet.
6. The regulations contained within this Section shall also apply in Business District A, where the property contains a single- or two-family dwelling.

### **4.3 SPECIAL DISTRICT REQUIREMENTS.**

**4.3.1 Minimum Building Separation.** In Business Districts A, C, and D and in the Professional District, minimum separation between buildings on the same lot is 10 feet, except no separation is required where two buildings are separated by a fire wall meeting the requirements of the Massachusetts State Building Code. In those districts, no separation is required where two buildings are separated by a fire wall and there is a multi-year development agreement between the two property owners and the building offers aesthetic value and architectural interest.

### **4.3.2 Size Limits in Business Districts.**

1. In the BA District, the total of all buildings on a lot shall not exceed 5,000 square feet of gross floor area. For the purposes of this Section, all contiguous separate lots or buildings in Business District A, if under single ownership, shall be considered as one lot or building.
2. In the BB and BC Districts, the total of all buildings on a lot shall not exceed 60,000 square feet of gross floor area.

3. The building floor area limits in the BD District shall be 135,000 square feet.
4. The total number of required parking spaces (prior to any reductions under Section 6.1) shall not exceed 150 in Business Districts B and C and 20 spaces in the BA District.
5. Parking spaces in the BD District shall comply with Section 6.1, ~~and (3) uses in Business District D comply with the requirements of Subsections 2327, 2328, and 2329.~~
6. In computing floor area, floor area ratio, and building coverage limits, places of outdoor amusement shall be considered as having a floor area of 100 square feet for every 200 square feet of land in outdoor amusement use.

**4.3.3 Use of Front Setback in BA District.** In the Business District A, any required front setback may only be used for landscaping, public seating, circulation, signage and drives, consistent with the Post Office Square Design Guidelines. The Planning Board, during site plan review, or the Zoning Board of Appeals, during special permit review, may increase the front yard setback if this is necessary to provide public area for pedestrian circulation and seating, and to ensure that criteria for site design as identified in the Design Guidelines for the Town Center Business District are achieved.

**4.3.4 Multiple Buildings in the LI District.** Multiple buildings devoted to the principal and accessory uses set forth in the Table of Use Regulations are permitted to be located on a lot. In such case, the following dimensional requirements shall apply:

1. Minimum street setback: 75 feet to the sideline ~~or 100 feet to the centerline~~ of any street or way, except freeways.
2. Minimum setback to freeways classified as "limited access" by the Massachusetts Department of Transportation: 30 feet to the sideline ~~or 100 feet to the edge of the pavement.~~
3. Minimum setback from the boundary of any Residential District, from the lot line of any lot in residential use: 100 feet, of which the 50 feet closest to said line shall be maintained in landscaping sufficient to provide an effective screen.

**4.3.5 Equivalent.** In the R2 District, each four persons accommodated in a hospital, senior living facility ~~nursing home~~, camp, dormitory or other group living arrangement shall be considered equivalent to a dwelling unit in determining required lot area.

**4.3.6 Setbacks in the SRA, Sub 1, SRB Districts.**

1. From streets constructed or maintained wholly or in part by state funds under M.G.L. c. 90: **From the street sideline,** 40 feet. ~~or, if more restrictive, 70 feet from the street centerline.~~

2. From other streets: 30 feet from the street sideline, ~~or, if more restrictive, 50 feet from the street centerline.~~

The Zoning Board of Appeals may grant a special permit for a smaller setback on a corner lot having a lot area of less than 10,000 square feet at the time this Bylaw was adopted.

**4.3.7 Maximum Number of Dwelling Units in Business D Development.** The maximum dwelling units within a Business District D development shall be the lesser of one dwelling unit per 2,250 square feet of gross floor area in the District or 225 dwelling units total.

**4.3.8 Business District D; Height Limits.**

1. For hotels and residential buildings located within 350 feet of the west property line at Route 1-95, six stories (excluding mezzanines as defined in the Massachusetts Building Code) or 90 feet; and further provided that the height of each story is limited to 15 feet.
2. For all other uses, four stories (excluding mezzanines as defined in the Massachusetts Building Code) or 60 feet; and further provided that the height of each story is limited to 24 feet for retail and theater use, to 16 feet for office use, and to 13 feet for all other uses.

**4.3.9 Business D FAR and GFA.**

1. Maximum permitted floor area ratio (FAR): 0.33 for a Business District D development or for a lot not within a Business District D development. A FAR limit is not applicable for lots within a Business District D development.
2. The maximum permitted gross floor area (GFA) for residential use shall not exceed 250,000 square feet for a Business District D development or for a lot not within a Business District D development, and the maximum permitted gross floor area for residential, community service and commercial uses combined shall not exceed 750,000 square feet for a Business District D development or for a lot not within a Business District D development.

**4.3.10 No Cut Line Business D.** In Business District D, there shall be a "no-cut" line extending 50 feet from South Walpole Street. Existing trees shall be supplemented by in-planting with evergreen trees and shrubs to create a dense vegetative screen. A six-foot-high unfinished cedar board fence shall be placed approximately 40 feet off the street line to provide supplemental screening when considered appropriate by the Zoning Board of Appeals pursuant to **Section 10.5**.

**4.3.11 Business C and Professional District Residential Buildings.** In Business District C and in the Professional District, there shall not be more than one building used wholly or in part for residence on any one lot.

~~2420. Rural and Suburban 2 District requirements.  
(See Section 4300 for flexible development.)~~

~~2421. Minimum lot area.~~

- ~~a. Rural 1 and Suburban 2 Districts: 60,000 square feet per dwelling unit or other use.~~
- ~~b. Rural 2 District: 80,000 square feet per dwelling unit or other use.~~

~~2422. Minimum lot width.~~

- ~~a. If fronting on a street with state or county layout: 200 feet.~~
- ~~b. If fronting on any other street: 175 feet.~~

~~2423. Coverage limits.~~

- ~~a. Maximum lot coverage: 15%.~~
- ~~b. Maximum area of impervious materials, including structures: 15%.~~
- ~~c. Minimum natural vegetation area: 50%.~~

~~2424. Building location.~~

~~a. Minimum street setbacks:~~

- ~~(1) From streets with state or county layout: 60 feet to street sideline, or, if more restrictive, 80 feet to the street centerline.~~
- ~~(2) To street sideline from other streets: or, if more restrictive, 70 feet to the street centerline.~~
- ~~(3) Not applicable to construction set back as far as or farther than an existing principal building on the lot.~~

~~b. Minimum setback from side or rear lot lines:~~

- ~~(1) Principal buildings: 30 feet.~~
- ~~(2) Accessory buildings: 10 feet.~~
- ~~(3) Minimum separation between buildings on the same lot: 10 feet.~~

~~2425. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2430. Single Residence and Suburban 1 District requirements.~~

~~(See Section 4300 for flexible development.)~~

~~2431. Minimum lot area.~~

- ~~a. Single Residence A and Suburban 1 Districts: 40,000 square feet.~~
- ~~b. Single Residence B Districts: 20,000 square feet.~~

~~2432. Minimum lot width.~~

- ~~a. Single Residence A and Suburban 1 Districts: 150 feet and 125 feet.~~
- ~~b. Single Residence B District: 100 feet.~~

~~2433. Maximum lot coverage: 25%.~~

~~2434. Building location.~~

~~a. Minimum street setback:~~

~~b. Minimum setback from side or rear lot lines:~~

- ~~(1) Residential buildings: 20 feet.~~
- ~~(2) Other buildings: 10 feet.~~

~~c. Minimum separation between buildings on the same lot:~~

- ~~(1) Between buildings used for residential purposes: 40 feet.~~
- ~~(2) Between other buildings: 10 feet.~~

~~2435. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2440. General Residence District requirements.~~

~~2441. Minimum lot area.~~

- ~~a. All uses except two family residence: 8,000 square feet.~~

- ~~b. Two-family residence: 10,000 square feet.~~
- ~~2442. Minimum lot width:~~
  - ~~a. All uses except two-family residence: 70 feet.~~
  - ~~b. Two-family residence: 80 feet.~~
- ~~2443. Maximum lot coverage: 40%.~~
- ~~2444. Building location:~~
  - ~~a. Minimum street setback:~~
  - ~~b. Minimum setback from side or rear lot lines:~~
    - ~~(1) Residential buildings: 20 feet.~~
    - ~~(2) Other buildings: 10 feet.~~
    - ~~(3) Minimum separation between buildings on the same lot:~~
      - ~~(1) Between buildings used for residence purposes: 40 feet.~~
      - ~~(2) Between other buildings: 10 feet.~~
- ~~2445. Building height: to exceed neither 2 1/2 stories nor 35 feet.~~

2450. Housing Authority District requirements.

- ~~2451. Minimum lot area: 40,000 square feet but not less than 5,000 square feet per dwelling unit.~~
- ~~2452. Maximum lot coverage: 25%.~~
- ~~2453. Building location:~~
  - ~~a. Minimum street setback: 30 feet from street sideline, or, if more restrictive, 50 feet from street centerline.~~
  - ~~b. Minimum setback from side or rear lot lines:~~
    - ~~(1) Residential buildings: 20 feet.~~
    - ~~(2) Other buildings: 10 feet.~~
  - ~~c. Minimum separation between buildings on the same lot:~~
    - ~~(1) Between buildings used for residence purposes: 40 feet.~~
    - ~~(2) Between other buildings: 10 feet. Enclosed walkways connecting buildings of a housing complex are not considered buildings or parts of buildings for this requirement.~~
- ~~2454. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

2460. Business District and Professional District requirements.

2461. Minimum areas:

[Amended 11-6-2017 STM by Art. 2]

a. Minimum overall development area:

Business District D 53 acres for a Business District D development

b. Minimum lot area:

Business District A 10,000 square feet for single or two-family dwellings

No minimum lot size for all other uses

Business Districts B and C 10,000 square feet for two-family dwellings

8,000 square feet for all other uses

Business District D 60,000 square feet for lots within a Business District D development

53 acres for lots not within a Business District D development

Professional District A 20,000 square feet

Professional District B 60,000 square feet

~~2462.~~

~~Maximum densities in Professional District B and Business District D.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a. Professional District B:~~

~~(1) Assisted living residence units: a maximum of 15 assisted living residence units per acre or fraction thereof.~~

~~(2) Residents in an assisted living residence: 11/4 residents per unit in an assisted living residence.~~

~~b. Business District D:~~

~~(1)~~

~~(2)~~

~~Bedrooms in residential units: a maximum of two bedrooms per dwelling unit.~~

~~2463.~~

~~Minimum lot frontage and width.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a.~~

~~In Business District A, the minimum lot width for single family and two family dwellings shall be 80 feet. There shall be no minimum width requirement for all other uses.~~

~~b.~~

~~In Business District A, the minimum frontage for single family and two family dwellings shall be 70 feet. There shall be no minimum frontage requirement for all other uses.~~

~~c.~~

~~In Business Districts B and C, the minimum lot width for two family dwellings shall be 80 feet. In Professional Districts, the minimum lot width for single family dwellings shall be 70 feet and 150 feet for all other uses. Lot width for all other uses shall be as specified in Subsection 2412.~~

~~d.~~

~~Minimum frontage for all other uses:~~

~~(1)~~

~~Business Districts B and C: 70 feet.~~

~~(2)~~

~~Business District D: 1,000 feet for a Business District D development or for a lot not within a Business District D development; 25 feet for a lot within a Business District D development.~~

~~(3)~~

~~Professional Districts: 100 feet.~~

~~2464.~~

~~Maximum project coverage:~~

~~Business District 30%, excluding freestanding parking decks not within the footprint of any occupied building~~

~~D District D development~~

~~b. Maximum lot coverage:~~

~~Business District A 25% for single family and two family dwellings~~

~~60% for all other uses~~

~~Business District B 25% for residential uses~~

~~20% for all other uses~~

~~Business District C 25% for single family and two family dwellings~~

~~35% for multifamily residential uses~~



	50% for all other uses
Business District D	30%, excluding freestanding parking decks not within the footprint of any occupied building
	Business District D development
	N/A for lots within a Business District D development
Professional District A	N/A
Professional District B	20%

e-

Minimum landscaped open space coverage, including natural vegetation areas:

Business District A	20%
Business District B	N/A
Business District C	30%
Business District D	35% for a Business District D development or for a lot not within a Business District D development
	N/A for lots within a Business District D development
Professional District A	N/A
Professional District B	30%

Building location. In Business Districts A and C, single-family and two-family dwellings shall have a maximum yard setback of 20 feet from the property line. Other uses shall have a maximum front yard setback of 10 feet from the property line. **MAX OR MIN???**  
 [Amended 11-6-2017 STM by Art. 2]

a-

Minimum front setback from street side line:

Business District B	10 feet
Business District D	10 feet from the side line of Route I-95 and 50 feet from Old Pe...
	100 feet from all other streets
Professional District A	N/A
Professional District B	40 feet

b-

Minimum setback from side or rear lot lines:

Business Districts A, B and C	20 feet from lot lines in any Residence District and 10 feet from all other lot lines
Business District D	100 feet from lots not within Business District D (setbacks from Route I-95 are e... Business District D
Professional Districts	20 feet from lot lines in any Residence District and 10 feet from all other lot lines

e-

2467-

Maximum building height:

[Amended 11-6-2017 STM by Art. 2]

a-

~~Building height shall be as defined in the Massachusetts Building Code. When height is expressed in stories and feet, the specified number of stories is allowed up to the maximum number of specified feet.~~

~~b.~~

~~Residential uses in Business Districts and the Professional District shall not exceed three stories or 40 feet.~~

~~e.~~

~~All other uses, including mixed use buildings (with or without a residential component), shall not exceed the following limits:~~

~~(1)~~

~~Professional Districts: three stories or 40 feet;~~

~~(2)~~

~~Business Districts A and C: three stories or 45 feet. Accessories and architectural features extending above the roofline may not exceed a height of 50 feet;~~

~~(3)~~

~~Business District B: four stories or 60 feet;~~

~~(4)~~

~~2470. Light Industrial District requirements.~~

~~2471.~~

~~Minimum lot area: 40,000 square feet.~~

~~2472.~~

~~Minimum lot width: 150 feet.~~

~~2473.~~

~~Maximum lot coverage:~~

~~a.~~

~~Excluding freestanding parking decks and parking structures: 60%.~~

~~b.~~

~~Including parking structures: 75%.~~

~~2474.~~

~~Minimum landscaped open space coverage: 20% of the lot area.~~

~~2475.~~

~~Building location:~~

~~a.~~

~~e.~~

~~Minimum setback from side or rear lot lines: 30 feet.~~

~~f.~~

~~Minimum separation between buildings on the lot: 10 feet.~~

~~2476.~~

~~Building height: not to exceed four stories or 80 feet.~~

~~2420. Rural and Suburban 2 District requirements.~~

~~(See Section 4300 for flexible development.)~~

~~2421. Minimum lot area.~~

~~a. Rural 1 and Suburban 2 Districts: 60,000 square feet per dwelling unit or other use.~~

~~b. Rural 2 District: 80,000 square feet per dwelling unit or other use.~~

~~2422. Minimum lot width.~~

~~a. If fronting on a street with state or county layout: 200 feet.~~

~~b. If fronting on any other street: 175 feet.~~

~~2423. Coverage limits.~~

~~a. Maximum lot coverage: 15%.~~

~~b. Maximum area of impervious materials, including structures: 15%.~~

~~c. Minimum natural vegetation area: 50%.~~

~~2424. Building location.~~

~~a. Minimum street setbacks:~~

~~(1) From streets with state or county layout: 60 feet to street sideline, or, if more restrictive, 80 feet to the street centerline.~~

~~(2) To street sideline from other streets: or, if more restrictive, 70 feet to the street centerline.~~

~~(3) Not applicable to construction set back as far as or farther than an existing principal building on the lot.~~

~~b. Minimum setback from side or rear lot lines:~~

~~(1) Principal buildings: 30 feet.~~

~~(2) Accessory buildings: 10 feet.~~

~~(3) Minimum separation between buildings on the same lot: 10 feet.~~

~~2425. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2430. Single Residence and Suburban 1 District requirements.~~

~~(See Section 4300 for flexible development.)~~

~~2431. Minimum lot area.~~

~~a. Single Residence A and Suburban 1 Districts: 40,000 square feet.~~

~~b. Single Residence B Districts: 20,000 square feet.~~

~~2432. Minimum lot width.~~

~~a. Single Residence A and Suburban 1 Districts: 150 feet and 125 feet.~~

~~b. Single Residence B District: 100 feet.~~

~~2433. Maximum lot coverage: 25%.~~

~~2434. Building location.~~

~~a. Minimum street setback:~~

~~b. Minimum setback from side or rear lot lines:~~

~~(1) Residential buildings: 20 feet.~~

~~(2) Other buildings: 10 feet.~~

~~c. Minimum separation between buildings on the same lot:~~

~~(1) Between buildings used for residential purposes: 40 feet.~~

~~(2) Between other buildings: 10 feet.~~

~~2435. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2440. General Residence District requirements.~~

~~2441. Minimum lot area.~~

~~a. All uses except two family residence: 8,000 square feet.~~

~~b. Two family residence: 10,000 square feet.~~

~~2442. Minimum lot width.~~

- ~~a. All uses except two family residence: 70 feet.~~
- ~~b. Two family residence: 80 feet.~~

~~2443. Maximum lot coverage: 40%.~~

~~2444. Building location.~~

- ~~a. Minimum street setback:~~
- ~~b. Minimum setback from side or rear lot lines:~~
  - ~~(1) Residential buildings: 20 feet.~~
  - ~~(2) Other buildings: 10 feet.~~
  - ~~(3) Minimum separation between buildings on the same lot:~~
    - ~~(1) Between buildings used for residence purposes: 40 feet.~~
    - ~~(2) Between other buildings: 10 feet.~~

~~2445. Building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2450. Housing Authority District requirements.~~

~~2451. Minimum lot area: 40,000 square feet but not less than 5,000 square feet per dwelling unit.~~

~~2452. Maximum lot coverage: 25%.~~

~~2453. Building location.~~

- ~~a. Minimum street setback: 30 feet from street sideline, or, if more restrictive, 50 feet from street centerline.~~
  - ~~b. Minimum setback from side or rear lot lines:~~
    - ~~(1) Residential buildings: 20 feet.~~
    - ~~(2) Other buildings: 10 feet.~~
  - ~~c. Minimum separation between buildings on the same lot:~~
    - ~~(1) Between buildings used for residence purposes: 40 feet.~~
    - ~~(2) Between other buildings: 10 feet. Enclosed walkways connecting buildings of a housing complex are not considered buildings or parts of buildings for this requirement.~~
- ~~2454. Maximum building height: to exceed neither 2 1/2 stories nor 35 feet.~~

~~2460. Business District and Professional District requirements.~~

~~2461. Minimum areas.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a. Minimum overall development area:~~

~~Business District D 53 acres for a Business District D development~~

~~b. Minimum lot area:~~

~~Business District A 10,000 square feet for single or two family dwellings~~

~~No minimum lot size for all other uses~~

~~Business Districts B and C 10,000 square feet for two family dwellings~~

~~8,000 square feet for all other uses~~

~~Business District D 60,000 square feet for lots within a Business District D development~~

~~53 acres for lots not within a Business District D development~~

~~Professional District A 20,000 square feet~~

~~Professional District B 60,000 square feet~~

~~2462.~~

~~Maximum densities in Professional District B and Business District D.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a. Professional District B:~~

~~(1) Assisted living residence units: a maximum of 15 assisted living residence units per acre or fraction thereof.~~

~~(2) Residents in an assisted living residence: 11/4 residents per unit in an assisted living residence.~~

~~b. Business District D:~~

~~(1)~~

~~(2)~~

~~Bedrooms in residential units: a maximum of two bedrooms per dwelling unit.~~

~~2463.~~

~~Minimum lot frontage and width.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a.~~

~~In Business District A, the minimum lot width for single family and two family dwellings shall be 80 feet. There shall be no minimum width requirement for all other uses.~~

~~b.~~

~~In Business District A, the minimum frontage for single family and two family dwellings shall be 70 feet. There shall be no minimum frontage requirement for all other uses.~~

~~c.~~

~~In Business Districts B and C, the minimum lot width for two family dwellings shall be 80 feet. In Professional Districts, the minimum lot width for single family dwellings shall be 70 feet and 150 feet for all other uses. Lot width for all other uses shall be as specified in Subsection 2412.~~

~~d.~~

~~Minimum frontage for all other uses:~~

~~(1)~~

~~Business Districts B and C: 70 feet.~~

~~(2)~~

~~Business District D: 1,000 feet for a Business District D development or for a lot not within a Business District D development; 25 feet for a lot within a Business District D development.~~

~~(3)~~

~~Professional Districts: 100 feet.~~

~~2464.~~

~~Maximum project coverage:~~

~~Business District D 30%, excluding freestanding parking decks not within the footprint of any occupied building~~

~~b. Maximum lot coverage:~~

~~Business District A 25% for single family and two family dwellings  
60% for all other uses~~

~~Business District B 25% for residential uses  
20% for all other uses~~

~~Business District C 25% for single family and two family dwellings  
35% for multifamily residential uses  
50% for all other uses~~

~~Business District D 30%, excluding freestanding parking decks not within the footprint of any occupied building  
Business District D development  
N/A for lots within a Business District D development~~

~~Professional District A N/A~~

~~Professional District B 20%~~

~~e.~~

~~Minimum landscaped open space coverage, including natural vegetation areas:~~

~~Business District A 20%~~

~~Business District B N/A~~

~~Business District C 30%~~

~~Business District D 35% for a Business District D development or for a lot not within a Business District D development  
N/A for lots within a Business District D development~~

~~Professional District A N/A~~

~~Professional District B 30%~~

~~Building location. In Business Districts A and C, single-family and two-family dwellings shall have a maximum yard setback of 20 feet from the property line. Other uses shall have a maximum front yard setback of 10 feet from the property line. **MAX OR MIN???**~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a.~~

~~Minimum front setback from street side line:~~

~~Business District B 10 feet~~

~~Business District D 10 feet from the side line of Route I-95 and 50 feet from Old Peoria  
100 feet from all other streets~~

~~Professional District A N/A~~

~~Professional District B 40 feet~~

~~b.~~

~~Minimum setback from side or rear lot lines:~~

~~Business Districts A, B and C 20 feet from lot lines in any Residence District and 10 feet from all other lot lines~~

~~Business District D 100 feet from lots not within Business District D (setbacks from Route I-95 are excluded)  
Business District D~~

~~Professional Districts 20 feet from lot lines in any Residence District and 10 feet from all other lot lines~~

~~e.~~

~~2467.~~

~~Maximum building height.~~

~~[Amended 11-6-2017 STM by Art. 2]~~

~~a.~~

~~Building height shall be as defined in the Massachusetts Building Code. When height is expressed in stories and feet, the specified number of stories is allowed up to the maximum number of specified feet.~~

~~b.~~

~~Residential uses in Business Districts and the Professional District shall not exceed three stories or 40 feet.~~

~~e.~~

~~All other uses, including mixed use buildings (with or without a residential component), shall not exceed the following limits:~~

~~(1)~~

~~Professional Districts: three stories or 40 feet;~~

~~(2)~~

~~Business Districts A and C: three stories or 45 feet. Accessories and architectural features extending above the roofline may not exceed a height of 50 feet;~~

~~(3)~~

~~Business District B: four stories or 60 feet;~~

~~(4)~~

~~2470. Light Industrial District requirements.~~

~~2471.~~

~~Minimum lot area: 40,000 square feet.~~

~~2472.~~

~~Minimum lot width: 150 feet.~~

~~2473.~~

~~Maximum lot coverage:~~

~~a.~~

~~Excluding freestanding parking decks and parking structures: 60%.~~

~~b.~~

~~Including parking structures: 75%.~~

~~2474.~~

~~Minimum landscaped open space coverage: 20% of the lot area.~~

~~2475.~~

~~Building location:~~

~~a.~~

~~e.~~

~~Minimum setback from side or rear lot lines: 30 feet.~~

~~f.~~

~~Minimum separation between buildings on the lot: 10 feet.~~

~~2476.~~

~~Building height: not to exceed four stories or 80 feet.~~

## **SECTION 5.0 NONCONFORMING USES AND STRUCTURES**

### **5.1 APPLICABILITY.**

Except as herein after provided, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or 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 in 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 a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure.

**5.1.1 Commencement of Construction or Operation.** Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw, unless the use or construction is commenced within a period of not more than ~~six~~ twelve months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **5.2 NONCONFORMING USES.**

The Zoning Board of Appeals may award a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

**5.2.1 Permissible Changes.** The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, not substantially more detrimental nonconforming use. When a special permit is granted under this subsection, no use variance shall be required with regard to use or dimensional aspects of the application.

### **5.3 NONCONFORMING STRUCTURES.**

The Zoning Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.



**5.3.1 Permissible Changes.** The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals:

1. Reconstructed, extended or structurally changed;
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

#### **5.4 VARIANCE REQUIRED FOR CERTAIN NONCONFORMING STRUCTURES NOT REGULATED BY SECTION 5.5.**

Except as provided in Section 5.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance; the extension of an exterior wall at or along the same nonconforming distance within a required yard shall also require the issuance of a variance from the Zoning Board of Appeals.

#### **5.5 NONCONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES.**

Nonconforming single and two family residential structures may be 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 nonconforming nature of said structure, and that such reconstruction, extension, alteration or change does not increase the gross floor area of the structure by more than 100%.

**5.5.1 Permissible Changes.** The following circumstances shall not be deemed to increase the nonconforming nature of said structure and a building permit may be issued:

1. *Insufficient Area.* Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements.
2. *Insufficient Frontage.* Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
3. *Encroachment.* 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 not result in any increase in building height in the area of encroachment.

If the Inspector of Buildings determines that proposed alteration, extension or change exceeds one or more of the criteria set forth above, the Zoning Board of Appeals may, by special permit, allow such alteration, extension or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the

neighborhood. In the case of voluntary demolition of a single or two family structure, reconstruction thereafter shall be governed by Section 5.7.

## **5.6 ABANDONMENT OR NON-USE.**

A nonconforming use or structure which 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 Bylaw; provided, however, that by special permit the Zoning Board of Appeals may reestablish a nonconforming use or structure otherwise abandoned or not used upon a finding that such reestablishment shall not result in substantial detriment to the neighborhood.

## **5.7 RECONSTRUCTION AFTER CATASTROPHE OR VOLUNTARY DEMOLITION.**

Any nonconforming structure, including a nonconforming single or two-family dwelling governed by Section 5.5, may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions.

### **5.7.1 Procedures.**

1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
2. Building(s) may be reconstructed as of right if the reconstructed building is located on the same footprint as the original nonconforming structure and will have no increase in gross floor area when compared to the original nonconforming structure.
3. Buildings may be reconstructed by special permit when reconstruction would (a) cause the structure to exceed the gross floor area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint. The special permit granting authority shall be the Zoning Board of Appeals. Such special permit shall be obtained prior to demolition.

## **5.8 REVERSION TO NONCONFORMITY.**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **5.9 SUBSTANDARD LOTS.**

When a prior lawful nonconforming structure is located on a lot which does not meet current dimensional requirements, such lot shall not be changed, unless the change does not result in an increase of an existing nonconformity or a new nonconformity.

## 5.10 EMINENT DOMAIN.

When a lot is changed by eminent domain so as to become deficient in area, frontage, building setback, or lot coverage, any structure located thereupon shall be considered a nonconforming structure subject to the rules of this Section 5.0.

### ~~§ 167-8.~~ — Nonconforming uses.

- ~~A. Continuation. The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this chapter may continue although such structure or use does not conform to the provisions of the chapter as adopted or amended.~~
- ~~B. Alteration. A nonconforming structure may not be altered if the cost of such alteration exceeds fifty percent (50%) of the real market valuation of the structure at the time of the change.~~
- ~~C. Extension. No other increase in the extent of the non-conforming use of land may be made.~~
- ~~D. Restoration. A nonconforming building or structure which has been damaged or destroyed may be repaired or rebuilt, provided that such restoration shall not exceed the original area by more than fifty percent (50%), shall not exceed the original height and shall be placed no nearer the street line than the building or structure which the restoration replaces.~~
- ~~E. Abandonment. No nonconforming use which has been abandoned or discontinued for more than two (2) years shall be re-established. Any future use shall be in conformity with the provisions of this chapter.~~
- ~~F. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.~~
- ~~G. Exemption. A vertical extension of a nonconforming building, which would increase the pitch of the roofline but does not expand the building horizontally and does not increase or create any additional floor area, shall be deemed not to increase the nonconforming nature of the building and shall not require a special permit under § 167-8. [Added 5-8-2006 ATM, Art. 38]~~

## SECTION 6.0                      GENERAL REGULATIONS

### 6.1      OFF STREET PARKING AND LOADING

**6.1.1 District Requirements.** Parking in excess of the minimum standards set forth within this Section shall be at the discretion of the Zoning Board of Appeals or Planning Board during its review of a site plan or special permit application, as the case may be., or the Planning Board during its review of a site plan application in Business District A. The minimum number of parking spaces required shall be as follows:

**TABLE OF PARKING REQUIREMENTS**

<b>USE – RESIDENTIAL</b>	<b>REQUIRED SPACES</b>
Residential uses excluding residential use in Business District D,	One space per dwelling unit
Senior Housing Facility	0.5 spaces per bedroom, plus spaces equal to the largest employee shift, plus one visitor space per every ten bedrooms
<b>USE – BUSINESS A</b>	<b>REQUIRED SPACES</b>
Religious and public educational institutions	One parking space per 600 square feet of gross floor area
Other places of public assembly, such as for meetings, entertainment, recreation, adult education, service of food or beverages	One parking space per five fixed seats or 10 lineal feet of bench; or where no seats or benches are provided, one parking space per 20 square feet of floor area open to the public assembly
Bowling alleys	Two parking spaces per bowling alley
All other permitted nonresidential uses in Business District A	Three parking spaces per 1,000 square feet of gross leasable area on the ground floor and 1 1/2 parking spaces per 1,000 square feet of such area on any additional floor.
Any place of public assembly that utilizes seasonal outdoor seating	Additional seasonal outdoor space shall be exempt from parking requirements
<b>USE – BUSINESS D</b>	<b>REQUIRED SPACES</b>
Hotel	One parking space per room or suite
Business and Professional Office	Four (4) parking spaces per 1,000 square feet of gross floor area
Residential	1.65 parking spaces per dwelling unit provided that the ZBA may reduce the number of required parking spaces based upon finding that shared parking is available
<b>USE – BUSINESS B, C, and D; PROFESSIONAL DISTRICTS</b>	<b>REQUIRED SPACES</b>

Permitted Nonresidential Uses	Five parking spaces per 1,000 square feet of gross leasable area on the ground floor and three parking spaces per 1,000 square feet of such area on any additional floor
<b>USE – LIGHT INDUSTRIAL DISTRICT</b>	<b>REQUIRED SPACES</b>
Office, financial, institutional, municipal building and retail use, including accessory uses incidental to the foregoing; and in all other uses not specifically enumerated	Four parking spaces shall be provided per 1,000 square feet of gross floor area or part thereof
Warehouse use, including incidental accessory use	One space per 1,000 sf gross floor area
Other light industrial use, including incidental accessory use	Three spaces per 1,000 sf gross floor area

~~For assisted living residences in Professional District B: two parking spaces for every three units.~~

### 6.1.2 General Requirements.

1. Where the computation of required spaces results in a fractional number, a fraction of 0.5 or more shall be counted as one.

### 6.1.3 Special District Requirements.

1. In Business District A, in order to provide for better site design, up to 25% of the total number of off-street parking spaces may, at the discretion of the Zoning Board of Appeals during its review of a special permit application, or the Planning Board during its review of a site plan application, be allocated for compact cars with dimensions of eight feet by 18 feet. Such spaces shall be clearly designated for compact cars only.
2. In Business District A, multi-level above- or below-grade parking may be allowed, if determined appropriate by the Zoning Board of Appeals during its review of a special permit application, or the Planning Board during its review of a site plan application, and shall not exceed two levels.
3. In Business Districts A and B, for developments requiring more than 20 off-street parking spaces, bicycle parking spaces in bicycle rings or racks shall be provided equaling one per 20 of the required off-street parking spaces or fraction thereof, in addition to the required off-street parking. For residential uses, at least half of the required bicycle parking spaces shall be provided in weather-protected locations.
4. In the Light Industrial District, the location of parking, the design of parking spaces and aisles, and the location and width of curb cuts shall be as required in Business A and Professional Districts.

**6.1.4 Changes to a Nonconforming Parking Lot.** No existing nonresidential use on a lot nonconforming as to parking may be expanded or changed to a use requiring more parking spaces unless provision is made for additional parking spaces at least equal to the difference between the requirements for the proposed enlargement or new use and the present parking requirement. However, when a change or expansion of a nonresidential use in a Business District is proposed primarily within an existing building on a lot nonconforming as to parking, the Zoning Board of Appeals during its review of a site plan or special permit application, or the Planning Board during its review of a site plan application in Business District A, may, by special permit, waive all or part of any increased parking requirement. In determining whether a waiver of parking is appropriate, the special permit granting authority shall consider evidence which shall be provided by the applicant regarding the following items:

1. The operating characteristics of the proposed use, including but not limited to a description of the type of business, hours of operation, number of employees, delivery service requirements and loading facilities;
2. The peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;
3. The need for and provision of employee and customer parking; and
4. The availability and/or shortage of existing public parking within 400 feet of the site as per **Section 6.1.5** and the proximity of transit facilities.

~~Where it can be demonstrated that the combined peak parking needs of all the uses sharing the lot will, because of differences in peak hours or days, be less than required by Subsection 3111, the number of parking spaces to be provided may be reduced accordingly, but not by more than 25%, by special permit from the Board of Appeals during its review of a site plan or special permit application, or the Planning Board during its review of a site plan application in Business District A, but only for as long as this condition exists.~~

**6.1.5 Location of Parking.** All parking, including access thereto, which is accessory to uses within the Business A and C Districts shall be provided within the same district. All required parking shall be provided on the same lot or lots as the principal use or uses to which it is accessory, except that off-street parking on another lot within a four-hundred-foot radius of the pedestrian entrance of a building may be counted towards the minimum parking requirements in the following manner:

1. If the parking lot is privately owned, the parking spaces shall be deeded to the owner, or to the several users thereof as formally agreed between them and the owner, and recorded on the deed to the parking lot, but no such parking lot shall be otherwise used or diminished in size except insofar as the Zoning Board of Appeals finds that the lot is no longer required by the users thereof.
2. The provisions of paragraph 6.1.5.1. notwithstanding, parking for a lot within Business District D that is not located within a Business District D development shall be

provided on the lot. Parking for a lot within Business District D that is located within a Business District D development may be provided throughout the Business District D development.

3. If the parking lot is publicly owned, each lot having business district frontage within a four-hundred-foot radius of any pedestrian entrance to the parking lot shall be, subject to Zoning Board of Appeals approval, credited with a proportion of the public parking spaces corresponding to the proportion the private lot's business district frontage bears to the total business district frontage of all lots so situated which do not already meet the requirements for off-street parking. In requesting credit for accessory parking in a public lot, the petitioner shall submit sufficient evidence of the adequacy of the public lot to accommodate the proposed parking.

4. Off-street parking for Professional District A uses may also be provided on an adjoining lot or lots in any other district allowing such accessory use on special permit from the Zoning Board of Appeals. For Professional District A, accessory off-street parking allowed by special permit to be located on an adjoining lot or lots in a residential district shall meet the design requirements of Section 6.1.6 and shall be screened from the other property in the residential district by a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or by an opaque wall, barrier or uniform fence at least five feet high, but not more than seven feet above finished grade. Such screening shall be maintained in good condition at all times.

**6.1.6 Design of Parking Spaces and Aisles.**

1. Each required off-street parking space shall be marked and shall be large enough to contain a rectangle measured not less than nine feet by 20 feet, except for spaces parallel to the driveway which shall be at least nine feet by 25 feet, exclusive of drive and maneuvering space and except for compact car spaces permitted in the Business A District as set forth in Section 6.1.3.3.

2. Each required parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following minimum widths in the case of one-way traffic only:

<b>ANGLE OF PARKING (DEGREES)</b>	<b>MINIMUM AISLE WIDTH (FEET)</b>
30	12, one way
45	14, one way
60	16, one way
90	24, two way

**6.1.7 Location and Width of Curb Cuts.**

1. Except for access to loading bays or to private residential driveways, there shall be no more than one driveway from the street to a parking lot for the first 100 feet of lot frontage, nor more than one additional driveway for each additional one foot to 100 feet of frontage.
2. Driveways intersecting the street shall be no less than 65 feet on center.
3. No curb cut shall be less than 12 feet nor more than 30 feet in width. The width of a driveway for a one-way use shall be a minimum of eight feet and for two-way use shall be a minimum of 18 feet and a maximum of 30 feet.
4. For business uses, curb cut and driveway width may be changed as part of site plan review based upon standard engineering practice.

#### **6.1.8 Requirements for Off-Street Loading.**

1. There shall be at least one loading bay for any building containing more than 5,000 square feet of gross leasable business floor area.
2. No loading bay shall be less than 12 feet by 50 feet for food stores, nor less than 12 feet by 30 feet for any other business, nor provide less than 14 feet of vertical clearance.
3. The loading bay shall be so laid out as to minimize parking maneuvers within a street, way or parking aisle.
4. In the Light Industrial District, a minimum of one loading bay shall be provided for each 40,000 square feet of gross floor area or part thereof in office, financial, institutional, municipal building, retail, light industrial or other nonresidential use. Loading bays shall measure at least 65 feet long and 12 feet wide.

**6.1.9 Maintenance of Parking and Loading Areas.** All accessory driveways, parking and loading areas shall be graded, surfaced with a dust-free material and drained, all to the satisfaction of the Town Engineer and to the extent necessary to prevent nuisance of dust, erosion or excessive water flow across public ways or the property of others.

#### **6.1.10 Required Landscaping.**

1. No parking or loading shall be permitted in the area between the front of the structure and the sidelines of any way unless approved by the Planning Board or the Board of Appeals as the case may require during the site plan review process.
2. Any parking or loading within a required yard abutting a residential district, except for accessory parking on a lot used solely for residence, shall be screened from such district by a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or by an opaque



wall, barrier or uniform fence at least five feet high, but not more than seven feet above finished grade. Such screening shall be maintained in good condition at all times.

3. The total landscaped area maintained in lawns, ornamental plantings, or buffer screening shall not equal less than as required in Section 6.1.10, unless reduced by the during site plan approval. All areas not built over, paved or landscaped shall be maintained in natural vegetation. Where usable open space is required, it shall count in its entirety as part of the total landscaped area.

#### **6.1.11 Other Parking Requirements.**

1. Dwelling conversion. For dwelling and accessory building conversion allowed in accordance with Section 8.4, off-street parking shall be provided at the rate of no less than one space per one-bedroom dwelling unit and two spaces per other dwelling unit.

2. ~~Hotel or motel.~~ At least one parking space per ~~motel or hotel~~ unit shall be provided. If a restaurant or public meeting space is also involved, there shall be an additional parking space for five fixed seats, per 10 lineal feet of bench, or where no seats or benches are provided, there shall be one additional parking space per 20 square feet of floor area open to public assembly.

3. Multifamily development. Unless a different standard is provided elsewhere within this Bylaw, in multifamily development, two off-street parking spaces shall be provided for each dwelling having two or more bedrooms, and one such space for each dwelling unit having fewer than two bedrooms.

**6.1.12 Site Plan Approval.** For developments subject to site plan review, adequacy of space for off -street parking and for off-street loading shall be determined in accordance with Section 10.6.

### **6.2 BUSINESS D DISTRICT PERFORMANCE STANDARDS**

**6.2.1 Purpose.** The objective of Business District D Performance Standards is to accommodate residential, retail, office, and other uses in locations where a large development area is available with suitable access to Interstate 95, where impacts to neighboring residential areas can be minimized, and adverse traffic and where environmental impacts can be mitigated. In connection with the creation of the Business District D and the addition of any land to the Business District D, the Select Board shall be authorized and directed to seek agreement from the owners of land located in the Business District D concerning public benefits to be provided in connection with proposed development, including without limitation the gift or dedication of land for conservation, education, flood prevention, recreation, water supply, or other public purposes.

**6.2.2 Applicability.** All uses and accessory uses permitted or allowed by special permit must conform to the performance standards in this Section, unless specifically waived.

**6.2.3 Building Performance Standards Requirements; Waiver.** All buildings shall comply with the Performance Standards listed herein. All such standards may be waived as part of the

site plan review process. ~~Each application for site plan review shall include copies of all plans and design information to be submitted to the Design Review Committee.~~

1. All buildings shall be "four sided," i.e., finished on all sides with comparable architectural details and finishes. Loading areas and rooftop equipment shall be neatly organized and thoroughly shielded.
2. Buildings shall be energy-efficient and shall incorporate energy-saving devices.
3. In designing all site improvements the applicant shall use best commercial efforts to incorporate the green development principals of energy efficiency and sustainability by including those Leadership in Energy and Environmental Design (LEED) Plan for Neighborhood Development (LEED ND: Plan) strategies set forth herein in the planning and design of Business District D projects. The applicant shall use best commercial efforts to incorporate LEED ND: Plan principals; however, formal LEED ND: Plan certification shall not be required, building design shall not subject to LEED requirements, and inclusion of at least one certified green building shall not be required. The applicant shall use best commercial efforts to include LEED ND: Plan strategies which may be included in the planning and design of Business D Projects.
4. Rooftop mechanical equipment shall be visually screened and acoustically buffered. "Build case" day-night average sound levels caused by rooftop equipment shall not exceed 55 decibels at the property line.

**6.2.4 Site Planning Performance Standards; Waiver.** All buildings shall comply with the Performance Standards listed herein. All such standards may be waived as part of the site plan review process.

1. Smart location. Locate facilities in proximity to Route 1 or interchanges on I-95 in order to minimize traffic impacts on local streets and minimize VMT for regional site access.
2. On-site wastewater treatment plants require adequate funding mechanisms to provide for proper operation and maintenance and for monitoring and testing of the on-site wastewater treatment plant by the Town consistent with the requirements of the Board of Health. Any on-site sanitary sewers shall be subject to ongoing requirements for leak detection and repair. Buildings shall incorporate water conservation devices, including low-flow plumbing fixtures including ultra-low-flow toilets.
3. Compact development. To the extent practicable, the development footprint shall be minimized in site layout and buildings may incorporate second story and mezzanine areas.
4. Housing and jobs proximity. To the extent practicable, off-site improvements shall be provided or incorporated in the site design linking the site to multifamily housing located within 300 feet of the project site.

5. Walkable site. The site shall be developed as a healthy walkable environment by providing strong linkage between sidewalks and walkways in proximity to on-site buildings and sidewalks on adjacent streets.
6. Public spaces shall be provided in proximity to buildings that have a minimum aggregate area equal to 5% of the floor area of the on-site buildings. Public spaces shall be accessible to building occupants and the public and include walking, seating, and gathering areas. Public spaces shall have landscaping, hardscape, benches, and other amenities. Turf areas shall be irrigated; however, potable water from the Sharon water system shall not be used for irrigation. Hardscape shall consist of cement concrete, brick, granite block, cobblestone, or stone pavers. Stone or stone veneer shall be used for landscape walls and retaining walls.
7. One tree shall be provided for each 1,500 square feet of area. Shade trees shall have a minimum caliper of 3 1/2 inches, and coniferous trees shall have a minimum height of 10 feet to 12 feet at the time of planting. Plant materials shall be native species and shall include street trees listed in the Rules and Regulations of the Sharon Planning Board.
8. Pedestrian-scale dark skies compliant lighting shall be provided to allow full use of the public spaces at night. Public spaces are included in the required minimum landscaped open space.

**6.2.5 Environmental Performance Standards; Waiver.** All applications shall comply with the Performance Standards listed herein. All such standards may be waived as part of the site plan review process.

1. Sustainability. To the extent practicable, sustainable use of materials shall be increased by requiring use of comparable recycled and locally sourced materials during construction of site improvements and by providing single stream recycling during occupancy.
2. Landscaping and parking layout. On-site access drives shall be shaded by lining with native shade trees. On-site parking areas shall be divided, separated into distinct appropriately scaled subareas, and shaded by providing vegetated planting strips of the maximum width practicable and parking lot islands planted with native shade trees.
3. Water conservation shall be promoted by precluding use of potable water for irrigation and requiring that irrigation be subject to an irrigation management plan.
4. Wetland waterbody conservation. To the extent practicable, the value of open space shall be enhanced by providing pedestrian access linking on-site buildings with open space and by providing visual access between on-site public spaces and open space areas.
5. Site lighting shall be designed with lower illumination levels consistent with IESNA recommended practice and shall minimize blue light emissions. Lighting systems shall

have automated controls capable of reducing lighting levels outside business hours. Light trespass shall be limited to 0.5 foot-candle at the property line and there shall be no point sources of light visible from adjacent streets and properties. Pole heights shall be limited to 24 feet in parking areas and to 16 feet within 50 feet of on-site buildings. Pole height within 500 feet of Route I-95 may be increased to 34 feet, provided they are not visible from any residence. All lighting fixtures shall be "dark skies" compliant and shall limit upward-projecting light. All lighting fixtures shall have or be comparable to lighting fixtures having the International Dark Sky Association (IDA) Fixture Seal of Approval.

~~6. On-site wastewater generation exceeding six gallons per day per 1,000 square feet of lot area and on-site wastewater treatment plants treating domestic wastewater or wastewater determined by the Zoning Board of Appeals to have constituents substantially similar to sanitary sewage (310 CMR 15.002) per Subsection 4531d(1) only are permitted pursuant to issuance of a groundwater discharge permit by the Massachusetts Department of Environmental Protection and a treatment works construction permit by the Sharon Board of Health. Within Aquifer Protection Districts, groundwater shall meet or exceed Massachusetts drinking water standards at the property line.~~

**6.2.6 Parking, Access, and Drive-through Performance Standards; Waiver.** All parking, access, and drive-through facilities shall comply with the Performance Standards listed herein. All such standards may be waived as part of the site plan review process.

1. Reduced parking footprint. Site design shall reserve locations for parking fully compliant with Section 6.1; however, each site plan application that is seeking a reduced parking footprint shall include a parking management report by a civil professional engineer identifying parking reductions enabled by actual peak parking demand and seasonal and event peak parking accommodated on unpaved surfaces. The Zoning Board of Appeals may waive paved parking based on evaluation of the parking management report provided that locations allowing full parking construction are reserved in perpetuity, **if required by the Board.**
2. Parking areas shall be laid out in separate discrete parking fields separated by landscaped areas and shall use grading, layout and other design features to provide visually distinct parking fields. Large unbroken and monotonous parking areas shall be avoided. Parking shall be set back a minimum of 10 feet from property lines.
3. Drive-through facilities serving customers while seated in a car shall be laid out in areas fully separated from any street, access drive, or parking aisle by raised islands with vertical faced granite curb. Separate drive-through facilities shall be as long as practicable and as a minimum shall provide sufficient length to accommodate the 95th percentile queue without extending into any access drive or parking aisle. A bypass capability shall be provided throughout the entire length of the drive-through facility, and all segments of the facility shall have a minimum pavement width of 20 feet. Drive-through facilities shall be designed in a manner that promotes good overall site circulation, access, and safety. Site layout shall preclude pedestrian access to the building

through the drive-through facility and shall minimize conflicts between pedestrians and vehicles entering or exiting the drive-through facility.

4. Proper signage and pavement markings shall be provided. Drive-through facilities shall be properly lighted and screened and shall minimize headlight glare on other portions of the site. Loudspeaker sound levels shall not exceed normal conversational sound levels. Where appropriate for the service provided, separate parking spaces not included in the overall parking count shall be provided to accommodate special orders and delays.

5. Parking area pavements shall be a three-and-one-half-inch-thick hot mix asphalt pavement with a twelve-inch-thick gravel base. Heavy-duty pavement shall be a five-inch-thick hot mix asphalt pavement with a twelve-inch gravel base. Heavy-duty pavement shall be used in all loading areas and along truck access routes and at principal parking lot drives. Curbing within 100 feet of buildings shall be vertical faced granite curb or vertical faced precast concrete curb.

7. Multimodal facilities. Multimodal access and vehicular safety shall be enhanced by providing site access designed for shared vehicular, bicycle, and pedestrian use and with all access drives posted for low speed.

8. Bicycle facilities. Bicycle racks and indoor bicycle storage shall be provided as appropriate.

9. Transportation demand management. Vehicle miles traveled (VMT) and energy use may be reduced by encouraging tenants to provide incentives for shared vehicle use such as carpools, vanpools, and a commuter rail station shuttle.

**6.2.7 Stormwater Management Performance Standards; Waiver.** All components shall comply with the Performance Standards listed herein. All such standards may be waived as part of the site plan review process.

1. Low-impact design: Stormwater management shall incorporate low-impact design (LID) measures to the extent practicable.

2. Drainage patterns and water quality. Existing drainage patterns shall be preserved and water resources shall be protected by using best management practices (BMPs) to limit runoff and reduce total suspended solids and related contaminants.

3. Vegetated planting strips and parking lot islands may be used to collect and treat runoff as integral components of the stormwater management system.

4. Runoff from pedestrian areas, landscape areas, and low-volume vehicular areas shall be accommodated using low-impact design principals where practicable, including pervious pavements, rain gardens, and other proven methods.

**6.2.8 Roadway Performance Standards.** All components shall comply with the Performance Standards listed herein. All such standards may be waived as part of the site plan review process.

1. All roadways within 3,000 feet of the project site accommodating more than 200 vehicle trips per hour generated by sites in the Business District D shall be improved to collector street standards as set forth in the Land Subdivision Rules and Regulations of the Sharon Planning Board.
2. Reconstruction within public ways shall be subject to approval of a 100% design submission of the roadway improvement plans by a majority vote of the Select Board acting as Street Commissioners. A sketch plan submission, a 25% design submission and a 100% design submission of the roadway improvement plans are required. The content of the sketch plan submission shall graphically depict the location, alignment, and number of lanes for existing and proposed roadways and abutting land uses. The content of the 25% design submission and the 100% design submission shall conform to MassDOT requirements.
3. No off-site signalized intersection within the traffic study area shall operate below level-of-service D (LOS D) under the "build plus five-year case." The proponent shall provide intersection betterments including geometric and traffic control improvements for all intersections in the traffic study area where "warranted" to achieve LOS D.
4. For unsignalized intersections not meeting MUTCD warrants or where signalization is not permitted by the Town or agencies having jurisdiction, geometric, pavement marking, and signage improvements shall be provided to mitigate traffic impacts.

### **6.3 PERFORMANCE STANDARDS IN THE LI DISTRICT**

**6.3.1 Applicability.** Within the Light Industrial (LI) District, all uses shall comply with the performance standards listed herein. All such standards may be waived as part of the site plan review process.

1. Buildings on the same lot shall be designed with distinct but harmonious architectural elements in a park-like campus setting. Loading areas shall be neatly organized and thoroughly shielded. Rooftop mechanical equipment shall be visually screened and acoustically buffered. Day-night average sound levels caused by rooftop equipment shall not exceed 55 decibels at the property line. Buildings shall be energy-efficient and shall incorporate energy-saving devices.
2. Parking area pavements shall be a 3 1/2-inch-thick hot mix asphalt pavement with a twelve-inch-thick gravel base. Heavy-duty pavement shall be a five-inch-thick hot mix asphalt pavement with a twelve-inch gravel base. Heavy-duty pavement shall be used in all loading areas and along truck access routes and at principal parking lot drives. Pervious pavement may be used in areas not subject to heavy traffic or exposed to hazardous materials if approved pursuant to site plan approval or special permit.

3. Curbing shall be vertical granite type VA4 or vertical precast concrete curb within 100 feet of buildings and on the principal access drive. Curbing may be replaced with parking blocks in specific locations in order to implement low impact design drainage measures if approved pursuant to site plan approval or special permit. The provisions of this paragraph may be waived by the Zoning Board of Appeals for parking facilities approved by special permit for occasional event parking.

4. Large parking areas shall be laid out in separate fields with an average size of 120 parking spaces or less and with a maximum size of 240 parking spaces. Discrete parking fields shall be separated by landscaped areas and shall use grading, layout and other design features to provide visually distinct parking fields. Large unbroken and monotonous parking areas shall be avoided. One 3 1/2-inch-caliper shade tree shall be provided for every 25 parking spaces, and trees shall be planted within 15 feet of the parking area.

5. Parking shall be set back a minimum of 20 feet from property lines and a minimum of 10 feet from on-site buildings; provided, however, that these setbacks shall not apply to buildings in existence as of November 9, 2009, or to lease lines or lot lines of buildings developed in a campus setting where each lease area or lot has common ownership interests. Parking shall be set back 50 feet from residential lot lines. The provisions of this paragraph may be waived by the Zoning Board of Appeals for parking facilities approved by special permit for occasional event parking.

6. Site lighting shall be designed with lower illumination levels consistent with IESNA recommended practice. Light trespass shall be limited to 0.5 foot-candle at the property line and there shall be no unshielded point sources of light visible from adjacent streets and properties. Pole heights shall be limited to 24 feet. Lighting fixtures shall promote "dark skies" principles by limiting upward-projecting light.

#### **6.4 PERFORMANCE STANDARDS IN THE PRO B DISTRICT.**

**6.4.1 Applicability.** Within the Professional B (Pro B) District, all uses shall comply with the performance standards listed herein. All such standards may be waived as part of the site plan review process.

**6.4.2 Site Design Performance Standards.** The following Site Design Performance Standards shall apply.

1. Natural features shall be preserved to the extent practicable.
2. Continuous six-foot-wide pedestrian walkways shall be provided connecting all building entrances, parking facilities, and the adjacent street.
3. Open space shall be well landscaped and shall include passive recreation facilities and site furnishings.

4. Driveways shall provide convenient general vehicular access, emergency vehicle access and service vehicle access.
5. Access, fire hydrant locations, and building fire protection systems shall comply with Fire Department requirements. Vehicular access shall be provided to three sides of the building minimum or as required by the Fire Department.
6. Dumpster pads shall be located to the side or rear of buildings where practicable with convenient access requiring minimal vehicle maneuvering and shall be thoroughly screened with plantings and fencing and shall have an eight-inch-thick reinforced cement concrete pad with an eight-inch gravel base.
7. Utility and service equipment, transformers, switchgears, meters, HVAC equipment or any other type of utility equipment shall be located to the rear or side of buildings and shall be thoroughly screened with plantings and fencing
8. Site lighting shall be designed with the lower illumination levels consistent with good design practice and IESNA recommendations. Maximum illumination levels shall not exceed five foot-candles at any location. Light trespass shall be limited to 0.25 foot-candle at all property lines. Fixtures and poles shall be compatible in style with on-site buildings. Maximum pole height shall be 18 feet in parking lots and 12 feet along pedestrian walkways. Fixtures shall avoid upward projection of light consistent with "dark skies" principles and shall avoid point sources of light visible from off-site locations. Light trespass shall be limited to 0.25 foot-candle at all property lines, except at driveways. Exterior lighting systems shall incorporate zones and timers to reduce lighting levels at nonpeak times.
9. Utilities shall be installed underground.

**6.4.3 Construction Performance Standards.** The following Construction Performance Standards shall apply.

1. All driveways, parking facilities, and loading facilities shall be surfaced with a hot mix asphalt pavement with a twelve-inch gravel base. Hot mix asphalt pavement shall be 4 1/2 inches thick except within parking spaces where it shall be 3 1/2 inches thick.
2. All walkways shall be surfaced with a four-inch-thick reinforced cement concrete pavement or unit pavers with a twelve-inch gravel base.
3. All curbing shall be vertical faced precast cement concrete curb or vertical faced granite curb with six-inch reveal.

**6.4.4 Stormwater Management Performance Standards.** The following Stormwater Management Performance Standards shall apply.



1. The stormwater management system shall collect, convey, treat, and recharge stormwater in a manner which will ensure protection of property, preservation of water resources, minimization of environmental impacts, and protection of public and environmental health by providing adequate protection against pollution, flooding siltation and other problems caused by poor drainage.
2. The stormwater management system shall adhere to standard engineering practice.
3. The stormwater management system shall conform to the Massachusetts Department of Environmental Protection Stormwater Management Standards [310 CMR 10.05(6)(k-q)].
4. The stormwater management system shall generally conform to guidance provided in the current edition of the Massachusetts Department of Environmental Protection's Stormwater Handbook.
5. The stormwater management system shall have sufficient capacity to accommodate the twenty-five-year-frequency storm event while maintaining open channel flow in drain lines.
6. Stormwater detention and retention basins shall be designed to accommodate the one-hundred-year-frequency design storm with one foot of freeboard and shall empty within 72 hours following cessation of precipitation and shall provide for a two-foot separation to groundwater. A ten-foot-wide access road shall be provided around the basin rim and accessing all structures. An emergency spillway above the one-hundred-year design elevation of the basin shall be provided.
7. The stormwater management system shall provide for recharge of a volume equal to the entire one-year-frequency storm event and shall provide for no increase in the peak rate of discharge for the one-hundred-year-frequency storm event.
8. The stormwater management system shall provide a treatment train for the water quality volume that reduces the contaminant burden in stormwater to the maximum extent possible (MEP) using best management practices (BMPs).
9. The stormwater management system shall maintain predevelopment drainage patterns and predevelopment hydrological conditions in groundwater and surface waters and shall avoid any increase in the peak rate of stormwater discharge at the property boundary for each storm event up to the one-hundred-year-frequency storm event.
10. The stormwater management system shall incorporate a strategy for source control and best management practices (BMPs).
11. The stormwater management system shall recharge roof water in separate facilities.

12. The stormwater management system shall protect or enhance resource areas subject to regulation under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40) and shall avoid new point source discharges within 100 feet of bordering vegetated wetlands.
13. The stormwater management system shall utilize low-impact design where practicable.
14. The stormwater management system shall include stormwater BMPs that abate phosphorous levels in accordance with the Massachusetts Stormwater Handbook.
15. The stormwater management system shall utilize an operation and maintenance (O&M) plan that complies with DEP guidelines and ensures proper function of the stormwater management system and provides an acceptable future maintenance burden.
16. The closed stormwater collection system shall consist of precast concrete drain manholes, precast concrete catch basins, precast concrete water quality structures connected by straight segments of drain line.
17. Separator structures shall be provided upgradient of all surface stormwater basins and subsurface absorption systems and shall treat the water quality volume and shall have a bypass capability for larger storms.

**6.4.5 Buildings Performance Standards.** The following Performance Standards shall apply to buildings.

1. Design of buildings shall be compatible in height, mass, architectural character, fenestration, color, and cladding with the character of other buildings on the lot.
2. Larger buildings shall be stepped, jogged or angled in order to reduce bulk and mass.
3. Facades shall blend with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.
4. Facades of buildings visible from streets and abutting property shall be carefully designed and shall incorporate compatible architectural elements as appropriate. All facades shall have door or window openings.
5. The proportions and relationships between doors and windows should be compatible with the architectural style and character of other structures on the lot.
6. The relationship of a structure to the open space between it and adjoining structures should be compatible.
7. Architectural details, including signs, materials, colors and textures, shall be treated so as to be compatible with other buildings on the lot and should preserve and enhance the character of the surrounding areas.

8. Buildings shall have painted or factory-finished lap siding, stained cedar shingles, fiber cement clapboards or shingles, natural and artificial stone and brick cladding with color approved by the Zoning Board of Appeals.

9. Windows shall be compatible with the architectural style of the structure, and a consistent window design shall be utilized through the building and adjacent buildings.

10. Mechanical equipment shall be screening and acoustically buffered and shall not be visible from ground level. Noise caused by such equipment shall neither exceed 70 dBA at the source nor exceed 55 dBA at the boundary of the property line.

**6.4.6 Landscaping Performance Standards.** The following Performance Standards shall apply to landscaping.

1. Planting plans for facilities exceeding 60,000 square feet in floor area shall be prepared by a Massachusetts registered landscape architect.

2. Landscaped areas shall be context-sensitive and designed to complement adjacent or nearby buildings, walkways, streets and parking areas.

3. Landscaping shall be provided along the entire street frontage. Trees may be equally spaced or clustered, and a minimum of one shade tree shall be provided for each 40 feet of frontage.

4. Screening shall be provided for dumpsters, exterior electric and mechanical equipment, and utility structures. Screening shall consist of evergreen trees and shrubs and shall be a minimum of two feet taller than the feature being screened at maturity. An opaque board fence having a minimum height of six feet shall be provided continuously adjacent to the element being screened.

5. Landscaping shall consist primarily of native species to minimize maintenance, particularly water use. Plants included on the Massachusetts Department of Agricultural Resources' Massachusetts Prohibited Plant List (2006) are prohibited. Extensive monoplantings of a single species shall be avoided. A six-inch-thick loam layer shall be provided for all areas within the limit of construction, excluding buildings and paved areas.

6. All plants shall be nursery-grown, healthy, vigorous growing, and true to form and shape. Shade trees shall be deciduous hardwood trees and shall have a minimum caliper of 2 1/2 inches to three inches at the time of planting. Flowering trees shall have a minimum caliper of 2 1/2 inches to three inches at the time of planting. Coniferous trees shall be 10 feet to 12 feet in height at the time of planting. Shrubs shall be 18 inches to 24 inches in height at the time of planting.

7. Landscape maintenance shall comply with an integrated pest management plan. Use of fertilizer shall be minimized.

## **6.5 PERFORMANCE STANDARDS FOR MULTIFAMILY OR NONRESIDENTIAL USES IN ALL DISTRICTS.**

**6.5.1 Purpose.** The following performance standards have been adopted in order to control the size, scale, and impacts of nonresidential and multifamily developments in all districts that require a special permit and/or site plan review.

**6.5.2 Procedures; Rules and Regulations.** Applicants for special permits or site plan approval for nonresidential or multifamily uses shall comply with these Performance Standards. “Nonresidential or multifamily use” shall mean any use any nonresidential use or a multifamily dwelling or mixed use structure with three (3) or more dwelling units. The SPGA or the Planning Board (as the case may be) may adopt rules and regulations for these Performance Standards. The SPGA or Planning Board may require the establishment of an escrow account, pursuant to M.G.L. c. 44, s. 53G during the special permit process or site plan approval, to cover all or part of the cost of the technical review required by the project, including services provided by, but not limited to, attorneys, traffic engineers, landscape architects, civil engineers, fiscal analysts, and other professionals.

1. When a Performance Standard set forth in Section 6.2, 6.3, or Section 6.4 is more restrictive than the Performance Standard stated in this Section 6.5, the more restrictive shall govern.

**6.5.3 Exemptions.** The following are exempt from these special permit standards:

1. Emergency Response. Emergency responses performed by a private entity or a public agency and fire or burglar alarms.

2. Municipal Uses and Structures. All uses and structures, including schools, leased, owned or operated by the Town.

3. Events. Properly permitted or authorized parades, fairs or outdoor entertainment between the hours of 7:00 a.m. and 11:00 p.m.

**6.5.4 Lighting Standards.** The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall (i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity; and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

1. Site lighting shall be designed with lower illumination levels consistent with IESNA recommended practice and shall minimize blue light emissions.

2. Lighting systems shall have automated controls capable of reducing lighting levels outside business hours.

3. Light trespass shall be limited to 0.5 foot-candle at the property line and there shall be no point sources of light visible from adjacent streets and properties.

4. Pole heights shall be limited to 24 feet in parking areas and to 16 feet within 50 feet of on-site buildings. Pole height within 500 feet of Route I-95 may be increased to 34 feet, provided they are not visible from any residence.

5. All lighting fixtures shall be "dark skies" compliant and shall limit upward-projecting light. All lighting fixtures shall have or be comparable to lighting fixtures having the International Dark Sky Association (IDA) Fixture Seal of Approval.

**6.5.5 Noise Standards.** The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise. Practices and systems shall (i) reduce noise pollution in order to preserve and enhance the natural and aesthetic qualities of the Town; (ii) preserve property values; and (iii) preserve neighborhood character.

1. **Limitation.** No person or entity shall operate or cause to be operated any source of sound in a manner that creates a sound level of 10 dBA above ambient, as set forth in 310 CMR 7.10, measured at the property boundary of the receiving land use. The Inspector of Buildings shall enforce this limitation.

2. **Hours of Operation.** As a condition of any special permit or site plan approval, the SPGA or Planning Board may impose reasonable conditions to prohibit or regulate the hours of operation or practices of a proposed facility.

**6.5.6 Site Development Standards.** To the extent practicable, the proposed development shall be located to preserve and enhance the natural features of the site, to avoid disturbances of environmentally sensitive areas, to minimize adverse impacts of development on adjoining properties, to minimize the alteration of the natural features of the site and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the development and the Town.

1. **Land Disturbance.** Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.

2. **Replication.** Clearing of vegetation and alteration of topography shall be replicated with native vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat.

**3. Clearing for Utility Trenching.** Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.

**4. Preservation of Existing Vegetation.** Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees. Understory vegetation beneath the dripline of preserved trees shall be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

**5. Revegetation.** Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.

**6. Limit of Clearing.** Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading. In order to minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

**7. Finished Grade.** Finished grades should preserve, match, or blend with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. The design of grade changes at the base of existing large trees shall be subject to the approval of the SPGA or Planning Board or its agent.

**6.5.7 Pedestrian and Vehicular Access; Traffic Management Standards.** The proposed development and/or redevelopment shall be designed with a forecast for the next five years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation on the site for expected vehicles, pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to offset the impact of the development; (iv) reduce the traffic impacts of the proposed development on the area and the Town by incorporating traffic management devices; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The development shall not degrade safety for pedestrians, bicyclists, motor vehicle occupants, or property.

1. **Driveways.** Each development shall be served by an adequate driveway. The SPGA or Planning Board may, in certain circumstances, allow additional driveways as a condition of approval where the access is shared or the project has frontage on two separate streets. All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

2. **Curb Cuts.** Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 30 feet, unless waived by the SPGA or Planning Board for commercial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

3. **Interior Circulation.** The proposed development shall assure safe interior circulation within its site by separating pedestrian, bikeways, and vehicular traffic.

4. **Transportation Plan.** As part of an overall Transportation Plan, the applicant shall submit a traffic study, prepared by a qualified traffic engineer licensed by the Commonwealth of Massachusetts, detailing the expected traffic or parking impacts. For proposed development in excess of 25,000 gross square feet, or 100 parking spaces, the required traffic study shall substantially conform to the Institute of Transportation Engineers "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition (TIAS). The SPGA shall approve the geographic scope and content of the TIAS.

5. **TMC.** For proposed development in excess of 25,000 square feet of gross floor area, or 100 parking spaces, the applicant shall submit a Traffic Management Component (TMC) as part of the Transportation Plan. The TMC shall provide information on the number of expected person trips to and from the site, broken down by various travel modes (e.g., single occupancy vehicle, carpool, walk, bicycle, commuter rail, shuttle bus, etc.). The TMC may also incorporate one or more of the following techniques to reduce the number of single occupancy vehicle trips by employees coming to and departing from the proposed use:

(1) Establishment of or contribution to a Traffic Management Association (TMA) within the region, which shall provide shuffle services for employees and other services as may be appropriate;

(2) Employee carpools or vanpools sponsored by the employer or the TMA;

(3) Subsidized commuter rail passes, provided by the employer, and sold on the site or offered through payroll deduction;

(4) Monetary incentives to employees who do not use a parking space;

(5) On-site shower facilities and/or bicycle racks for employees who do not drive to work;

(6) Other techniques as may be deemed appropriate by the SPGA or Planning Board or its traffic consultant.

**6. Sight Distance.** Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances.

**7. Mitigation.** The SPGA or Planning Board may require as a condition of any special permit off-site improvements to mitigate the impact of the proposed development. Such improvements include intersection widening and traffic signals or the components of the TMC. Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.

**8. Pedestrian and Bicycle Safety.** All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the SPGA or Planning Board. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries. Sidewalks, crosswalks, walkways, bike racks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.

**9. Location of Parking Areas.** Where feasible, the SPGA or Planning Board may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The SPGA or Planning Board may require alternative studies of parking area layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking areas of adjacent nonresidential uses and land zoned for nonresidential uses. The SPGA or Planning Board may prohibit parking within the required front setback.

**6.5.8 Waiver of Standards.** The SPGA or Planning Board, in the course of granting a special permit or site plan approval for nonresidential or multifamily development as defined in Section 6.4.1, may waive any of these performance standards where such waiver is not inconsistent with public health and safety, and where such waiver does not derogate from the purposes of this Section because the proposed development will adequately serve the goals and objectives set forth in Section 6.5.1, hereof.



**6.5.9 Enforcement.** Issuance of an Occupancy Permit is contingent upon compliance with all conditions set forth in any special permit or site plan approval, including conditions required by this Section 6.5. The SPGA or Planning Board may ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review. In addition, the SPGA or Planning Board may require a monitoring program post-permit issuance for compliance purposes for a time period as may be specified in the special permit or site plan approval.

**DELETE OLD ENVIRONMENTAL CONTROLS (OLD 3300)**

## SECTION 7.0 SPECIAL REGULATIONS

### 7.1 ADULT USES

**7.1.1 Purpose.** The purpose of this Section is to address the well-documented secondary impacts of adult uses, as defined herein. Such secondary impacts have been found to include increased levels of crime, blight resulting from the clustering and concentration of adult uses, adverse impacts on the business climate of municipalities, and adverse impacts on property values of residential and commercial properties. Late-night noise and traffic also increase due to the late hours of operation of many of these establishments. This Section is enacted pursuant to M.G.L. c. 40A, s. 9A, with the purpose and intent of addressing and mitigating the secondary impacts of adult uses that are adverse to the health, safety, and welfare of the Town and its inhabitants.

The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matters or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, dissemination, or exhibition of obscene or other illegal matter or materials, as defined in M.G.L. c. 272, § 31.

**7.1.2 Definitions.** See Section 11.0, under “Adult Use.”

**7.1.3 Siting Requirements.** All adult uses ~~as defined in Subsection 4120 of this Zoning Bylaw~~ are allowed only in the Light Industrial (LI) District upon the granting of a special permit by the Zoning Board of Appeals. No adult use shall be located less than 400 feet:

1. from any residential zoning district or from any residential use;
2. from any public or private school, or municipal building open to the general public;
3. from any church or other religious facility;
4. from any public park or recreation area and any principal or accessory private recreational facility use; or
5. from any day-care center, Senior Housing Facility or hospital.

The minimum distance specified above shall be measured in a straight line from the nearest property line of the premises on which the adult use is to be located to the nearest boundary line of a residential zoning district, or the nearest property line of any of the designated uses set forth herein, except where the distance to be measured crosses Interstate 95 or US Route 1, in which case the distance shall be limited by and measured only to the boundary of such highway.

#### **7.1.4 Other Requirements.**

1. The maximum lot coverage, including building, parking and driveways, shall be 50% of the upland lot area.
2. A fifty-foot vegetated buffer containing adequate screening appropriate to the character of the area and the intensity of the use shall be provided between an adult use and other abutting commercial uses.
3. An adult use shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.
4. There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right-of-way or abutting property.
5. No adult use shall be allowed to disseminate adult matter to minors, to cause adult use displays to be viewed by minors or to allow minors to linger on the premises.

**7.1.5 Off-Street Parking and Loading.** Off-street parking and loading shall be provided as required for retail uses in the Light Industrial District. ~~Subsections 3130 and 3133.~~

#### **7.1.6 Sign Requirements.**

1. Only one sign, to be mounted flat on the building wall face, shall be allowed for an adult use. The area of this wall sign shall be not more than 10% of the projected area of the elevation it is attached to, except that no sign shall exceed 30 square feet.
2. Only one freestanding sign may be allowed at the discretion of the Zoning Board of Appeals, in a situation where the wall sign may not be visible from the street on which the property has frontage. This freestanding sign shall not be located within five feet of any street or property line and not more than 10 feet above the ground. Any such sign shall have a maximum sign area of four square feet.
3. All other signs, including temporary and window signs, whether on the exterior of the building or visible from the exterior of the building, are prohibited.
4. No adult use may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.
5. The appropriate lighting of the sign(s) shall be determined by the Zoning Board of Appeals.
6. The sign(s) shall otherwise comply with the Sign Bylaw, Chapter 221 of the General Bylaws of the Town of Sharon.

**7.1.7 Special Permit Submittals.** In addition to the requirements in this Section, special permit applications for approval shall comply with the submittal requirements for site plan approval as detailed in Subsection 10.6 and shall contain the following additional information:

1. Names and addresses of the legal owner(s) of the adult entertainment establishment.
2. Names and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed in order that the special permit granting authority will know who are the persons who will actually own and control the establishment. The applicant and/or owner must disclose if they have been convicted of violating the provisions of M.G.L. c. 119, § 63 (inducing or abetting delinquency of a child) or M.G.L. c. 272, § 28 (matter harmful to minors, etc.) or similar laws in other states.
3. Name and address of the manager.
4. The number of employees, or proposed number of employees, as the case may be.
5. Proposed security precautions.
6. The external and internal physical layout of the premises.
7. Full description of the intended nature of the business.
8. The distances between the proposed adult use establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day-care center, family day-care center, Senior Housing Facility and hospital, and municipal building open to the general public.

**7.1.8 Decision.** The special permit granting authority act in accordance with Section 10.5 In approving or denying a special permit. The special permit granting authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town; provided, however, that no such conditions in fact prohibit the use of the property for the use intended. No special permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:

1. Street, side or rear setbacks greater than the minimum required by this Bylaw.
2. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
3. Modification of the exterior features or appearances of the structure.
4. Limitation of size, number of occupants, method or time of operation, or extent of facilities.

5. Regulation of number, design and location of access drives or other traffic features.
6. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
7. The special permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.

**7.1.9 Mandatory Conditions.** ~~8. Where the adult use is not governed by other state or local licensing board, the following conditions shall apply:~~ **The special permit granting authority shall impose the following mandatory conditions:**

1. A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager. The manager shall register with the Select Board. No manager shall be designated who has been convicted of violating M.G.L. c. 119, § 63, or M.G.L. c. 272, § 28, or similar laws in other states.
2. Special permits for adult use establishments shall not be granted to any person or persons convicted of violating the provisions of M.G.L. c. 119, § 63, nor M.G.L. c. 272, § 28, or similar laws in other states.

**7.1.10 Lapse of Special Permit.** Any special permit granted hereunder for an adult use establishment shall lapse after one year, including such time required to pursue or await the determination of an appeal 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, including such time to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, § 17, from the grant thereof.

~~7.1.11 The special permit shall not be renewed if any of the following have taken place on or in proximity to and associated with the premises:~~

- ~~(i) Unlawful sexual activity;~~
  - ~~(ii) Gambling;~~
  - ~~(iii) Drug use;~~
  - ~~(iv) Violent crimes;~~
  - ~~(v) Offenses against children;~~
  - ~~(vi) Repeated public disturbances requiring intervention by the police; and~~
  - ~~(vii) Any other illegal activities.~~
- ~~(3) Violation of any of the conditions of approval of the special permit shall be grounds for nonrenewal of the special permit as provided for above.~~

**7.1.11. Preexisting Adult Uses.** Any adult use establishment that was in existence as of the first date of the publication of the notice of public hearing on this zoning amendment regulating adult uses may continue to operate in the same location, without material change in scale or content of the business, but shall apply for such special permit within 90 days following the adoption of this bylaw and shall thereafter comply with all of the requirements herein.

**7.1.12 Prohibited Uses.** Nothing in this Section is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town bylaw or statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.

~~If any provision of this section of the bylaw is ruled invalid by a court of competent jurisdiction, such ruling shall not affect the validity of the remainder of the section.~~

## **7.2 TELECOMMUNICATION FACILITIES**

**7.2.1 Purpose.** The purpose of this Section is to:

1. Preserve the character and appearance of Sharon while allowing adequate telecommunications services.
2. Protect the scenic, historic, environmental, natural and man-made resources of Sharon.
3. Provide standards and requirements for the regulation, placement, appearance, camouflaging, construction, monitoring, design, modification and removal of telecommunications facilities.
4. Provide a procedural basis for action within a reasonable period of time on requests for authorization to place, construct, operate, modify or remove telecommunications facilities.
5. Locate telecommunications facilities in a manner that protects property values, as well as the general safety, welfare and quality of life of the citizens of Sharon and all those who visit this community.
6. Minimize the total number and height of towers throughout Sharon.
7. Locate telecommunications facilities so that they do not have negative impacts, such as, but not limited to, attractive nuisance, excess noise, excess light and falling objects.
8. Require owners of telecommunications facilities to design and site them so as to minimize and mitigate the adverse visual effects of the towers and facilities.
9. Require co-location and the clustering of telecommunications facilities, where possible, consistent with safety and aesthetic considerations.
10. Otherwise minimize the impact of telecommunications facilities, including satellite dishes and antennas, on adjacent properties and residential neighborhoods.

**7.2.2 Consistency with Federal Law.** This section is intended to be consistent with state and federal law and, in particular, the Telecommunications Act of 1996 in that:

1. They do not prohibit or have the effect of prohibiting the provision of telecommunications services; and
2. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent telecommunications services; and
3. They do not regulate telecommunications services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and telecommunications facilities comply with the FCC's regulations concerning such emissions.

**7.2.3 Definitions.** See Section 11.0, “Telecommunications Facilities.”

**7.2.4 Exempted Wireless Communications Uses.** The following wireless communications facilities are exempted from the provisions of this Section: police, fire, ambulance and other emergency dispatch, citizen band radio, and towers and equipment used exclusively by a federally licensed amateur radio operator. Nothing contained herein shall be deemed to prohibit the construction or use of an amateur structure by a federally licensed amateur radio operator. No telecommunications facility or repeater shall be exempt from this bylaw for any reason, including a facility or repeater which is proposed to share a tower or other structure with designated exempt uses.

**7.2.5 Special Permit Required.** No telecommunications facility shall be erected or installed except in compliance with the provisions of this section. In all cases, a special use permit is required from the Zoning Board of Appeals acting as SPGA. Any proposed major modification of an existing telecommunications facility or tower shall be subject to a new application for a special use permit.

**7.2.6 Location.** Telecommunications facilities may be located in the following zoning districts:

1. Light Industrial District.
2. Business District.
3. In other zoning districts, antennas may be added to preexisting structures. These structures must have a clearly defined permanent nonresidential use in existence for at least one year prior to the application and: the antennas do not exceed the height of the existing structure; sufficient space exists at the base of the structure for the placement of equipment with proper screening and access; and provisions are made for more than one telecommunications provider where possible.

~~In other zoning districts as provided for in the Wireless Communication Overlay District adopted by the Town of Sharon.~~

**7.2.7 Additional Requirements.** The following additional requirements shall apply to telecommunications facilities:

1. Access roads and above-ground utilities. Where new towers and telecommunications facilities require construction of, or improvements to, access roads, said roads, to the extent practicable, shall follow the contour of the land and be constructed or improved in a manner which creates minimum environmental and aesthetic harm. Utility or service lines shall be designed and located so as to protect, and minimize or prevent debasement of, the scenic character or beauty of the area. The SPGA shall request comments from the Chiefs (or their designees) of Fire, Police and other emergency services regarding the adequacy for emergency access of any planned drive or roadway to the site.

2. Setbacks for new towers. New towers shall have a fall zone setback of at least the height of the tower, plus 50 feet, from all boundaries of the site. This setback requirement is intended to create a fall zone in the event of a tower collapse. Towers also shall be subject to the buffer zone setback set forth in Subsection 5, below.

3. Camouflage and landscape screening. All telecommunications facilities shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to, use of compatible building materials and colors, screening, landscaping and placement within trees, and use of alternative-design mounting structures to conceal the presence of antenna(s) or tower(s). Screening shall be required at the perimeter of the site. If telecommunications facilities are not camouflaged from public view by or within existing buildings or structures, buffers of dense tree growth and year-round visual buffer shall surround them. Ground-mounted telecommunications equipment shall be enclosed within a vegetated buffer of sufficient height and depth to provide effective screening. Trees and vegetation may be existing on the subject site or installed as part of the proposed telecommunications facility or a combination of both. The SPGA shall determine the types of trees and plant materials and depth of the buffer based on site conditions. If the telecommunications facility is in a wooded area, a vegetated buffer strip of undisturbed trees shall be retained for at least 50 feet in width around the entire perimeter except where the access drive is located. The applicant shall post a bond at a local bank to cover the cost of the remediation of any damage to the landscape which may occur during the clearing of the site.

4. Security barriers and signs. Adequate warning signs and security barriers shall be installed as needed to protect the public and at a minimum shall meet federal requirements. The visual impact of any security barriers shall be minimized, consistent with the intended purpose of the security barriers.

5. Communication equipment shelters and accessory buildings. Said shelters and buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. Said shelters and buildings shall be used only to house telecommunications equipment related to the site on which they are located. Whenever possible, these shelters and buildings shall be joined or clustered so as to appear as one building. Communication equipment shelters and accessory buildings shall be designed to be consistent with traditional local architectural styles and materials, with a recommended roof pitch of at least 10/12 and wood clapboard or shingle siding; or they shall be camouflaged behind an effective year-round landscape buffer, equal to the height



of the proposed building, and/or wooden fence, consistent with the Security barrier standards of this Section. The SPGA shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

6. Tower finish. New towers shall have a galvanized finish unless otherwise required. The SPGA may require the towers to be painted or otherwise camouflaged to minimize their visual impact.

7. Towers shall be constructed at the minimum height necessary to accommodate the anticipated use, and may not exceed 120 feet in height.

8. Tower(s) must be of a type that potentially can be used for co-location. Freestanding monopoles shall be the only permitted type of tower. Lattice-style towers and similar structures requiring three or more legs and/or guy wires shall not be permitted. Monopoles shall not be located atop buildings.

9. Minimizing the number of required towers/antennas. The use of repeaters or less intrusive wireless technologies to assure Adequate coverage and/or capacity, or to fill holes within areas of otherwise adequate coverage, shall be permitted and encouraged. An applicant who has received a special permit under this Section may install, with at least 30 days' written notice to the SPGA, the Board of Health, Conservation Commission, Inspector of Buildings and Town Clerk, one or more additional repeaters by right, although site plan review before the SPGA shall be required. Applicant shall detail the number, location, power output, and coverage of any proposed repeaters and provide engineering data to justify their use. Abutters must be notified in accordance with Section 10.6.

10. Commercial advertising. Commercial advertising shall not be allowed on any antenna, tower, accessory building or communication equipment shelter, or on any security barrier.

11. Lighting of towers. Unless required by the Federal Aviation Administration (FAA), no lighting of tower(s) is permitted. In any circumstance where a tower is determined to need obstruction marking or lighting, applicants must seek the least visually obtrusive marking and/or lighting scheme in their FAA applications. Emergency, safety or security lighting may be utilized when there are people at the site.

12. Hazard to air navigation. No tower or telecommunications facility is permitted that would be classified as a hazard to air navigation, as defined by FAA regulations in Title 14 of the Code of Federal Regulations, or as otherwise set forth by the FAA.

13. Noise. Telecommunications facilities shall be designed in such a way that sounds from the site shall remain within ambient levels at the perimeter of the site.

**7.2.8 Siting Criteria and Evaluation of Impact.** Telecommunications facilities shall be located so as to minimize the following potential impacts:

1. Visual/Aesthetic: Towers shall be sited, where possible, off ridge lines, and where their visual impact is least detrimental to scenic views, and shall be camouflaged in accordance with this Section.
2. Diminution of residential property values, based on supporting documentation.
3. Safety hazards, including, but not limited to, structural failure, ice accumulation and discharge, excessive electromagnetic radiation in the event that a tower or telecommunications facility is found to exceed FCC radiation guidelines at any time, and attractive nuisance.

~~The following additional criteria for siting decisions shall be applied:~~

4. Shared use of existing telecommunications facilities, such as co-location, shall be encouraged (if it is demonstrated that safety is not compromised as a result).
5. Telecommunications facilities shall be sited on existing non-telecommunications structures where not otherwise prohibited by this Bylaw.
6. Use of municipal, state and federal lands, which comply with other requirements of this Bylaw, and where visual and safety impacts can be minimized and mitigated, shall be encouraged.
7. Use of very low power repeaters to provide adequate coverage, without requiring new tower(s), shall be encouraged.

**7.2.9 Standards for Siting of Telecommunications Equipment.** All dedicated freestanding telecommunications facilities, with the exception of repeaters, shall be sited as far away as possible, and in no event closer than 500 feet horizontally, from existing structures on adjacent lots, unless otherwise required to comply with this section. No repeater shall be located closer than 200 feet horizontally to existing structures on adjacent lots, unless otherwise required to comply with this section, or more than 35 feet above ground, without demonstration by the applicant that such placement is the only way in which adequate coverage can be provided. These restrictions shall not be interpreted to prohibit the construction of new structures on lots adjacent to telecommunications facilities.

1. Limited number of towers and telecommunication facilities. Towers and telecommunications facilities shall be located so as to provide adequate coverage and adequate capacity with the lowest number of towers, antennas and repeaters which is technically and economically feasible.

#### **7.2.10 Environmental Standards.**

1. Telecommunication facilities shall not be located in wetlands unless approved by the Conservation Commission of the Town of Sharon.

2. No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on the site, there shall be provisions for full containment and safe removal 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.
3. Stormwater run-off shall be contained on-site.

**7.2.11 Primary Coverage Outside Sharon.** If the primary coverage area (greater than 50%) from a proposed telecommunications facility is outside the Town of Sharon, a special use permit may be denied unless the applicant can demonstrate that it is unable to locate the proposed telecommunications facility within the Town or area outside of Sharon which would be the primary recipient of service from the proposed telecommunications facility.

**7.2.12 Applications.** All applications for telecommunications facilities shall be made and filed on the appropriate application form in compliance with the SPGA's application process. For all applications, three copies of the following information must be submitted:

1. A locus plan at a scale of one inch equals 1,000 feet, which shall show all property lines, the exact location of the proposed telecommunications facility, streets, landscape features, dwelling units, all buildings within 500 feet of the site and all abutters to the Site as shown on the most recent Town Assessor's map.
2. A color photograph or rendition of the proposed telecommunications facility with its antennas, panels, and/or satellite dishes. A rendition shall also illustrate the siting of the telecommunications facility from the nearest street or streets.
3. The following information prepared by a professional engineer:
  - a. A description of the telecommunications facility and the technical, economic and other reasons for the proposed location, height and design.
  - b. Confirmation that the telecommunications facility complies with all applicable federal and state standards.
  - c. A description of the capacity of the telecommunications facility, including the number and type of panels, antennas, satellite dishes and/or transmitter and receiver that it can accommodate and the basis of these calculations.
4. If applicable, a written statement that the proposed telecommunications facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), FCC, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

5. Detailed propagation maps and reports indicating the area to be covered by the proposed telecommunications facility and the current locations of existing telecommunications facilities, whether in Sharon or not, that provide coverage to Sharon, and the areas that are covered by those sites.

#### **7.2.13 Evidence of Need: Adequate Coverage; Adequate Capacity.**

1. Existing coverage. Applicant shall provide written documentation demonstrating that all existing or proposed telecommunication facilities in Sharon, in abutting towns, and within five miles of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to the Town of Sharon. For each proposed telecommunications facility, an identified applicant shall demonstrate with written documentation that said existing telecommunication facilities are not already providing, or cannot reasonably be modified or adjusted to provide, adequate coverage and/or adequate capacity to the Town of Sharon. Said documentation shall include, for each telecommunications facility listed, the exact location, ground elevation, height of tower or structure, type of antenna(s), antenna gain, height of antenna(s) on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing telecommunication facilities, including changes in antenna type, orientation, gain, height or power output, shall also be specified. Radial or tiled coverage plots from each of these telecommunication facilities, as they exist, and with adjustments as above, shall be provided as part of the application, along with relevant drive testing and data mapping.
2. Repeaters. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters in conjunction with all telecommunications facilities listed in compliance herein to provide adequate coverage and/or adequate capacity to the Town of Sharon. Radial or tiled coverage plots of all repeaters considered for use in conjunction with these telecommunication facilities shall be provided as part of the application.
3. Three year plan. All applications shall be accompanied by a written three-year plan for use of the proposed telecommunications facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within Sharon.
4. The SPGA may deny a special use permit if the SPGA finds that adequate coverage for Sharon can be provided by any existing or proposed telecommunications facilities, with or without the use of repeater(s), or can reasonably be provided by modification or adjustments to said telecommunications facilities; or Sharon already has adequate coverage from this provider.

**7.2.14 Additional Design Guidelines.** The following guidelines shall be used when preparing plans for the siting and construction of all telecommunications facilities, in addition to all other relevant requirements set forth in this bylaw:

1. The height of antennas or satellite dishes located on residential buildings or in the yards of residential structures shall not exceed the tree line of the lot.
2. Antennas or satellite dishes located on nonresidential buildings shall not exceed 10 feet in height above the roof line of the structure, unless additional height restrictions apply pursuant to this Section.
3. All telecommunications facilities shall be sited in such a manner that the view of a facility from adjacent abutters, residential neighbors and other areas of the Town of Sharon shall be as limited as possible. All monopoles, antennas and satellite dishes shall be camouflaged. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.
4. Satellite dishes and antennas shall be situated on or attached to a structure in such a manner that they are screened from view from abutting streets. Freestanding dishes or antennas shall be positioned in such a manner so as to minimize visibility from abutting streets and residences and in such a manner as to limit the removal of existing vegetation. All telecommunications equipment shall be colored, molded and/or installed to blend into the structure or landscape.
5. Telecommunications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of telecommunications facilities that need to be sited within the Town of Sharon.
6. There shall be no signs at telecommunications facilities except for announcement signs, "no trespassing" signs and a required sign giving a phone number where the owner can be reached 24 hours a day. All signs shall conform to the Sign Bylaw of the Town of Sharon, Ch. 221, Signs.
7. There shall be a minimum of one parking space for each telecommunications facility, to be used in connection with the maintenance of the facility, and not to be used for the permanent storage of vehicles or equipment.

**7.2.15 Special Permit Review.** In addition to the criteria set forth in section 10.5, the SPGA shall consider the following:

1. Applications for special use permits may be approved, or approved with conditions, if the applicant can fulfill the requirements of this bylaw to the satisfaction of the SPGA.
2. Applications for special use permits shall be denied if the applicant cannot fulfill or address the requirements of this bylaw to the satisfaction of the SPGA, unless the SPGA elects to grant a waiver pursuant to [Section 7.2.19](#).
3. When considering an application for a telecommunications facility, the SPGA shall place great emphasis on the visual impact of the facility on residential structures. New telecommunications facilities shall only be considered after a finding that existing (or

previously approved) telecommunications facilities cannot provide adequate capacity and/or coverage.

4. When considering an application for an antenna or satellite dish to be placed on a structure or in a residential neighborhood, the SPGA shall place great emphasis on the visual impact of the telecommunications equipment to the abutting neighborhoods and street(s).

**7.2.16 Independent Consultants.** Upon submission of an application for a special use permit under this bylaw, the SPGA shall hire independent consultants, whose services shall be paid for by the applicant pursuant to Sharon's policies and procedures. Said independent consultants shall be qualified professionals with a record of service to various types of customers, including, but not limited to, government bodies and consumer groups, in one of the following fields appropriate for the issues being studied: Telecommunications/radio frequency engineering; Structural engineering; Assessment of EMFs; and such other fields as may be deemed necessary by the SPGA.

1. The SPGA shall select the independent consultants from a list of potential consultants developed and maintained in consultation with the Board of Health and the Conservation Commission.

2. Upon submission of a complete application for a special use permit under this bylaw, the SPGA shall provide its independent consultants with the full application for their analysis and review.

3. Applicants for any special permit under this bylaw shall obtain permission from the owner(s) of the proposed facility site(s) or telecommunications facilities for Sharon's independent consultants to conduct any necessary site visit(s).

**7.2.17 Monitoring and Evaluation of Compliance.**

1. Pre-activation testing. After issuance of a special use permit and prior to commencement of transmission by a successful applicant's telecommunications facilities, said applicant shall pay for independent consultants, hired by the SPGA, to monitor the background levels of EMF radiation around the proposed facility site and/or any repeater locations used for applicant's telecommunications facilities. The independent consultants shall use the monitoring protocol. A report of the monitoring results shall be prepared by the independent consultants and submitted to the Select Board, the SPGA, the Board of Health, the Director of the Department of Public Works, the Inspector of Buildings and the Town Clerk.

2. Post-activation testing. Within 14 business days after transmission begins, the owner(s) of any telecommunications facility shall pay for independent consultants, hired by the Town, to conduct testing and monitoring of nonionizing radiation emitted from said telecommunications facility, and to report the results of said monitoring. Said monitoring shall be conducted on a semi-annual basis, using actual field measurements of

nonionizing radiation in accordance with the monitoring protocol. A report of the monitoring results shall be prepared by the independent consultants and submitted to the Select Board, the SPGA, the Board of Health, the DPW Director, the Inspector of Buildings and the Town Clerk. Any major modification of an existing telecommunications facility or tower, or the activation of any additional permitted channels, shall require new monitoring.

3. Excessive emissions. In the event that the monitoring of a telecommunications facility reveals that the facility exceeds the current FCC standard (or other currently applicable standard if changed), the owner(s) of all telecommunications equipment using that site shall be so notified. Said owner(s) shall submit to the SPGA and the Inspector of Buildings, within 10 business days of noncompliance, a plan for reducing emissions to a level that complies with current FCC requirements. Said plan shall reduce emissions to the current requirements within 15 days of initial notification of noncompliance. Failure to accomplish such reduction of emissions within 15 days of notification of noncompliance shall be a violation of this bylaw and the special use permit and may result in the imposition of fines in accordance with Subsection 6140, or revocation of the special use permit, or both. Such fines shall be payable to the Town of Sharon by the owner(s) of the Tower.

4. Structural inspection. The owner(s) of a telecommunications facility shall comply with all state and local requirements for structural inspection and certification. In addition, all towers shall be inspected by the Inspector of Buildings or independent consultants after sustained winds of 90 miles per hour, in the event of unsafe conditions such as severe ice build-up, and in any event not less than every seven years. The owner(s) shall grant its permission and the permission of any other relevant parties to carry out such inspections.

5. Unsafe structure. In the event that the inspection of any tower reveals structural defects which, in the opinion of the Inspector of Buildings or independent consultants, render that tower unsafe, the following actions must be taken: The owner(s) must be given notice of the unsafe condition, and, within 10 business days of notification, the owner(s) of the tower shall submit a plan to remedy the structural defects to the Inspector of Buildings for approval. This plan shall be initiated within 10 days of the submission of the remediation plan, provided it is approved by the Inspector of Buildings, and completed as soon thereafter as reasonably possible. Failure to accomplish remediation of structural defect(s) within 30 days of the original notice (or such shorter or longer period as may be determined to be reasonable in the event that the Inspector of Buildings determines that the tower poses a substantial and imminent threat to public safety) shall be a violation of this Section and the special use permit and may result in the imposition of fines in accordance with Section 10.2, or revocation of the special use permit, or both.

6. Compliance enforcement responsibility. This bylaw shall be enforced by the Town of Sharon's Inspector of Buildings, who shall take such action as may be necessary to enforce full compliance with the provisions of this bylaw and of permits and variances issued hereunder, including notifications of noncompliance and requests for legal action through the Town Administrator and the Town Counsel.

7. Compliance certification. Telecommunications facilities may not be erected, substantially altered, moved, or changed in use, and sites may not be substantially altered or changed in principal use without certification by the Inspector of Buildings that such action is in compliance with applicable zoning, or without review by the Building Inspector regarding whether all necessary permits have been obtained from governmental agencies from which approval is required by federal, state or local law. Telecommunications facilities shall be located and constructed to minimize their visual impact on the site and its environs. Annual certification demonstrating continued compliance with the standards of the FCC, Federal Aviation Administration and the American National Standards Institute, and required maintenance, shall be filed with the Inspector of Buildings by the special use permit holders for all telecommunications facilities.

8. Expiration. Special use permits granted pursuant to this bylaw shall lapse 24 months following the issuance thereof (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, § 17), if a substantial use thereof or construction has not sooner commenced.

#### **7.2.18 Removal Requirements.**

1. Abandonment or discontinuance of use. Any telecommunications facility which ceases to operate for a period of one year shall be considered abandoned and shall be removed by the applicant or subsequent owner within 90 days from the date of abandonment. "Ceases to operate" is defined as not performing the normal functions associated with a telecommunications facility on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated so that all telecommunications facility improvements are removed and the site shall be revegetated. If all telecommunications equipment on a tower has ceased to operate, the tower shall also be removed, and the site shall be revegetated. Existing trees shall only be removed if necessary to complete the required removal.

2. Applicant shall, as a condition of the special use permit, provide a financial surety payable to the Town of Sharon, and acceptable to the SPGA, to cover the cost of removal of the telecommunications facility and the remediation of the landscape, should the telecommunications facility cease to operate.

**7.2.19 Waivers.** The SPGA shall have the authority to waive any siting or design requirement set forth in this bylaw. In waiving such requirements, the SPGA shall issue a finding that the waiver will result in a substantially better design and/or siting of the proposed telecommunications equipment and/or facility than would result from strict adherence to the provisions of this bylaw. In making such a finding, the SPGA shall consider the visual and safety impacts of the proposed telecommunications equipment and/or facility, as well as the general purposes of this bylaw.

~~4695. Location of overlay district.~~



~~The Wireless Communication Overlay District shall be shown on the Zoning Map of the Town of Sharon.~~

### **7.3 REGISTERED MARIJUANA DISPENSARIES (RMDs) AND MARIJUANA ESTABLISHMENTS**

**7.3.1 Siting Requirements.** All RMDs and marijuana establishments, as defined in Section 11.0 of this Bylaw, are allowed only in the Light Industrial (LI) District upon the granting of a special permit by the Zoning Board of Appeals.

**7.3.2 Location.** No RMD or marijuana establishment shall be located less than 400 feet from any residential zoning district or from any residential use; from any public or private school, or municipal building open to the general public; from any church or other religious facility; from any public park or recreation area and any principal or accessory private recreational facility use; or from any day care center, Senior Housing Facility or hospital. The minimum distance specified above shall be measured in a straight line from the nearest property line in question to the nearest property line of the proposed RMD or marijuana establishment, except where the distance to be measured crosses Interstate 95 or US Route 1, in which case the distance shall be limited by and measured only to the boundary of such highway.

**7.3.3 Lot Coverage.** The maximum lot coverage, including building, parking and driveways, shall be 50% of the upland lot area.

**7.3.4 Retailers.** The number of marijuana retailers that shall be permitted in the Town of Sharon is limited to 20% of the number of licenses issued and/or authorized to be issued within the Town under M.G.L. c. 138, § 15, for the retail sale of alcoholic beverages not to be drunk on the premises where sold.

**7.3.5 Off-Street Parking and Loading.** Off-street parking and loading shall be provided as required for retail uses in the Light Industrial District in Section 6.1.

**7.3.6 Sign Requirements.** Only one sign, to be mounted flat on the building wall face, shall be allowed for an RMD or marijuana establishment. The area of this wall sign shall be not more than 10% of the projected area of the elevation it is attached to, except that no sign shall exceed 30 square feet.

1. Only one freestanding sign may be allowed at the discretion of the Zoning Board of Appeals, in a situation where the wall sign may not be visible from the street on which the property has frontage. This freestanding sign shall not be located within five feet of any street or property line and not more than 10 feet above the ground. Any such sign shall have a maximum sign area of four square feet.
2. All other signs, including temporary and window signs, whether on the exterior of the building or visible from the exterior of the building, are prohibited.

3. No RMD or marijuana establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.
4. The appropriate lighting of the sign(s) shall be determined by the Zoning Board of Appeals.
5. The sign(s) shall otherwise comply with the Sign Bylaw, Chapter 221 of the General Bylaws of the Town of Sharon.

**7.3.7 Special Permit Submission and Approval.** In addition to the requirements in this Section, special permit applications shall comply with the submittal requirements for site plan approval as detailed in Section 10.6 and shall contain the following additional information:

1. The external and internal physical layout of the premises.
2. The distances between the proposed RMD or marijuana establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, day care center, Senior Housing Facility and hospital, and municipal building open to the general public.
3. Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD or marijuana establishment.

**7.3.8 Decision.** In approving a special permit, the special permit granting authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town; provided, however, that no such conditions in fact prohibit the use of the property for the use intended. No special permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:

1. Street, side or rear setbacks greater than the minimum required by this Bylaw.
2. Requirement of nonobstructive landscaping.
3. Modification of the exterior features or appearances of the structure.
4. Limitation of size, number of occupants, method or time of operation, or extent of facilities.
5. Regulation of number, design and location of access drives or other traffic features.
6. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.

7. The special permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.

**7.3.9 Lapse.** Any special permit granted hereunder for an RMD or marijuana establishment shall lapse after one year, including such time required to pursue or await the determination of an appeal 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, including such time to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, § 17, from the grant thereof.

**7.3.10 Term; Renewal.** A special permit granted hereunder shall expire within two years of the date of issuance of the permit. Prior to the expiration of the special permit, the applicant shall make application to the Zoning Board of Appeals for renewal of the special permit for an additional two-year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application.

1. A special permit granted hereunder shall have a term limited to the duration of the applicant's ownership and use of the premises as an RMD or marijuana establishment. A special permit granted hereunder is nontransferable and nonassignable.

**7.3.11 Violation.** Violation of any of the conditions of approval of the special permit shall be grounds for nonrenewal of the special permit as provided for above.

**7.3.12 Existing RMDs and Marijuana Establishments.** Any RMD or marijuana establishment that was in existence as of the first date of the publication of the notice of public hearing on this zoning amendment regulating medical marijuana uses or marijuana establishments may continue to operate in the same location, without material change in scale or content of the business, but shall apply for such special permit within 90 days following the adoption of this bylaw and shall thereafter comply with all of the requirements herein.

## **7.4 HOTEL**

**7.4.1 General.** A hotel shall be allowed as set forth in the Table of Use Regulations, provided that the following standards shall be met.

1. The minimum floor area per unit, not including corridors and public floor areas, shall be 240 square feet;
2. No hotel unit floor elevation shall be located below the mean grade level of the land; and
3. No more than 10% of the public floor area (lobby, function rooms, restaurants) shall be used for accessory commercial uses such as newsstands, barber or beauty shops,

vending machines, gift shops or offices other than those offices necessary to the management of the hotel.

## **7.5 NATURAL GAS CUSTODY TRANSFER FACILITIES**

**7.5.1 Purpose.** The purpose of this Section is to permit the construction and operation of natural gas custody transfer facilities in the Town of Sharon while minimizing their adverse impact on adjacent properties and residential neighborhoods and limiting the number of such facilities to those which are essential. For the purpose of this Section "natural gas custody transfer facility" shall mean a gate station at which natural gas will be received and reduced in pressure for transfer and introduction into the service system.

**7.5.2 General Requirements.** No natural gas custody transfer facility shall be constructed or operated except in compliance with the provisions of this section. In all cases, a special permit is required from the Zoning Board of Appeals. Any proposed material adjustment or renovation of the facility shall be subject to a new application for a special permit.

**7.5.3 Application Process.** All applications for a special permit for a natural gas custody transfer facility shall be made and filed on the appropriate form in compliance with the rules and regulations of the Zoning Board of Appeals. In addition, each applicant must submit the following information as part of its application:

1. A locus plan at a scale of one inch equals 100 feet which depicts all property lines, precise locations of proposed structure(s), streets, landscape features, and residential dwellings and buildings, which are within a five-hundred-foot radius of the proposed facility. The plan shall also identify all abutters to the property as shown on the most recent Town Assessor's Map; and
2. Engineer's certification that the proposed facility complies with all applicable federal and state standards regulating such facilities.

**7.5.4 Special Permit Review.** Applications for a special permit for a natural gas custody transfer facility shall be reviewed in accordance with the procedures under Section 10.5.2 of this Bylaw. In addition, every applicant must demonstrate that the proposed natural gas custody transfer facility provides adequate safeguards to protect the public, control noise and other emissions, and complies with the applicable building height limitations contained in Section 4.0 of this Bylaw.

## **7.6 STORAGE OF TRAILERS**

**7.6.1 General.** For the purpose of this Section, a "trailer" shall be defined as any vehicle or object on wheels or from which wheels have been removed, and having no mode of power of its own, but which is drawn by or used in combination with a motor vehicle. It shall not include farm machinery nor implements when used in connection with the operation of a farm, recreational or camping trailers, boat, motorcycle, horse or other trailers that are intended to be

used to haul recreational equipment or vehicles, or any other trailer that is 10 feet or less in length, excluding its hitch.

**7.6.2 Restriction.** No trailer or part of such vehicle shall be stored for more than 10 days in a calendar year in a rural, residence, suburban or housing authority district unless it is stored on a lot for which the primary use is a valid business or commercial use; provided, however, that storage on other lots in the above-listed districts may be permitted by special permit granted by the Zoning Board of Appeals. All applicants for such special permits shall be subject to the conditions and requirements and processed in the manner provided in Section 10.5 of this Bylaw.

## **7.7 SOLAR ENERGY SYSTEMS.**

**1. Limited Industrial District.** Large-scale ground-mounted solar photovoltaic installations are allowed in the Light Industrial District subject to ~~as-of-right~~ site plan review pursuant to Section 10.6 and shall not be subject to special permit, variance, amendment, waiver, or other discretionary approval. Construction, operation, and/or repair of such large scale ground mounted solar photovoltaic installations shall be subject to the following requirements

1. Compliance with laws, ordinances and regulations. The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, 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 installation shall be constructed in accordance with the State Building Code.
2. Building permit and building inspection. No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this Section without first obtaining a building permit.
3. Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
4. Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
5. Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the site plan review 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's or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

6. 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 large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

7. Abandonment. Any facility which permanently ceases operation or that has been abandoned shall be demolished and removed and the site shall be restored, revegetated, and stabilized within six months following discontinuance of operations. The site plan review authority shall require posting of permanent security in an amount adequate to ensure demolition and removal of the facility and restoration, revegetation, and stabilization of the site. The amount of the security shall be updated from time to time throughout operation of the facility as required by the site plan review authority.

**2. Residential Districts.** In all residential districts, commercial solar energy systems on land owned by the Town of Sharon, other than land under the control of the Sharon Conservation Commission are allowed provided, however, such use is permitted only on a parcel consisting of two or more acres. Parcels separated by a road shall be considered adjacent for purposes of this Section. Solar energy systems permitted under this subsection shall be exempt from lot coverage, natural vegetation and impervious surface requirements as defined in Section 4.0 of this Bylaw.

**DELETE OLD MARIJUANA MORATORIUM SECTION 3700**

## SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

### 8.1 ACCESSORY DWELLING UNITS (ADU).

#### 8.1.1 Purpose. The purpose of this Section is to:

1. Provide small additional dwelling units to rent without adding to the number of buildings in the Town or substantially altering the appearance of the Town;
2. Provide alternative housing options for elder residents and small families; and
3. Enable owners of single family dwellings larger than required for their present needs to share space and the burdens of home ownership.

**8.1.2 Procedures.** Accessory dwelling units may be allowed by special permit in an existing principal dwelling or in an existing detached structure on the same lot, provided that each of the following additional conditions are met. The SPGA shall be the Zoning Board of Appeals.

#### 8.1.3 Conditions.

1. A plot plan of the existing dwelling unit and proposed accessory dwelling unit shall be submitted to the SPGA, showing the location of the building on the lot, the proposed accessory dwelling unit, location of any septic system and required parking. A mortgage inspection survey shall be sufficient to meet this requirement.
2. An affidavit shall be provided stating that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence. A second affidavit shall be provided stating that the other dwelling unit shall be leased or occupied by a person in the owner's family or a caretaker for the owner's family. The principal dwelling unit and the ADU shall remain forever in the same ownership.
3. Not more than one accessory dwelling unit may be established on a lot. The accessory dwelling unit shall not be served by any separate utility meter.
4. The accessory dwelling unit shall not be larger in floor area than 50% of the habitable floor area of the principal dwelling, or 900 square feet, whichever is smaller.
5. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure or accessory structure thereto. "Significantly altered" shall mean no increase in gross floor area greater than 10% shall be allowed.
6. Sufficient and appropriate space for at least one (1) additional parking space, when necessary and feasible, shall be constructed on-site by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway. Pervious pavement is preferred.

7. The special permit shall expire after five years; provided, however, that the special permit may be renewed by the SPGA without a public hearing if the permittee submits an affidavit to the SPGA prior to such expiration date indicating that there has been no change in circumstances with regard to the accessory dwelling unit and that (1) one of the dwelling units on the property continues to be owner occupied, and (2) the other unit is occupied by a member of the owner's family or caretaker.

**8.1.4 Decision.** Special permits for an accessory dwelling unit may be granted by the SPGA upon a finding that the construction and occupancy of the accessory dwelling unit will not be detrimental to the neighborhood in which the subject property is located and after consideration of the factors set forth in Section 10.5 of this Bylaw.

## **8.2 SENIOR HOUSING FACILITY.**

**8.2.1 Purpose.** The purpose of this Section is as follows:

1. To provide for the development and use of alternative housing and nursing care for the elderly;
2. To create home health care, housing and other supportive services for the senior population outside of an institutional setting;
3. To encourage the preservation of open space;
4. To provide alternative housing for seniors that cause relatively little demand on Town services;
5. To preserve the Town's residential character;
6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space;
7. To provide housing which is affordable seniors who are residents of the Town.

**8.2.2 Definitions.** See Section 11.0, "Senior Housing Facility".

**8.2.3 Applicability.** The Planning Board may grant a special permit for a Senior Housing Facility as defined in Section 11.0 and as set forth in the Table of Use Regulations, subject to the requirements of this Section.

1. This Section shall not apply to Senior Housing Facilities existing on the date of adoption of this Section.



**8.2.4 Dimensional Requirements and Design Standards.** Dimensional requirements and design standards shall be as follows:

1. Minimum Lot Size. The minimum lot size (square feet) shall be that required in the district.
2. Building Height. Any addition or new construction shall not exceed 35 feet in height as measured in accordance with the State Building Code. This shall not preclude the reuse and renovation of existing structures which may exceed this height limit.
3. Building Setbacks. Buildings shall be set back the distance required in the district for side and rear yards.
4. Setback from Residential Dwellings. All principal buildings associated with the Senior Housing Facility shall be no closer than 30 feet from existing residential dwellings unless reduced by the SPGA.
5. Minimum Lot Frontage. The minimum lot frontage shall conform to the requirements of the district where such use is located.
6. Town Services. Facilities shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.
7. Transportation Services. The operator of the facility shall be required to provide or arrange for transportation to Town services and facilities.
- ~~8. Parking. The minimum number of parking spaces provided on the lot shall be 0.5 spaces per bedroom, plus spaces equal to the largest employee shift, plus one visitor space per every ten bedrooms. These requirements may be reduced by the SPGA where public transit is reasonably available.~~
8. Access and On-site Circulation. Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) thereon for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
9. Public Safety. The facility shall have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of residents with emphasis on ensuring the safety of residents with physical impairments.
10. Landscaping. Landscaping and screening is required to obscure visibility from beyond the boundaries of the premises of parking areas, dumpster locations and loading

areas. The minimum setback from all property lines of such parking lots, dumpster locations, and loading areas, except for their points of ingress and egress, shall be 15 feet.

**8.2.5 Accessory Uses.** The operator of the Senior Housing Facility may also provide optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the Senior Housing Facility and the accessory uses shall be wholly within a residential structure and shall have no exterior advertising display.

**8.2.6 Special Permit Procedure.** The procedure for a special permit under this Section shall be governed by Section 10.5.

### **8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)**

**8.3.1 Purpose.** The purpose of this section, OSRD, is to:

1. Encourage the preservation of undeveloped land for its scenic beauty; to protect the natural environment, including the Town's varied landscapes and water resources and to enhance opportunities for recreational uses;
2. Preserve historical and archeological resources;
3. Promote more sensitive siting of buildings and better overall site planning;
4. Perpetuate the natural landscape and ecosystem of the site;
5. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner that minimizes impervious area and stormwater runoff, while minimizing Town maintenance requirements;
6. Offer an alternative to standard subdivision development that is more efficient and economic, minimizing impacts to natural resource areas, including wetlands and waterways; and
7. Promote the development of housing affordable to low, moderate, and median income families.

**8.3.2 Definitions.** See "Open Space Residential Development in Section 11.0.

**8.3.3 Applicability.** In accordance with the following provisions, and as set forth in the Table of Use Regulations, Appendix A, an OSRD project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels of five (5) or more acres held in common ownership.

**8.3.4 Procedures.** OSRD may be authorized upon the issuance of a special permit by the Planning Board. When an application for approval of an OSRD Site Plan is filed with the

Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Inspector of Buildings, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish 11 paper copies and an electronic copy of all submitted materials. Reports from other boards and officials shall be submitted to the Planning Board within forty-five (45) 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 45 day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 45 day period. The Planning Board shall hold a public hearing within 65 days of receipt of a complete application and shall file its written decision with the town clerk within 90 days from the close of the public hearing, and notify the applicant of its decision. Incomplete applications will be rejected. The Decision shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

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. The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of MGL Chapter 40A, Section 17.

**8.3.5 Basic Maximum Number of Dwelling Units.** The Basic Maximum Number of dwelling units allowed in an OSRD shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional Definitive Subdivision Plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements.

**8.3.6 Density Bonus.** The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the OSRD shall not, in the aggregate, exceed 20% of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site over the open space required in 8.3.15 and set aside as contiguous open space, a bonus of five (5%) percent of the Basic Maximum Number may be awarded. Bonus not to exceed 15% of Basic Maximum Number.
2. Where the Planning Board determines that the applicant has offered significant amenities to the Town, including but not limited to infrastructure improvements, equipment, technical assistance, or the preservation of land outside the OSRD, a bonus of up to 10% the Basic Maximum Number may be awarded. Bonus not to exceed 15% of Basic Maximum Number.

**8.3.7 Design Process.** The applicant will submit a Conventional Plan. The applicant shall have the burden of proof with regard to the design and engineering specifications for such Conventional Plan by meeting all applicable dimensional regulations for the zoning district in which the project will be developed. The Conventional Plan will include lot areas, frontage, wetlands and associated 100 and 125-foot wetland buffers, roadway right-of-way and a dedicated lot for stormwater infiltration or LID (low-impact development) stormwater BMP's (best management practices). The Conventional Plan will be submitted by the proponent and approved by the Planning Board prior to proceeding to the "Concept Plan" stage.

**8.3.8 Concept Plan.** Before submitting an application for approval of an OSRD special permit, an applicant must submit a Concept Plan for approval by the Planning Board. The Concept Plan shall be prepared by a Registered Professional Engineer, Professional Land Surveyor, or by a multidisciplinary team of which one member must be a Registered Professional Engineer or Land Surveyor, and shall address the general topographic features of the land, give approximate configurations of the lots - if separate lots are being created and/or proposed residential unit number and location of the units, with any density bonus multipliers included for lot or unit numbers, open space, and roadways, and include the information as appropriate as listed in OSRD Site Plan Rules and Regulations. When the Planning Board approves the Concept Plan, the applicant may then file an OSRD special permit application.

**8.3.9 OSRD Special Permit.** An application for an OSRD special permit shall contain a fully engineered plan, conforming with the provisions this Section, all the provisions of Land Subdivision Rules and Regulations. A site plan conforming with Section 10.6 shall be included. The Site Plan shall incorporate the features of the sketch plan but include existing and proposed contour lines in 2-foot intervals, stormwater management infrastructure, wetlands, streams and associated 100 and 125-foot wetland buffers, buffers, flood zone boundaries, Zone II and water protection district boundaries, wastewater system design and location, utilities (water, gas, electric and cable when applicable), roadways and sidewalks, existing trails, stone walls, building or other significant structures and all other information as required within the above described bylaws and regulations.

**8.3.10 Modification of Lot Requirements.** The Planning Board encourages applicants for OSRD to modify lot size, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

1. 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) are consistent with existing development patterns in the neighborhood.
2. Side and rear setbacks shall be required as set forth in the host district, but the Planning Board may reduce setbacks but not more than 50% of the required side and rear yards in the district.

**8.3.11 Affordable Component.** As a condition of the grant of any special permit for an OSRD, a minimum of (10%) of the total number of dwelling units shall be restricted in perpetuity. The

total number of dwelling units shall be the sum of the Bonus Units, if any, plus the Basic Maximum Number. The restriction shall be approved as to form by legal counsel to the Planning Board to ensure that the dwellings units will count on the Commonwealth's Subsidized Housing Inventory, and a right of first refusal upon the transfer of such restricted homeownership units shall be granted to the local Affordable Housing Trust for a period not less than 120 days after notice thereof.

**8.3.12 Types of Buildings.** The OSRD may consist of any combination of single-family, two-family, or three-family residential structures. Residential structures shall be oriented toward the street serving the premises and not the required parking area, unless waived by the Planning Board.

**8.3.13 Roads.** The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant. Roadway width and sidewalk design can deviate from Planning Board regulations, if approved by the Board.

**8.3.14 Parking.** Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. Additional parking can be approved and may be desirable but at no time can additional parking be located on roadways outside the proposed development.

**8.3.15 Contiguous Open Space.** A minimum of 20% of the parcel shown on the development plan shall be contiguous open space to the extent possible. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 1, above. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to 10% of such open space to be paved or built upon for structures

accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.

4. Underground utilities to serve the OSRD site may be located within the contiguous open space.

**8.3.16 Ownership of the Contiguous Open Space.** The contiguous open space shall be restricted from residential development in perpetuity. At the Applicant's election, the open space can be conveyed to

1. The Conservation Commission, if they approve the conveyance but all maintenance of the open space would be the responsibility of the homeowner's association.

2. 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;

3. A corporation or trust owned jointly or in common by the owners of lots 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. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

**8.3.17 Buffer Areas.** A buffer area of 25 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

**8.3.18 Stormwater Management.** Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and the General Bylaws of the Town of Sharon.

**8.3.19 Condominium or Homeowners' Association.** In order to maintain and repair any common areas or the required open space, the developer shall create a condominium or

homeowner's association. The documents establishing such association shall be approved as to form by Town Counsel. The HOA members names will be filed with the Town Clerk.

**8.3.20 Decision.** The Planning Board may approve, approve with conditions, or deny an application for an OSRD after determining whether the OSRD better promotes the purposes of Section 8.2.1 of this OSRD Bylaw than would a conventional subdivision development of the same locus.

**8.3.21 Relation to Other Requirements.** 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 Bylaw.

## 8.4 DWELLING CONVERSIONS

**8.4.1 Applicability.** Within Single Residence, Suburban and Rural Districts, the following uses may be authorized on special permit from the Zoning Board of Appeals.

1. One additional **principal** dwelling unit within a building or structure, ~~provided: (a) That the building or structure in which the additional unit is located is occupied by the owner; (b) That the additional unit is occupied only by a person or persons related to the owner; and (c) That the additional unit shares a common entrance in the existing structure.~~

2. Conversion of a single residence dwelling which was in existence on the date this Zoning Bylaw became effective, March 13, 1933, into a residence with two principal dwelling units.

~~Conversion of a single residence which was in existence on the date this Zoning Bylaw became effective, March 13, 1933, into a residence for two families.~~

3. Conversion of a dwelling or building accessory thereto, or both, into a building or buildings containing in the aggregate as many **principal** dwelling units as could be obtained if the dwelling and building accessory thereto, if any, were to be razed, the lot subdivided into as many lots as the Zoning Bylaw permits and as many dwelling units as permitted by the Zoning Bylaw were then constructed; provided that the dwelling and the building accessory thereto, if any, were in existence on the date this Zoning Bylaw became effective (March 13, 1933) and that a permanent preservation restriction under MGL c. 184, §§ 31 through 33, is provided, assuring the future integrity of the building exterior and the grounds.

**8.4.2 Municipal Building Conversions.** In Single Residence, Rural and Suburban Districts, and Business District C, a special permit from the Select Board may authorize conversion to multifamily dwelling use of a building then or formerly in municipal use, provided that additions or extensions increase lot coverage by not more than 10% of lot area. Lot area plus contiguous land dedicated to public recreation or conservation use shall equal at least 2,000 square feet per dwelling unit.; ~~the provisions of this section shall prevail over the provisions and/or limitations of Subsection 2320, including without limitation Subsections 2321 and 2326.~~

## **8.5 MULTIFAMILY/MIXED USE REGULATIONS IN THE BA, BB, AND BC DISTRICTS.**

**8.5.1 BA District.** Site plan approval shall be required pursuant to Section 10.6. The Planning Board shall be the authority for site plan review and the Zoning Board of Appeals shall be the special permit granting authority for all developments in BA District, unless otherwise noted in this Bylaw. In addition to the reviews provided in said sections, the Planning Board and Zoning Board of Appeals shall also consider suitability and safety of ways for residents to their apartments, parking areas and usable open space; and the compatibility of the proposed nonresidential uses with residential uses with respect to safety from fire or other hazards and to protection from noise, litter or other nuisance.

**8.5.2 BA District Requirements.** Multiple-residence buildings containing three or more dwelling units, and mixed-use buildings with or without residential uses which require a special permit in the Table of Use Regulations, including services related thereto, shall be designed in accordance with the following:

1. There shall be a minimum lot area requirement of 2,200 square feet per dwelling unit.
2. There shall be no restriction on combining different categories of permitted uses within the same building other than those imposed by the State Building Code or other federal, state or local regulations other than the Zoning Bylaw.
3. Where it faces a street, a building shall have no more than 40% of its ground floor frontage devoted to residential uses, or enclosed parking.
4. Blank walls shall not occupy more than 40% of a ground floor street-facing frontage and shall not exceed 20 linear feet without being interrupted by a window or entry.
5. Buildings shall provide a foundation or base that extends from the ground to the bottom of the lower window sills that is distinguished from the building face by a change in volume or material. A clear visual division shall be maintained between the ground level floor and upper floors, which may include changes in volume or materials or other architectural detailing such as a belt course or cornice. The top of any building shall contain a distinctive finish consisting of a cornice or other architectural termination.
6. All ground floor facades facing public sidewalks, plazas, or other public open spaces, streets or rights-of-way shall have transparent features covering a minimum of at least 40% and a maximum 80% of the area between two feet and 10 feet above grade. Transparent features may include windows and transparent doors. "Transparent" means that an individual can see into the building from the outside. Transparent glass may be tinted, low-E, or include other similar treatment. For residential uses, this minimum transparency requirement is reduced to 20% of the area between two feet and 10 feet above grade to allow for increased privacy. Other treatments that enhance the pedestrian environment may be used.



**8.5.3 BA District; Landscaping.** On a lot which is used for residence as well as business uses, the landscaping requirements of **Section 6.1.10** shall apply to side and rear lot lines, except where driveways or parking areas are shared with an adjoining lot. A strip of lawn or natural vegetation at least 20 feet wide may be substituted in place of the screening otherwise required.

**8.5.4 BA District; Parking.** Notwithstanding the provisions of **Section 6.1.5**, all off-street parking required for residences shall be located on the same lot, or adjacent lots, and shall be reserved for the residents and their guests.

**8.5.5 BB and BC Districts.** Apartments in excess of two dwelling units, including services related thereto, over nonresidential establishments may be authorized in the BB and BC Districts by special permit from the Zoning Board of Appeals, provided that no dwelling unit shall be located below the second floor, in accordance with the following.

**8.5.6 BB and BC District Requirements.**

1. Number of bedrooms shall not exceed 16 per acre. For the purposes of this calculation, a studio apartment shall be considered a one-bedroom apartment.
2. Usable open space shall be provided on the same site to at least the following amounts of square feet per unit:

Studio apartment	400
One-bedroom apartment	600
Two-bedroom apartment	800
Three or more bedroom apartment	1,200

3. Usable open space shall be on substantially level ground and open to the sky; maintained in grass or landscaped as recreational or park area, provided that no more than 25% of the required minimum usable open space is covered with impervious materials; not less than 20 feet in any dimension, exclusive of required setbacks; accessible to all residents on the site without crossing parking areas or driveways.
4. Notwithstanding the provisions of **Section 6.1.5**, all parking required for residences shall be located on the same lot and shall be reserved for the residents.
5. On a lot which is used for residence as well as business, the landscaping requirements of **Section 6.1.10** shall apply to side and rear lot lines, except where driveways or parking areas are shared with an adjoining lot. A strip of lawn or natural vegetation at least 20 feet wide may be substituted in place of the screening otherwise required.
6. Site plan approval shall be required in all cases pursuant to Section 10.6. In addition to the criteria provided therein, the Zoning Board of Appeals shall also consider suitability and safety of ways for residents to their apartments, parking areas and usable open space; and the compatibility of the proposed nonresidential uses with residential

uses with respect to safety from fire or other hazards and to protection from noise, litter or other nuisance.

## **8.6 AFFORDABLE HOUSING IN THE BA DISTRICT**

**8.6.1 Applicability.** Within Business District A, for those developments requiring a special permit for eight or more dwelling units, whether through new construction, substantial rehabilitation, residential conversion, or adaptive reuse, a minimum of 12.5% of dwelling units built shall be affordable housing. Developments shall not be segmented or phased in a manner to avoid compliance with these provisions.

**8.6.2 Definitions.** See definitions for “Affordable Housing; BA District” in Section 11.0.

**8.6.3 Marketing Plan.** Any applicant for a special permit for a development of eight or more dwelling units in Business District A must submit to the special permit granting authority a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse types of households, including households for individuals with disabilities and the elderly.

**8.6.4 Number of Affordable Housing Units.** For purposes of calculating the number of units of affordable housing required within a development, any fractional unit greater than or equal to 0.5 shall be deemed to constitute a whole unit.

**8.6.5 Requirements.** Affordable housing shall be eligible for inclusion on the Department of Housing and Community Development’s (DHCD) Subsidized Housing Inventory (SHI). ~~comply with the following requirements:~~

~~(i)~~

~~For an affordable rental unit, the monthly rent payment, including utilities and parking, shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one.~~

~~(ii)~~

~~For an affordable homeownership unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowners' association fees, insurance, and parking, shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one.~~

~~(iii)~~

~~Affordable housing required to be offered for rent or sale shall be rented or sold to and occupied only by eligible households.~~

~~(iv)~~

1. At least 10% of the affordable housing units shall be handicapped-accessible.
2. Units of affordable housing shall be finished housing units.
3. Units of affordable housing shall be dispersed throughout the development of which they are part and be comparable in initial construction, quality and exterior design to other

housing units in the development. The total number of bedrooms in the affordable housing shall be at least proportionate to the total number of bedrooms in all the units in the development project of which the affordable housing is part.

~~8.6.6 Alternatives. Though it is intended that affordable units be included on site, the special permit granting authority may authorize affordable housing on an alternative site(s) in Town suitable for housing use, preferably in the same neighborhood as the on-site development. Affordable off-site units may be located in an existing structure, provided that their construction constitutes a net increase in the number of affordable dwelling units contained in the structure. The number of off-site units shall be, at minimum, equal to that number of units otherwise required to be provided on-site. Off-site units shall be compatible in all respects with the market-rate units built on-site, including quality and character, construction value, and site amenities (yards, parking, laundry facilities, etc.). Any units provided in an off-site development should also be compatible with the off-site neighborhood, in terms of design, to the degree practical.~~

~~1. In all cases utilizing off-site units, a finding by the special permit granting authority that this alternative method of compliance is advantageous to the Town in creating or preserving affordable housing and does not result in undue geographic concentration of affordable housing is required. In making its finding, the special permit granting authority shall consider such factors as location, accessibility to schools and other services, whether off-site units would provide more appropriate family housing than on-site units would, availability of parking, proximity to public transportation, availability of open space, etc. The special permit granting authority shall consult with the Sharon Housing Partnership prior to making a determination about the location of units on an alternate site(s).~~

~~Affordable housing restriction. Each unit of affordable housing shall be subject to an affordable housing restriction which is recorded with the appropriate Registry of Deeds or District Registry of the Land Court. Such affordable housing restriction shall contain the following:~~

~~(i)  
Specification of the term of the affordable housing restriction, which shall be the maximum period allowed by law, or in perpetuity;~~

~~(ii)  
The name and address of a monitoring agent with a designation of its power to monitor and enforce the affordable housing restriction;~~

~~(iii)  
A description of the affordable homeownership unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of affordable rental units in a project or portion of a project which are rental. Such restriction shall apply individually to the specifically identified affordable homeownership unit and shall apply to a percentage of rental units of a rental project or the rental portion of a project without specific unit identification;~~

~~(iv)  
Reference to a housing marketing and resident selection plan, to which the affordable housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The plan shall contain a requirement that 70% of the affordable housing units shall be set aside for applicants that claim a local preference. Local~~

~~preference applies to an applicant who has a principal residence or a place of employment in the Town of Sharon at the time of application. The plan shall also designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such unit shall be given to a household of the appropriate size;~~

~~(v)~~

~~A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of eligible households compiled in accordance with the housing marketing and selection plan;~~

~~(vi)~~

~~Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;~~

~~(vii)~~

~~A requirement that only an eligible household may reside in affordable housing and that notice of any lease or sublease of any unit of affordable housing shall be given to the monitoring agent;~~

~~(viii)~~

~~Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the monitoring agent;~~

~~(ix)~~

~~Provision that the restriction on an affordable homeownership unit shall run in favor of the monitoring agent and the Town, in a form approved by municipal counsel, and shall limit initial sale and all subsequent resales to and occupancy by an eligible household;~~

~~(x)~~

~~Provision that the restriction on affordable rental units in a rental project or rental portion of a project shall run with the rental project or rental portion of a project and shall run in favor of the monitoring agent and the Town, in a form approved by municipal counsel, and shall limit rental and occupancy to an eligible household;~~

~~(xi)~~

~~Provision that the owner(s) or manager(s) of affordable rental unit(s) shall file an annual report to the monitoring agent, in a form specified by that agent, certifying compliance with the affordability provisions of this bylaw and containing such other information as may be reasonably requested in order to ensure affordability;~~

~~(xii)~~

~~A requirement that residents in affordable housing provide such information as the monitoring agent may reasonably request in order to ensure affordability.~~

~~(7)~~

~~Monitoring agent. A monitoring agent, which may be the Sharon Housing Authority, or other qualified housing entity, shall be designated by the special permit granting authority. In a case where the monitoring agent cannot adequately carry out its administrative duties, upon certification of this fact by the special permit granting authority, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the special permit granting authority. In any event, such monitoring agent shall ensure the following, both prior to issuance of a building permit for a project in the Business District A, and on a continuing basis thereafter, as the case may be:~~

~~(i)~~

~~Prices of affordable homeownership units are properly computed; rental amounts of affordable rental units are properly computed;~~

~~(ii)~~

~~Income eligibility of households applying for affordable housing is properly and reliably determined;~~

~~(iii)~~

~~The housing marketing and resident selection plan conforms to all requirements and is properly administered;~~

~~(iv)~~

~~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~~

~~(v)~~

~~Affordable housing restrictions meeting the requirements of this section are recorded with the proper Registry of Deeds.~~

~~(8)~~

~~Housing marketing and selection plan. The housing marketing and selection plan shall make provision for payment by the applicant or project proponent of reasonable costs to the monitoring agent to develop, advertise, and maintain the list of eligible households and to monitor and enforce compliance with affordability requirements, as set forth in Subsection 4240e(6).~~

~~(9)~~

**8.6.7 Phasing.** The special permit granting authority, as a condition of any approval, may require a project to be phased in order to mitigate any extraordinary adverse impacts on nearby properties. For projects that are approved and developed in phases, the special permit granting authority shall assure the required number of affordable housing units in the project. Such assurance may be provided through use of the security devices referenced in M.G.L. c. 41, § 81U, or through the special permit granting authority's withholding of certificates of occupancy until proportionality has been achieved.

**8.6.8 Computation.** Prior to the granting of any approval of a project, the applicant must demonstrate, to the satisfaction of the monitoring agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town.

**8.6.9 No Variance or Waiver.** Notwithstanding anything to the contrary herein, the affordability provisions in this Section shall not be varied or waived.

## **8.7 AFFORDABLE HOUSING IN THE BD DISTRICT.**

**8.7.1 Purpose.** The purpose of this requirement is to make housing available that is affordable to low and moderate income households. ~~At minimum,~~The affordable housing provided shall comply with all requirements for inclusion on the Subsidized Housing Inventory (SHI) of the Department of Housing and Community Development (DHCD). ~~be in compliance with the requirements set forth in MGL c. 40B, § 20-24. The units of affordable housing provided shall be considered as local initiative units, in compliance with the requirements of the Massachusetts Department of Housing and Community Development (DHCD).~~

~~(2)~~

**8.7.2 Definitions.** See the definition of “Affordable Housing; BD District” in Section 11.0.

**8.7.3 Requirements.**

1. The minimum number of units of affordable housing provided shall be 12.5% of the total number of on-site dwelling units with any fractional unit deemed to constitute a whole unit.

2. Long-term eligibility must be protected through a deed rider which shall be in force for the maximum period allowed by law but not less than 99 years.

~~3. Affordable housing may be ownership units or rental units and may be provided on site or off site; however, providing units on site is preferred.~~

~~4. If units are provided off site, the Zoning Board of Appeals shall determine the comparability of the off-site units in terms of design, location, and access to Town services and amenities as part of major site plan review.~~

3. The number of units of affordable housing as provided herein may not be waived.

**8.7.4 Certificates of Occupancy.** The issuance of certificates of occupancy for market rate units shall be scheduled as a condition to be included in the special permit decision. ~~for market rate units shall not be issued until certificates of occupancy have been issued and deed restrictions recorded in the Registry of Deeds or the Land Court for the units of affordable housing in accordance with the following schedule:~~

<del>Market Rate Housing Units Percent Complete</del>	<del>Affordable Housing Units Percent Complete</del>
<del>Less than 15</del>	<del>None required</del>
<del>15</del>	<del>15</del>
<del>30</del>	<del>32</del>
<del>45</del>	<del>49</del>
<del>60</del>	<del>66</del>
<del>75</del>	<del>83</del>
<del>90</del>	<del>100</del>

~~(5)~~

~~A housing marketing and resident selection plan is required which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process, and a requirement that 70% of the units of affordable housing shall be set aside for applicants that claim a local preference. Local preference applies to an applicant who has a principal residence or a place of employment in the Town of Sharon at the time of application.~~

**8.8 FLEXIBLE DEVELOPMENT**

**8.8.1 Purpose.** The intent of this Section is to allow flexibility in meeting the basic intent of the dimensional requirements of Section 4.0, and to provide incentives for development to better serve public interests than otherwise required, and to provide for multifamily development. These provisions shall apply to all parcels of 10 acres or more in Rural, Suburban or Single Residence A Districts, except where more specifically limited herein. All Flexible Developments shall comply with the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges

**8.8.2 Application and Review Procedure.** Applicants for a special permit for Flexible Development shall file with the Board of Appeals eight copies of the following, to have been prepared by an interdisciplinary team including a registered land surveyor, a professional engineer and a registered architect or landscape architect:

1. Two or more substantially different alternative development plans, one of which shall be a conventional plan. Each plan shall have been endorsed by the Planning Board as conforming to the requirements for a preliminary subdivision plan under the Land Subdivision Rules and Regulations of the Planning Board. Such plans shall also indicate proposed topography and the results of recent deep test pits and percolation tests at the rate of one per every five acres, but in no case fewer than five per subdivision. To promote better communication and to avoid misunderstanding, applicants are encouraged to submit preliminary proposals for informal review before formal application for such endorsement. Upon request, the Planning Board shall arrange a meeting for such review, inviting the Board of Health, Conservation Commission, Town Engineer and any other officials who might be helpful.

2. An environmental and community assessment as required by the Land Subdivision Rules and Regulations.

3. Any additional information necessary to make the assessments cited in this Section at a level of detail commensurate with the scale of the development, as determined by the Zoning Board of Appeals.

**8.8.3 Review by Other Boards.** At the time of application, copies of these materials shall be transmitted by the applicant to the Planning Board, Conservation Commission, Town Engineer, Fire Chief, Police Chief, and Superintendent of Public Works. Those agencies shall report on the proposal within 35 days of the referral, and the Board of Appeals shall make no decision upon the application until receipt of all such reports, or until 35 days have elapsed since date of referral without them.

**8.8.4 Definitive Plan Approval also Required.** Approval of a special permit for Flexible Development by the Board of Appeals does not constitute definitive plan approval under the Subdivision Control Law, nor does it obligate the Planning Board to give such approval.

**8.8.5 Basic Flexible Development.** The Board of Appeals may authorize Flexible Development with reduced requirements for the area and width of individual lots not having frontage on an

existing public way, provided that the following are complied with and made conditions of approval:

1. The number of lots to be developed shall not exceed the number of lots which could reasonably be expected to be developed under the conventional plan endorsed by the Planning Board under this Bylaw and in full conformance with zoning, with Land Subdivision Rules and Regulations, and with the state and Town sanitary codes for on-lot septic systems, including area and percolation requirements.

2. Every residential structure shall be constructed on an individual lot. Lot area shall be not less than 20,000 square feet; lot width at the required setback shall not be less than 100 feet for Flexible Development; and each lot shall have frontage on an existing Town way or a street approved under the Subdivision Control Law.

3. All sites and structures officially designated as being of national, state or local historical or architectural significance shall be maintained and preserved.

4. Any proposed open land, unless conveyed to the Town of Sharon, shall be covered by a recorded restriction enforceable by the Town of Sharon, providing that such land shall be kept in an open state and not developed for such accessory uses as parking or roadway. A minimum of 80% of the open land shall be maintained as a natural vegetation area.

**8.8.6 Multifamily Development.** In Suburban Districts, the Board of Appeals may grant a special permit for multifamily units in flexible developments, subject to the following:

1. In the Suburban 1 District, the allowable number of dwelling units for a multifamily development shall not exceed 200% of the number of lots which could reasonably be expected to be developed under the conventional plan endorsed by the Planning Board under this Section and in full conformance with zoning, Land Subdivision Rules and Regulations and with the state and Town sanitary codes for on-lot septic system disposal systems, including area and percolation requirements.

2. In the Suburban 2 District, the allowable number of dwelling units shall not exceed 150% of the number of lots which could reasonably be expected to be developed under the conventional plan endorsed by the Planning Board under this Section and in full conformance with zoning, Land Subdivision Rules and Regulations and with the state and Town sanitary codes for on-lot septic disposal systems, including area and percolation requirements.

3. No more dwelling units shall be located in the Water Resource Protection District or the Lake Massapoag drainage basin than would be allowed there under conventional development.

4. Only parcels having a minimum area of 10 acres in the Suburban 1 District or 100 acres in the Suburban 2 District are eligible for multifamily development.



5. Each lot containing multifamily dwellings shall have lot area as otherwise required but not less than 5,000 square feet per dwelling unit.

#### **8.8.7 Other Requirements.**

1. Departure from the scale of single family development shall be minimized through including not more than six dwelling units in a single structure, serving not more than a single unit through each building entrance, limiting building length to not more than 200 feet, and having parking areas individually contain not more than 15 parking spaces and being separated from all other parking areas by at least 50 feet.

2. Visual separation from abutting premises shall be assured through providing a buffer containing dense trees and other vegetation for at least 50 feet width between any multifamily structure or parking area for more than six cars and the side and rear boundaries of the development.

3. On-site disposal systems for multifamily dwellings shall be allowed only at locations where the percolation rate is 10 minutes/inch drop or faster and the maximum water table is eight feet or more below natural grade, based on deep hole tests taken between January 1 and April 1.

4. The total number of bedrooms in multifamily dwellings shall not exceed twice the allowable number of such dwelling units, counting studio units as one bedroom.

5. There shall be no more than two floors of habitable space within a dwelling unit; provided, however, the number of habitable floors may be increased to allow a third floor of habitable space if each of the following conditions are met:

a. The third floor of habitable space shall be used only for a den, office, exercise room, hobby room, library, storage room, or other similar use;

b. No more than two rooms in the dwelling unit, including the third floor of habitable space, shall be used as bedrooms. For purpose(s) of this subsection, use of a room for a majority of the days in any six month period for sleeping accommodations shall constitute the use of such room as a bedroom;

c. The unit owner and the homeowners' association, if any, shall enter into a written agreement, as provided herein. Said agreement shall permit the association, if any, and the Building Inspector to enter the dwelling unit to monitor compliance with the provisions of this subsection as a condition for allowing the continued maintenance and use of said third floor of habitable space. Said agreement shall be enforceable by the Building Inspector and/or the homeowners' association;

d. The Building Inspector shall not permit the use of said third floor of habitable space without proof that said agreement has been recorded at the Registry of Deeds;

e. The unit owner and all subsequent unit owners shall provide in any subsequent deed or other conveyance of the dwelling unit notice of the provisions of this subsection;

f. The Planning Board, following a public hearing, shall adopt the form of an agreement suitable for filing at the Registry of Deeds setting forth the requirements of this Section for execution by each homeowner and the specified homeowners' association seeking to make use of this Section. Said agreement must contain a requirement that the aforesaid unit owner shall deliver a Registry certified copy of the fully executed, duly recorded agreement to the Building Inspector and the condominium association certifying under penalties of perjury as to conformity with this Section.

6. Each structure shall be on an individual lot, and even if the development comprises a single structure, it must conform to the requirements of the Subdivision Control Law, if applicable, and be subject to subsequent review, approval and surety arrangements by the Planning Board under the Land Subdivision Regulations.

**8.8.8 Decision Criteria; General.** The Board of Appeals may approve, or approve with conditions, an application for Flexible Development, provided that it determines that such Development would be superior for the Town to that which is likely under conventional development. In making its determination, the Board shall consider the reports from Town boards and agencies, the design objectives of the Land Subdivision Rules and Regulations, and also the following:

1. It is desirable to decrease municipal costs and environmental impacts through reduction in the length of streets, utilities and drainage systems per dwelling unit served.

2. It is desirable to increase the scale of contiguous area assured of preservation in a natural state, off-street pathways and trails, recreation areas open at least to all residents of the development, and wilderness areas.

3. It is desirable that each Flexible Development, fronting on an existing Town way or a street approved or to be approved under the Subdivision Control Law have a buffer strip, which will be preserved in its natural state at least 200 feet deep along the entire length of said way or street.

4. It is desirable that all existing scenic vistas be preserved and that new scenic vistas be created.

5. It is desirable to reduce the number of driveway openings onto existing streets, onto new street fronts to serve more than 20 dwelling units, or within 100 feet of roadway intersections.

6. It is desirable to increase vehicular safety by having fewer, better located or better designed egresses from the development onto existing streets.

7. It is desirable to locate septic disposal systems outside of any Water Protection District, in areas where the percolation rate is highly favorable, the groundwater is deep and slopes are moderate.

8. It is desirable to preserve environmental quality by providing for the following, relative to the number of units developed:

a. Reduction of the total area over which vegetation is distributed by cut or fill or displacement.

b. Reduction in critical lands disturbed by construction. "Critical lands" include slopes in excess of 15%, land within 100 feet of a water body, wetland or stream, land having outstanding or rare vegetation.

c. Reduction of the extent of waterways altered or relocated.

d. Reduction in the volume of cut and fill for roads and construction sites.

e. Reduction in the number of on-site disposal systems or amount of impermeable surfaces located within areas tributary to Lake Massapoag or a well or well development area.

### **8.8.9 Additional Decision Criteria for Multifamily Development.**

1. The design and location of the structure on the site should be consistent with the visual scale and character of single family development.

2. The location of the development and its density should be reasonable in relation to its demands upon access and utilities.

3. There should be positive benefit to the Town by comparison with conventional single family development in some important respect, such as reduction of environmental damage, better controlled traffic or preservation of current character through location of reserved open space.

**DELETE 4380 - SENIOR HOUSING OVERLAY DISTRICT, SECTION 4380**

**DELETE 4360 - CONSERVATION SUBDIVISION DESIGN**

**DELETE 3400 - DEVELOPMENT SCHEDULING**

## SECTION 9.0 SPECIAL DISTRICT REGULATIONS

### 9.1 FLOODPLAIN OVERLAY DISTRICT (FPOD)

**9.1.1 Overlay District.** The Floodplain District is herein established as an overlay district **superimposed over all other districts.** Any development within the FPOD shall be subject to all otherwise applicable requirements of the underlying zoning district in which it is located, including usual use and dimensional requirements. Where the FPOD imposes greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

**9.1.2 Location.** The FPOD includes all special flood hazard areas within the Town of Sharon designated as Zones A and AE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Sharon are Panel Numbers 25021C0187E, 25021C0188E, 25021C0189E, 25021C0191E, 25021C0193E, 25021C0194E, 25021C0351E, 25021C0352E, 25021C0353E, 25021C0354E, 25021C0356E, 25021C0357E, 25021C0358E, 25021C0359E, and 25021C0366E, dated July 17, 2012. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Engineering Division of the Department of Public Works.

**9.1.3 Base Flood Elevation.** The base flood elevation shall be the level of flooding having a one-percent chance of being equaled or exceeded in any given year, as designated on FEMA FIRMs. In the absence of such designation, the base flood elevation shall be determined by the Inspector of Buildings based upon the best available information regarding flood hazards, including any available United States Geological Survey, Natural Resources Conservation Service and Corps of Engineers studies, after seeking and obtaining the recommendation of the Town Engineer.

1. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.

**9.1.4 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.

**9.1.5 Encroachments of Proposed Development.** Within the floodway designated on the FEMA Flood Insurance Rate Map, no encroachments (including fill, new construction, substantial improvements, or other development) shall be allowed unless it is demonstrated by the applicant that, as a consequence of compensating actions he is undertaking, his proposed development will not result in any increase in flood levels within the Town during a flood to the base flood elevation.

**9.1.6 Reference to Existing State Regulations.** All development in the FPOD, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with M.G.L. c. 131, § 40, and with the following:

1. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high-hazard areas;
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Adopting Inland Wetland Orders, DEP (currently 310 CMR 13.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
5. 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 state regulations.

**9.1.7 Special Permit.** The Zoning Board of Appeals may grant a special permit for a waiver requirements of Sections 9.1.5 above. Such special permit may be granted only in the case of structures such as boat houses which require waterfront location and are not continuously used for human occupancy, or in the case of development on a lot of less than a half acre which is surrounded by existing nonconforming structures, in either case provided that all of the following are shown:

1. Good and sufficient cause;
2. Failure to allow the departure would result in exceptional hardship to the applicant;
3. Allowing the departure will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other bylaws or regulations;
4. The departure is the minimum necessary, considering the flood hazard, to afford relief.
5. A waiver may also be granted for the reconstruction, rehabilitation, or retoration of structures listed on the National Register of Historic Places.

**9.1.8 Required Notifications.** The applicant shall notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

1. Adjacent communities.
2. NFIP State Coordinator  
251 Causeway Street, Suite 600-700

Boston, MA 02114

3. NFIP Program Specialist  
99 High Street, Floor 6  
Boston, MA 02110

## **9.2 WATER RESOURCE PROTECTION DISTRICT (WRPD)**

**9.2.1 Purpose.** The purpose of the Water Resource Protection District (WRPD) is to protect the public health by preventing degradation of groundwater that serves as a source or a potential source of the Town's public water supply. The purpose of the Surface Water Protection District is also to protect ~~the public health,~~ and the aesthetics, health and public enjoyment of the Town's surface water bodies by preventing degradation of these bodies.

Recognizing the dangers of potential contamination from sewage and chemicals, the Town has used the best available information, including the IEP "Aquifer Protection Study, Town of Sharon, 1987," USGS data and other information, to determine the boundaries of this district and to formulate the regulations contained in this bylaw.

**9.2.2 Applicability.** Water Resource Protection Districts shall be considered to be superimposed over any other district established in this Bylaw. Land in a Water Resource Protection District may be used for any purpose as otherwise permitted in the underlying district, unless prohibited by and in any event subject to the following additional restrictions.

1. Land in either the Groundwater Resource Protection District or the Surface Water Resource Protection District shall be deemed to be in the Water Resources Protection District. The Surface Water Resource Protection District and the Groundwater Resource Protection District shall be as shown on the Zoning Map.
2. Where the premises are partially outside of the Water Resource Protection District, site design shall, to the degree feasible, locate such potential pollution sources as on-site disposal systems outside of the district.
3. Within Water Resource Protection Districts, that portion of the land which is in the more restrictive zone shall be governed by the use and dimensional requirements of the more restrictive zone.

**9.2.3 Special Permits for Insensitive Locations.** The Zoning Board of Appeals, pursuant to Sections 9.2.13 and 9.2.14, may grant a special permit to exempt a location from the requirements of this Section 9.2.

~~4530. Regulations.~~

**9.2.4 Prohibited Uses and Activities.** Within the Water Resource Protection Districts, the following uses and activities are specifically prohibited:

1. Sanitary landfill or other disposal of solid waste;
2. Motor vehicle salvage operations and junkyards;
3. Municipal sewage treatment facilities (publicly owned treatment works), not including sewer lines, force mains, pump stations and other accessory sewer system equipment used to transport sewage;
4. Sewage treatment plants, except as follows: In Business District D ~~and in the Wastewater Overlay District~~, on-site wastewater treatment is permitted, provided that it is authorized by a groundwater discharge permit and a treatment works construction permit as set forth in [Section 6.2.4](#) and provided that the wastewater treatment plant does not accept industrial wastewater as defined in 310 CMR 15.004(5) or wastewater from a Health Care Center, hospice, or renal dialysis facility unless the Massachusetts Department of Environmental Protection or the Sharon Board of Health determines that the that the wastewater's constituents are substantially similar to sanitary sewage (310 CMR 15.002) and that adequate funding mechanisms are in place to provide for proper operation and maintenance and for monitoring and testing;
5. Sewage treatment plants, except as follows: In the Light Industrial District, on-site wastewater treatment for domestic wastewater and/or industrial wastewater, as defined in 310 CMR 15.004(5), may be permitted pursuant to [Section 9.2.5](#), provided that it is authorized by a groundwater discharge permit, a sewer extension permit, a sewer connection permit and/or other applicable permits from the Massachusetts Department of Environmental Protection and a treatment works construction permit and/or other applicable permits from the Sharon Board of Health, and further provided that adequate funding mechanisms are in place to provide for proper operation and maintenance and for and testing.
6. Commercial car washes;
7. Outdoor storage of road salt or other deicing chemicals;
8. Any underground fuel storage or other storage tanks or collection pits, including any tanks or collection pits partially below mean ground elevation; except as provided for in [Section 9.2.5](#).
9. Dumping of snow from outside the district;
10. Commercial dry cleaning establishments;
11. Commercial self-service laundries, unless connected to public sewerage;
12. Commercial service and repair of airplanes, boats and motor vehicles, including body shops;

13. Storage and/or sale of petroleum or other refined petroleum products, except within a building which it will heat; except in quantities reasonably associated with normal household use; and except as provided for in **Section 9.2.5**;
14. Commercial plating, finishing or polishing of metals;
15. Chemical and bacteriological laboratories;
16. Storage of herbicides, pesticides or fertilizer, other than in amounts normally associated with household or agricultural uses;
17. The following activities if done commercially: cabinet or furniture making, painting, wood preserving, furniture stripping and refinishing, photographic processing and printing;
18. Electronic circuit assembly;
19. Hotels, ~~or motels~~, except that hotels located in Business District D and hotels ~~and motels~~ located in any district that are connected to public sewerage are not prohibited;
20. The removal of any earth, rock, soils, humus or mineral substance except as to the extent permitted by Chapter 141, Earth Removal, of the Town's General Bylaws.

**9.2.5 Special Permit Uses.** Within the Water Resource Protection Districts, the following uses are prohibited unless a special permit is granted by the Zoning Board of Appeals:

1. Any activity that involves the use, manufacture, storage, transportation or disposal of toxic or hazardous materials in quantities greater than reasonably associated with normal household use; provided, however, that in Business District D, the storage of hazardous materials in sealed containers of five gallons or less normally included in the inventory of retail stores, if authorized by all other provisions of this bylaw, shall not require a special permit;
2. The enclosed storage of road salt or other deicing chemicals;
3. Modification of groundwater flow through use of underdrains or similar devices, except that a special permit shall not be required to maintain, modify or expand single-family residential structures lawfully in existence on April 19, 1983;
4. ~~Sewage generation exceeding six gallons per day per 1,000 square feet of lot area and on site wastewater treatment and disposal except as provided in **Section 6.2**. On site treatment and disposal of domestic wastewater exceeding 10,000 gallons per day total and industrial wastewater as defined in 310 CMR 15.004(5) may be allowed if authorized by the Massachusetts Department of Environmental Protection and by the Sharon Board of Health. Residential wastewater generation shall be calculated as 110 gallons per bedroom per day.~~



4. In Business District D, the following: (1) Retail sale of gasoline and diesel fuel accessory to retail stores; (2) Storage of gasoline and diesel fuel accessory to retail stores in the following. Said storage tanks shall comply with Article XX; Town of Sharon, MA, Code Division 1: Bylaws, Part II: General Legislation, § 160-5D.

- a. Underground storage tanks; or
- b. Storage tanks partially below mean ground elevation; or
- c. Above ground storage tanks.

**9.2.6 Minimum Lot Area.** The minimum lot area within any Water Resources Protection District shall be the greater of the lot area otherwise required in the underlying zoning district or as follows:

District	Minimum Lot Area (Sq. Ft.)
Surface Water Resource Protection	80,000
Groundwater Resource Protection	60,000

~~**9.2.7 Minimum Lot Area in Flexible Development.** The provisions of Section 9.2.6 notwithstanding, in Flexible Developments allowed by special permit, Total land area per dwelling unit within the flexible development shall be as follows:~~

District	Total Land Area (Sq. Ft.)
Surface Water Resource Protection	80,000 per dwelling unit
Groundwater Resource Protection	60,000 per dwelling unit

**9.2.7 Stormwater Management.** Site design shall comply with the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges, and further shall comply with all provisions of the Massachusetts Department of Environmental Protection's Stormwater Management Policy (November 18, 1996, minor revisions March 1997), whether or not the site is otherwise subject to the Massachusetts Wetlands Protection Act (MGL c. 131, § 40). Site design shall result in no increase in the peak rate of stormwater runoff for the ten-year-frequency storm event. Site design shall result in no increase in the total volume of stormwater runoff for the one-year-frequency storm event. Following removal of contaminants, runoff shall be directed towards areas covered with vegetation for surface infiltration. Catch basins, storm drains, and stormwater leaching structures shall be used only where other methods are infeasible and, where such devices are used, shall employ oil/particle separators and other anti-pollution devices and stormwater retention/detention basins. Prior to discharge to vegetated surface infiltration areas or to stormwater leaching structures, stormwater shall be treated to remove 80% of the total suspended solids (TSS) and shall also be treated in a structure to remove petroleum-based contaminants. All sites shall be subject to an operation and maintenance plan using best management practices pursuant to Massachusetts Department of Environmental Protection practice. The operation and maintenance plan requires an adequate funding

mechanism to ensure proper maintenance of all components of the stormwater management system in perpetuity. To the extent practicable, the operation and maintenance plan shall prohibit use of sodium chloride for maintenance of vehicular areas.

**9.2.8 Impervious Materials Coverage.** Except by special permit from the Zoning Board of Appeals, impervious materials shall not cover more than 15% of the lot area and not less than 30% of the lot area in Business District D and not less than 40% of the lot area in all other districts shall be maintained as a natural vegetation area. In evaluating a special permit for an increase in impervious areas above this limit, consideration shall be limited to a determination that any increase in the total volume of stormwater runoff for the one-year-frequency storm event will be recharged on site in compliance with **Section 9.2.7**.

1. The natural vegetation area shall be located so as to maximize the distances between impervious surfaces or on-site disposal systems and any surface water body or municipal well. This provision shall not apply to the proposed activities involving residential structures of four families or less or uses or structures accessory thereto, nor shall it apply to any otherwise permissible use on a lot of 40,000 square feet or less.
2. Large-scale ground-mounted solar photovoltaic installations are excluded from impervious area limitations as defined in Section \*\*\*.

**9.2.9. Special Permit Granting Authority.** The special permit granting authority (SPGA) under this Section shall be the Zoning Board of Appeals. Such special permit shall be granted if the Zoning Board of Appeals determines, after opportunity for review and recommendation by other Town agencies as specified in **Section 9.2.11**, that the intent of this bylaw as well as its specific criteria are met. In making such determination, the Zoning Board of Appeals shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality posed by potential failure of any proposed control measures.

1. Review by other Town agencies. At the time of submission of the special permit application, the applicant shall simultaneously transmit copies to the Planning Board, the Conservation Commission, the Department of Public Works, the Board of Health and any other Town agencies/boards or departments as may be required by the Zoning Board of Appeals for their written recommendations. Failure to respond in writing within 45 days shall indicate approval or lack of desire to comment by said agency.

**9.2.10. Special Permit Submittals.** All applications for special permits shall include:

1. Certification by a registered professional engineer, whose expertise is in hydrogeology and who has been engaged by the Town, at the applicant's expense, that the proposed use will not have a significant adverse impact upon water resources. The applicant will be informed of the cost of professional engineering services in advance. The Town shall not, however, be responsible for any acts, errors or omissions by said engineer; and furthermore, the applicant shall indemnify and defend the Town from any acts, errors or omissions by said engineer.

2. Water elevations and logs of borings driven to a minimum depth of 25 feet or refusal. At least two borings per acre at the location are required, which shall be arranged to identify the direction and depth of groundwater flow.

3. A complete list of all chemicals, pesticides, fuels and 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.

4. A description of any potentially toxic or hazardous waste to be generated and evidence of permits for its proper storage and disposal.

5. Upon the request of the SPGA, a list of measures that the applicant will take to ensure compliance with the conditions imposed by the special permit, including, but not limited to, the circumstances under which the SPGA, its designees or a professional consultant engaged to inspect or monitor these conditions, and a monitoring or inspection schedule.

6. All submittals shall be reviewed by the Town Engineer in accordance with this bylaw, the Stormwater Discharges Generated by Construction Activity General Bylaw, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges, and any other relevant bylaw, and the Town Engineer shall submit his report to the Zoning Board of Appeals prior to the public hearing.

**9.2.11 Special Permit Submittals; Applications for Other than One Single-Family Dwelling.** Applications for other than one single family dwelling shall also include:

1. Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system or any wastewater treatment over 15,000 gallons per day capacity.

2. Projections of downgradient concentrations of nitrogen and other relevant chemicals (e.g., federal safe drinking water standard chemicals) at property boundaries and other locations deemed pertinent by the Zoning Board of Appeals. Projections shall be based upon appropriate groundwater models.

3. The following criteria are to be used for nitrogen calculations for Groundwater and Surface Water Resources Protection Districts:

Wastewater per person	Five (5) pounds of nitrogen per year
Persons per dwelling unit	Three (3)
Lawn fertilizer	Three (3) pounds of nitrogen per 1,000 square feet of lawn per year
Road runoff	0.19 pound of nitrogen per curb mile per day
Background nitrogen concentration	Actual field measurements

4. The following criteria are to be used for groundwater flow and impacts to drinking water supply wells:

Identify probable impacted water supply well	By constructing flow line downgradient of the proposed site
Area recharge rate	16 inches per year for sand and gravel; nine inches per year for till
Hydraulic conductivity	Listed from closest downgradient public supply well
Saturated Thickness Map IEP (1987)	Supplemented with site-specific borings
Groundwater gradient	Sharon Water Table Map (IEP, 1987), supplemented with site-specific measurements

5. Impervious areas. For any proposed activity on a lot that would render more than 15% of the total lot area impervious, the application or site plan shall contain evidence prepared by a registered professional engineer containing drainage calculations, utilizing U.S. Natural Resources Conservation Service methodology, demonstrating that any increase in the total volume of runoff shall be recharged on site and diverted towards areas with vegetation for surface infiltration to the maximum extent possible. The application or site plan accompanying such application shall be accompanied by a narrative statement explaining the use of dry wells, which shall be allowed only upon a showing that other methods are not feasible; all dry wells shall be preceded by oil, grease and space sediment traps to facilitate removal of contaminants.

6. Maintenance of vegetative cover. For any use retaining less than 40% of lot area as a natural vegetative area, the application or site plan shall contain evidence including a narrative statement by a registered professional engineer certifying that such removal of vegetative cover will likely not result in decreased recharge of the groundwater deposit or increased sedimentation of surface waters. The application or site plan shall indicate any restoration proposals or erosion control measures proposed on the premises.

7. Any change, alteration or expansion of a single or two family residence shall not be required to make such submittals as required by Section 9.2.11 at application.

**9.2.12. Criteria for Special Permits for Insensitive Locations within Surface Water Resource Protection District.** Subject to the considerations listed in Section 10.5.4, the Zoning Board of Appeals may grant a special permit to exempt a location within the Surface Water Resources Protection District from the requirement of this Section 9.2 if the applicant demonstrates that the development or use sought will not adversely affect the groundwater because:

1. The location is not within the surface watershed of Lake Massapoag;
2. Its groundwater is not part of the groundwater regime of Lake Massapoag; and

3. Development at the location will have no significant adverse impact upon Lake Massapoag.

**9.2.13. Criteria for Special Permits for Insensitive Locations within Ground Water Resource Protection District.** Subject to the considerations listed in Section 10.5.4, the Zoning Board of Appeals may grant a special permit to exempt a location within the Groundwater Resource Protection District from the requirement of this Section 9.2 if the applicant demonstrates that the development or use sought will not adversely affect the groundwater because:

1. The location is underlain by soils having a transmissivity of less than 10,000 gallons per day per square foot or the location is separated from the aquifer serving as an existing or potential source of public water supply by an aquaclude or groundwater divide; and
2. Development at that location will have no significant adverse impact upon any developed or planned public water supply.

**9.2.14 No Exemption.** A determination by the Zoning Board of Appeals to grant a special permit pursuant to Subsection 9.2.13 or 9.2.14 shall not exempt the applicant from the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

**9.2.15 Criteria for Special Permits not Covered by Sections 9.2.12 or 9.2.13.**

1. Subject to the conditions listed in Section 10.5.4, a special permit for use or activity in a location within the Surface Water Resource Protection District may be granted only if the Zoning Board of Appeals determines, after opportunity for review and recommendation by other Town agencies as specified above, that the use of the location, including on-site waste disposal and other on-site operations, will not cause surface water quality at downgradient streams, ponds or lakes to fall below federal or state standards for Class B surface water as set forth in 314 CMR 4.00, Massachusetts Surface Water Quality Standards.

2. Subject to the conditions listed in Section 10.5.4, a special permit for a use or activity in a location within the Groundwater Resource Protection District may be granted only if the Zoning Board of Appeals determines, after opportunity for review and recommendation by other Town agencies as specified above, that groundwater quality will comply with USEPA rules and regulations implemented under the Clean Water Act and groundwater quality and on-site wastewater discharges will comply with the Massachusetts DEP groundwater discharge permit program (314 CMR 5.00).

3. Subject to the conditions listed in Section 10.5.4, and notwithstanding the provisions of Section 9.2.16.1 or 9.2.16.2, a special permit for a change, alteration or expansion of a single- or two-family residence to be issued by the Zoning Board of Appeals shall consider the following conditions of any special permit granted thereunder:

- a. Water-saving devices for all bathrooms;
- b. Organic-only fertilizers and weed killers;
- c. Leaders for roof gutters into dry wells;
- d. Upgrade of the existing subsurface sanitary disposal system;
- e. Annual pumping of the subsurface sanitary disposal system;
- f. No garbage disposers or disposals;
- g. And such other conditions as may be deemed appropriate.

**9.2.16 No Exemption.** A determination by the Zoning Board of Appeals to grant a special permit pursuant to any part of Section 9.2.16 shall not exempt the applicant from the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

**9.2.17 Violations.** Written notice of any violation of this Section 9.2 shall be provided by the Inspector of Buildings to the owner of the premises, specifying the nature of the violation and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance.

### **9.3 MIXED USE OVERLAY DISTRICT (MUOD)**

**9.3.1 Purpose.** The purpose of this Section is:

1. To promote mixed-use development in accordance with the principles of "smart growth," which increases the availability of affordable housing, provides housing alternatives to meet local needs, promotes walkable neighborhoods, takes advantage of compact design, fosters distinctive and attractive village settings, preserves critical environmental assets, including drinking water supply quality and quantity, surface and groundwater quality and quantity, wetlands preservation and air quality, and supports economic revitalization in the Town Center and other commercial, transit-oriented locations.
2. To provide additional planning flexibility for projects located in the Town Center and other commercial locations in Town with regard to density and site design, while remaining consistent with the Post Office Square Design Guidelines and water pollution control, water management, wetlands and other environmental and public health regulations and policies.

3. To permit the use of new development standards which will promote the desired changes in the Town Center and other commercial, transit-oriented locations.

**9.3.2 Applicability.** The MUOD is hereby designated as including the Business A, Business B and Business C Districts, except those portions of the aforesaid Business Districts which are within the Surface or Groundwater Protection Districts. The MUOD shall not restrict owners' rights relative to the underlying zoning district. However, if an owner elects to use the MUOD for development purposes, all development shall conform to the regulations set forth in this section, as well as all other relevant provisions of the Sharon Zoning and General Bylaws.

**9.3.3 Uses.** Retail and business uses currently permitted in the Business A, Business B and Business C Districts, and residential apartments in the upper floors of structures, shall be permitted in the MUOD. Authorization for any uses within an MUOD development which would require a special permit under underlying zoning shall be obtained through the Planning Board. Residential apartments on the first floor of a structure which does not front on a public way shall be permitted only at the discretion of the Planning Board.

**9.3.4 Density.** The minimum density for MUOD developments shall be 20 units per acre, provided the development has access to or creates a shared system and treatment works as defined by 310 CMR 15.00. In the absence of a shared system and treatment works, the minimum density may be waived, subject to the special permit. The maximum number of units shall be limited by the more restrictive of the following factors: the number of full-sized parking spaces which could be provided and/or full compliance with the Board of Health and zoning wastewater management regulations, or Conservation Commission Wetlands Regulations.

**9.3.5 Wastewater.** A plan for the treatment of wastewater from a proposed development in the MUOD must be approved by the Board of Health in accordance with all applicable regulations.

**9.3.6 Height of Structures.** All new construction in the MUOD shall neither exceed four stories nor a building height of 45 feet. Accessories and architectural features extending above the roofline may not exceed a height of 50 feet.

**9.3.7 Off-Street Parking Regulations.** A minimum of one space per residential unit shall be provided, in addition to parking required for retail and business uses pursuant to Section 6.1. With the approval of the Planning Board, up to 25% of the total number of residential parking spaces for a development located within a 1/2 mile of the train station may be used to meet the required parking for retail and business uses, and up to 50% of the total number of residential parking spaces for a development located more than 1/2 mile from the train station may be used to meet the required parking for retail and business uses, where it can be demonstrated that the hours of operation for retail and business uses at the development will be during daytime hours only.

1. In order to provide for better site design, up to 25% of the total number of parking spaces may, at the discretion of the Planning Board, be allocated for compact cars with dimensions of eight feet by 18 feet. Such spaces shall be clearly designated for compact cars only. Compact spaces cannot be applied in calculating the density of residential

units, but they may be used to meet minimum open space requirements and provide for between site design and stormwater drainage.

2. Off-site parking may not be counted toward the requirements for residential units, but may be counted toward nonresidential parking requirements. Street parking, as with other publicly owned parking spaces within 400 feet of the site, may be counted toward the nonresidential parking requirements.

3. Multi-level parking may be allowed not to exceed two levels if determined by the Planning Board to be appropriate. Such parking may be shared with others off-site, provided it is within 400 feet of the site and the Planning Board is provided with acceptable written proof.

**9.3.8 Minimum Lot Dimensions.** The minimum lot dimensions for all MUOD developments shall be as set forth below. All individual/separate lots in the proposed MUOD development, if under contiguous ownership, shall be considered as one lot for the purposes of this Section.

1. Minimum lot size: 8,000 square feet.
2. Minimum lot frontage: 50 feet.
3. Minimum lot width: 50 feet.
4. Minimum front setbacks: zero feet.
5. Minimum side and rear setbacks: 10 feet.

**9.3.9 Open Space.** The open space requirement for a development in the MUOD may be reduced to a minimum of 15% of the lot area if the development proposal includes the use of planting areas, porous paving surfaces and other techniques to ensure adequate drainage and filtering of stormwater.

**9.3.10. Affordable Housing.** A minimum of 20% of housing units in a development in the MUOD must be affordable housing **eligible for inclusion on the DHCD Subsidized Housing Inventory (SHI)**. ~~households earning up to 80% of median income, or as affordable housing may be otherwise defined from time to time by the United States Department of Housing and Urban Development.~~ The affordability of such units shall be assured in perpetuity through the use of an affordable housing restriction.

**9.3.11 Site Plan Review.** All projects developed using the MUOD shall be subject to the site plan review procedures of the Planning Board as provided in Section 10.6, as well as the Town's Stormwater Discharges Generated by Construction Activity General Bylaw, Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.



1. Projects undergoing extended design review shall be required to submit to the Planning Board the basic site plan contents and may be required to provide a study model at an appropriate scale and coverage as determined by the Planning Board.
2. The elements highlighted in the Design Guidelines as enumerated in site plan review, including pathways connecting to adjacent sidewalks, parking areas, sitting areas, a plan for storage areas, lighting, shade trees and other landscaping, shall be provided for review by the Planning Board. Developers are encouraged to meet with the Downtown Revitalization Committee to discuss their projects with respect to the Post Office Square Design Guidelines.

**9.3.12 SPGA.** The Planning Board shall be the Special Permit Granting Authority (SPGA) for MUOD developments, as well as the authority for site plan review. Authorization for any uses within an MUOD development which would require a special permit under underlying zoning shall also be obtained through the Planning Board. This section does not supersede the authority of the Conservation Commission or Board of Health over matters within their jurisdiction.

#### **9.4 SHARON COMMONS SMART GROWTH OVERLAY DISTRICT (SCSGOD)**

**9.4.1** The purpose of this Section is to establish a Sharon Commons Smart Growth Overlay District and to encourage smart growth in accordance with the purposes of M.G.L. c. 40R, and to foster a range of housing opportunities to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive zoning incentive payments and/or density bonus payments in accordance with M.G.L. c. 40R, 760 CMR 59.06, and additional Chapter 70 aid in

accordance with M.G.L. c. 405 arising from the development of housing in the Sharon Commons Smart Growth Overlay District.

**9.4.2 Definitions.** See Section 11.0, “Sharon Commons Smart Growth Overlay District” for definitions that apply in Section 9.4.

### **9.4.3 Overlay District**

1. Establishment. The Sharon Commons Smart Growth Overlay District, hereinafter referred to as the "SCSGOD," is an overlay district having a land area of approximately 11.55 acres, being portions of Assessor's Map 47, Lot 37 and Assessor's Map 57, Lots 17, 18 and 21, that is superimposed over the underlying zoning district, as shown on the Zoning Map as set forth on the map entitled "Attachment 1-1: Locator Map," but only including Subzones A and B, and on the two maps entitled "Attachment 5-4: Smart Growth Zoning Map," all maps being dated September 23, 2008, and attached hereto as Appendix A. These maps are hereby made a part of the Zoning Bylaw and are on file in the Office of the Town Clerk.

2. Underlying zoning. The SCSGOD is an overlay district superimposed on all underlying zoning districts. Except as limited herein, the underlying zoning shall remain in full force and effect.

3. Applicability of SCSGOD. In accordance with the provisions of MGL c. 40R and 760 CMR 59.00, an applicant for a Project located within the SCSGOD may seek Plan Approval in accordance with the requirements of this Section 4900. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such Plan Approval shall not be subject to any other provisions of this Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations, including but not limited to any rate-of-development limitations provided in this Bylaw. When a building permit is issued for any Project approved in accordance with this Section 9.4, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the Site Plan which was submitted pursuant to this Section 9.4 for such Project.

### **9.4.4 Affordable Housing.**

1. Marketing plan. Prior to granting Plan Approval for housing within the SCSGOD, an applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to this Section, shall include details about construction related to the provision, within the Project, of units that are accessible to the disabled. The marketing plan must be approved by DHCD prior to the issuance of a building permit for a Development Project.

2. Number of Affordable Housing units. For all Projects, not less than 20% of the total housing units constructed in a Project shall be Affordable Housing. For all Projects where the affordable units proposed are rental units, not less than 25% of total housing units in any building containing rental units shall be Affordable Housing; provided, however, that 20% of such units may be affordable where restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.

3. Requirements. Affordable Housing shall comply with the following requirements:

- a. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- b. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowners' association fees, insurance, and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
- c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- d. The SCSGOD shall not include the imposition of restrictions on age upon the entire district, but the development of specific Projects within the SCSGOD may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than 25% of the housing units in such a restricted Project shall be restricted as Affordable Housing.
- e. At least 10% of the Affordable Housing units shall be handicapped-accessible.

4. Design and construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction, quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all the units in the Development Project of which the Affordable Housing is part.

5. Affordable Housing Restriction. Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate Registry of Deeds or District Registry of the Land Court and prior to such recording has been approved by DHCD. Such Affordable Housing Restriction shall contain the following:
- a. Specification of the term of the Affordable Housing Restriction, which shall be the maximum period allowed by law but not less than 99 years;
  - b. The name and address of a monitoring agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
  - c. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;
  - d. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident selection for the Affordable Housing units. The plan shall designate the household size appropriate for a 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. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
  - f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
  - g. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the monitoring agent;
  - h. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the monitoring agent;
  - i. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the monitoring agent and the Town, in a form approved by Municipal Counsel, and shall limit initial sale and all subsequent resales to and occupancy by an Eligible Household;

- j. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the monitoring agent and the Town, in a form approved by Municipal Counsel, and shall limit 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 to the monitoring agent, in a form specified by that agent, certifying compliance with the affordability provisions of this bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
- l. A requirement that residents in Affordable Housing provide such information as the monitoring agent may reasonably request in order to ensure affordability.

5. Monitoring agent. A monitoring agent, which may be the local housing authority, or other qualified housing entity shall be designated by the PAA as the monitoring agent for all Projects in the SCSGOD. In a case where the monitoring agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA. In any event, such monitoring agent shall ensure the following, both prior to issuance of a building permit for a Project within the SCSGOD, and on a continuing basis thereafter, as the case may be:

- a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c. The housing marketing and resident selection plan conforms to all 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 Restrictions meeting the requirements of this section are recorded with the proper Registry of Deeds.
- f. Housing marketing and selection plan. The housing marketing and selection plan shall make provision for payment by the Project applicant of reasonable costs to the monitoring agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth herein.

7. Phasing. The PAA, as a condition of any Plan Approval, may require a Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing units in the Project. Such assurance may be provided through use of the security devices referenced in M.G.L. c. 41, § 81U, or through the PAA's withholding of certificates of occupancy until proportionality has been achieved. No density bonus payment will be received by the Town until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing units in the Project.

8. Computation. Prior to the granting of any Plan Approval of a Project, the applicant must demonstrate, to the satisfaction of the monitoring agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town.

9. No waiver. Notwithstanding anything to the contrary herein, the affordability provisions in this Section 9.4.4 shall not be waived.

#### **9.4.5 Permitted and Prohibited Uses.**

1. As-of-right uses. The following uses shall be permitted as-of-right in the SCSGOD:

- a. Subzone A: Multifamily Use. Wastewater generation exceeding six gallons per day per 1,000 square feet of lot area and on-site wastewater treatment plants treating domestic wastewater pursuant to issuance of a groundwater discharge permit by the Massachusetts Department of Environmental Protection. Wastewater treatment plan effluent shall comply with the DEP Interim Guidelines on Reclaimed Water (Revised), Policy No. BRP/DWM/PeP-P00-3, dated January 3, 2000.
- b. Subzone B: Townhouse Use.

#### **9.4.6 Density.**

1. Subzone A: 20 dwelling units per acre of developable land.
2. Subzone B: 12 dwelling units per acre of developable land.

**9.4.7 Dimensional Regulations.** No building or structure shall be built nor shall any existing building or structure be enlarged except in conformance with the following Table of Dimensional Requirements:

Subzone	Min. Area (sf)	Max. Bldg. Ht.	Frontage	Min. Width	Max. Coverage	Front setback	Side setback	Rear Setback
A	60,000	4 stories* or 60 ft.	N/A	N/A	35% Bldg. 60% total	50 ft.	10 ft.	10 ft.
B	60,000	2.5 stories or 40 ft.	N/A	N/A	35% Bldg. 60% total	5 ft.	5 ft.	5 ft.

\* Not including below grade parking facilities.

**9.4.8 Traffic and Pedestrian Safety.**

1. Driveways. Curb cuts provide for safe entering and exiting. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.
2. Interior design. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic.
3. Transportation plan. The proposed development shall be subject to an approved transportation plan. The transportation plan shall consist of the following information:
  - a. A plan showing the proposed parking, loading, traffic and pedestrian circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
  - b. A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. The required traffic study shall substantially conform to the Institute of Transportation Engineers' Traffic Access and Impact Studies for Site Development: A Recommended Practice, latest edition. The PAA shall approve the geographic scope and content of the study. In addition, the applicant shall submit a transportation demand management (TDM) plan tailored to the specific uses and the geographic location of the site.
  - c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.

**9.4.9 Off-Street Parking Regulations.**

1. Off-street parking requirements. Any structure that is constructed, enlarged, or extended which affects the computation of parking spaces shall provide parking in

accordance with the Table of Off-Street Parking Regulations. An existing structure which is enlarged shall be required to provide parking spaces in accordance with the following table for the entire structure.

2. Existing spaces. Parking spaces being maintained in connection with any existing structure shall not be decreased so long as said structure remains, unless a number of parking spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this section, provided this regulation shall not require the maintenance of more parking spaces than are required according to the tables.

3. Computation of spaces. When the computation of required parking spaces results in the requirement of fractional space, any fraction over 1/2 shall require one space.

4. Combined facilities. Parking required for two or more structures may be provided in combined facilities on the same or adjacent lots, where it is evident that such facilities will continue to be available for the several structures, **in accordance with the following Table of Off-Street Parking Regulations:**

Uses	Min. Number of Parking Spaces per Unit
Multifamily and Townhouse use	1.5

5. Waiver of parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the PAA that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that the lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus station or major transportation route;
- b. The availability of public or commercial parking facilities in the vicinity of the use being served;
- c. Shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots, including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f. Such other factors as may be considered by the PAA.



#### **9.4.10 Application for Plan Approval.**

1. Pre-application. Prior to the submittal of a site plan, a "concept plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such concept plan should reflect the following:
  - a. Overall building envelope areas;
  - b. Areas which shall remain undeveloped;
  - c. General site improvements, groupings of buildings, and proposed land uses.
2. The concept plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and guidelines and the other requirements of the SCSGOD.
2. Application. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.

#### **9.4.11 Required Submittals for Plan Approval.** The application for Plan Approval shall be accompanied by the following plans and documents:

1. Site Plan, drawn at a scale of one inch equals 20 feet or one inch equals 40 feet, with a layout tied to the Massachusetts State Coordinate System and with elevations on North American Vertical Datum (NAVD 88). Site Plans shall be prepared by an interdisciplinary team, including a Massachusetts civil professional engineer and a Massachusetts registered landscape architect, and shall bear their signatures and seals. Building plans shall be prepared by a Massachusetts registered architect, and shall bear the architect's seal. Site Plans shall include:
  - a. Cover sheet, layout sheet, grading and drainage sheet, utilities sheet, wastewater collection and treatment system sheet, traffic control sheet, landscaping sheet, lighting sheet, photometric sheet, construction details sheet, construction phasing sheet and sedimentation and erosion control sheet.
  - b. Existing conditions sheet based on an on-the-ground survey and on fieldwork performed no more than three years prior to submission, showing all existing topographic, utility and property information.
  - c. Layout sheet showing, among other things, all existing and proposed buildings and structures and their uses, means of building egress, parking areas, access drives, loading areas, refuse and other waste disposal facilities and dumpsters, driveway openings, driveways, service areas and all other open space areas, zoning summary table, accessible parking spaces and accessible routes.

- d. Grading sheet showing existing and proposed grading using two-foot contours and spot grades, as required to show improvements.
  - e. Wastewater sheets showing all components of the sanitary sewer collection, pumping and treatment systems.
  - f. Utilities sheets showing all components of the stormwater management system, water distribution system, site lighting system, lighting photometric plan and cable utility systems.
  - g. Landscape sheets showing all hardscape and planting elements. Site lighting fixture locations shall be shown for coordination purposes. The drawings shall show the quantity, location, species and height or caliper of all trees and shrubs and the species, size and quantity of all groundcovers. Construction details shall be provided for all structures and hardscape elements and planting details shall be provided for coniferous and deciduous trees and shrubs of each size.
2. Drainage calculations and a narrative report detailing runoff under existing pre-developed conditions and under future post-development conditions and identifying changes in the peak rate and total volume of stormwater runoff for the two-, ten- and one-hundred-year-frequency storm events. The drainage calculations shall bear the signature and seal of the engineer of record.
  3. Schematic architectural plans and elevations for all structures.
  4. A complete sign package, including all advertising and way-finding signage.
  5. Traffic study conforming to the EOEA/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989). The traffic study area (TSA) shall encompass all intersections within 3,000 feet of the project boundary accommodating 10% or more of the traffic generated by the project. Alternatively, the proponent may elect to allow the PAA to establish the limits of the TSA. Traffic shall be evaluated for the "existing case," the "no-build plus five-year case" and the "build plus five-year case." Existing traffic count data taken within the three-year period prior to filing and traffic studies completed within said three-year period may be utilized to satisfy this requirement.
  6. Plans for roadway and intersection upgrades for all roadway segments and intersections within the traffic study area, sufficient to provide Level of Service D or better under the "build plus five-year case" for the AM peak hour and the PM peak hour.
  7. In addition, the Plan Approval Authority will establish a "scope" detailing the design, fiscal, environmental and community issues to be evaluated based upon the likely impacts of the proposed Project.
  8. Evidence that the Project complies with the cost and eligibility requirements of Subsection 9.4.4.

9. Project plans that demonstrate compliance with the requirements of Subsection 9.4.4.
10. A form of Affordable Housing Restriction that satisfies the requirements of Subsection 9.4.4.

#### **9.4.12 Procedures.**

1. Filing. An applicant for Plan Approval shall file the application and all required submittals with the Town Clerk and shall also file forthwith 15 copies of the application and the other required submittals with the PAA, including notice of the date of filing with the Town Clerk.
2. Circulation to other boards. Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Select Board, Planning Board, Board of Health, Housing Partnership, Conservation Commission, Fire Department, Police Department, **Inspector of Buildings**, Department of Public Works, and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.
3. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in M.G.L. c. 40A, § 11. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 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 applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.
4. Peer review. In addition to the application fee, the applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. c. 40R, § 11. This technical review fee shall be paid at the time of the application. The initial deposit shall be \$10,000 and shall be subject to replenishment as needed. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

#### **9.4.13 Design Standards.**

1. Design Standards. In order to preserve and augment the SCSGOD's architectural qualities, historic character and pedestrian scale, the Smart Growth Overlay District Design Standards are incorporated herein as an appendix hereto, and are applicable to all Projects within the SCSGOD. Said Design Standards address: architectural elements; the

scale and proportion of buildings; the alignment, width, grade, and surfacing materials of streets and sidewalks; the type and location of infrastructure; site design; off-street parking; landscaping design and species selection; exterior and window signs; and buffering in relation to adjacent properties. Said Design Standards are intended to be applied flexibly by the PAA as part of the Plan Approval process. All applications for Plan Approval shall comply, except where a specific waiver is granted, to said Design Standards.

2. Amendments. The PAA may adopt, by majority vote, amendments to the Design Standards. Any amendment to the Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

3. DHCD approval. Before adopting any Design Standard, the PAA shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting a proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standard will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation.

4. Plan approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to Sections 9.4.10 to 9.4.12 shall not be subject to any Design Standard that has not been approved by DHCD and filed with the Town Clerk.

#### **9.4.14 Decision.**

1. Waivers. Except where expressly prohibited herein, upon the request of the applicant the Plan Approval Authority may waive dimensional and other requirements of this Section, including the Design Standards, in the interests of design flexibility and overall Project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SCSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this section.

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 as required by and in accordance with the Enabling Laws.

3. Plan Approval. Plan Approval shall be granted by a simple majority where the PAA finds that:

- a. The applicant has submitted the required fees and information as set forth herein; and
- b. The Project and Site Plan meet the requirements and standards set forth this Section, or a waiver has been granted therefrom; and
- c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated by means of suitable conditions.

4. Plan disapproval. A Site Plan may be disapproved only where the PAA finds that:

- a. The applicant has not submitted the required fees and information as set forth herein; or
- b. The Project and Site Plan do not meet the requirements and standards set forth this Section, or a waiver has not been granted therefrom; or
- c. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

5. Form of decision. All decisions of the PAA shall be by a majority vote of the members present and voting. The PAA shall issue to the applicant a copy of its decision 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 PAA. If 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. A copy of the decision shall be provided to the **Inspector of Buildings**. A copy of the decision or application bearing such certification shall be recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

#### **9.4.15 Change in plans after Approval by PAA.**

1. Minor change. After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or

affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk. A copy of the decision shall be provided to the **Inspector of Buildings**.

2. Major change. Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this section.

**9.4.16 Enforcement; Appeals.** The provisions of the SCSGOD shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval for a Project shall be governed by the applicable provisions of M.G.L. c. 40R. Any other request for enforcement or appeal arising under this section shall be governed by the applicable provisions of M.G.L. c. 40A.

~~4916. Severability.~~

~~If any provision of this Section 4900 is found to be invalid by a court of competent jurisdiction, the remainder of Section 4900 shall remain in full force. The invalidity of any provision of this Section 4900 shall not affect the validity of the remainder of the Town's Zoning Bylaw.~~

## **9.5 RECREATION AND RESIDENTIAL OVERLAY DISTRICT (RROD).**

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~~Recreation and Residential Overlay District requirements. Recreation and Residential Overlay District projects shall comply with the following:~~

**9.5.1 Purpose.** The purpose of the Recreation and Residential Overlay District is to enhance the public welfare by creating a viable residential community with the amenities afforded by an on-site golf course, multiuse clubhouse, and passive open space areas.

**9.5.2 Definitions.** See Section 11.0, "Recreation and Residential Overlay District."

**9.5.3 Eligibility.** The site must be located within the Recreation and Residential Overlay District on the Zoning Map, Town of Sharon, Massachusetts.

**9.5.4 Site Plan Review.** Recreation and Residential Overlay District projects require site plan approval from the Planning Board pursuant to Section 10.6.

**9.5.5 Application.** Recreation and Residential Overlay Districts shall be considered as superimposed on underlying zoning districts. A Recreation and Residential Overlay District project shall conform to all other provisions of this bylaw, including other overlay districts, except to the extent that use, dimensional, parking, loading, and design requirements are set forth in this Section. The Recreation and Residential Overlay District shall not restrict owners' rights

relative to the underlying zoning district, including other overlay districts. However, if an applicant elects to develop a Recreation and Residential Overlay District project, as evidenced by obtaining a building permit for any principal structure or proceeding with land disturbance for any site improvement requiring site plan authorization pursuant to this Section, then all development within the total Recreation and Residential Overlay District project shall conform to the use, dimensional, parking, and loading requirements of this Section. To the extent there are inconsistencies between provisions of this Section and the provisions of any underlying district, the provisions of this Section shall govern.

**9.5.6 Active Open Space Requirements.** Each application for site plan approval for a Recreation and Residential Overlay District project must provide a golf course that includes at least 18 holes having an average length exceeding 250 yards.

**9.5.7 Restriction.** Prior to issuance of an initial building permit for a Recreation and Residential Overlay District project, the property owner shall cause a restriction to be recorded in the Registry of Deeds or the Land Court in a form acceptable to Town Counsel prohibiting any residential use or construction of residential living units on the golf course lot and on the multiuse clubhouse lot. Should the golf course be abandoned or should its owner determine that continued operation is considered not to be viable, ownership of the golf course lot shall be conveyed to the Town of Sharon in fee simple at no cost within 90 days of such abandonment or determination. If the golf course is not used for normal golfing purposes for at least 240 days in any calendar year, it shall be create a rebuttable presumption that the course has been abandoned; provided, however, that the two-hundred-forty-day period shall not include any non-use caused by the following, without limitation, and as examples only: weather delays, redesign of the golf course, or unanticipated and unusual water problems and other natural disasters.

**9.5.8 Phasing.** Recreation and Residential Overlay District projects may be developed in two or more phases, provided that each phase is independent and self-sufficient, providing adequate access and utility service for all buildings and uses included in the phase and in any prior phases. Plans for phasing shall be shown on the site plan.

**9.5.9 Sureties.** The property owner shall post lot covenants, instruments of surety, insurance policies, letters of credit or similar securities as provided in the Town's subdivision regulations (hereinafter "instruments") to be provided prior to the issuance of any building permits for each phase of the project, if applicable, to the benefit of the Town of Sharon in a form acceptable to Town Counsel in amounts to be reasonably established by the Planning Board shall be posted in order to secure incomplete site infrastructure improvements. Release mechanisms for building permits shall be as provided in the Planning Board's subdivision regulations for release of lots.

**9.5.10 Green Development.** All site improvements shall incorporate the green development principles of energy efficiency and sustainability by including those Leadership in Energy and Environmental Design (LEED) Plan for Neighborhood Development (LEED ND:Plan) strategies set forth herein in the planning and design of the total Recreation and Residential Overlay District project. Building design shall not be subject to the requirements of this section and inclusion of at least one certified green building shall not be required. LEED strategies to be

included in the planning and design of the Recreation and Residential Overlay District project are as follows:

1. Open space shall be preserved by restricting the total lot area for two-family dwelling and the multiuse clubhouse use and requiring a permanent restriction on development of the golf course lot.
2. The development footprint shall be reduced by providing a compact two-family neighborhood plan that offers an effective alternative to low-density sprawling single-family development.
3. Water resources shall be protected by restricting development within the Groundwater Protection District of the Zoning Bylaw.
4. Housing diversity shall be increased by providing two-family dwellings, thereby increasing housing choices for Town residents.
5. Infrastructure efficiency shall be facilitated by providing compact two-family development.
6. Multimodal access and vehicular safety shall be enhanced by providing primary access drives that are designed for shared bicycle use, posted for low speed, and designed to include traffic calming measures.
7. A healthy walkable neighborhood shall be encouraged by providing compact development and by constructing sidewalks and other walkways.
8. Water conservation shall be promoted by precluding use of potable water for irrigation and requiring that irrigation of the two-family dwelling units and the multiuse clubhouse must be subject to an irrigation management plan.
9. Sustainable use of materials shall be increased by requiring use of comparable recycled and locally sourced materials for construction of site improvements.
10. Vehicle miles traveled (VMT) and energy use shall be reduced by providing a compact two-family development which limits the required length of the primary access drive system in comparison to the roadway system required for a comparable single-family development.
11. Existing drainage patterns shall be preserved and water resources shall be protected by using best management practices (BMPs) to limit runoff and reduce total suspended solids and related contaminants.

**9.5.11 Construction Requirements.** Site improvements shall comply with the requirements of this paragraph; provided, however, that these construction requirements may be waived by the Planning Board as part of site plan review. Materials for site improvements shall comply with the



Sharon Planning Board's Rules and Regulations Governing the Subdivision of Land<sup>[2]</sup> and shall be recycled or locally sourced when comparable. Primary access drives shall have minimum pavement widths of 22 feet and minimum center line radii of 50 feet. Segments of primary access drives serving more than 10 dwelling units or serving the multiuse clubhouse shall have minimum pavement widths of 24 feet and minimum center line radii of 100 feet. Pavement shall consist of four inches of hot-mix asphalt pavement, a three-inch-thick dense graded base, and a twelve-inch-thick gravel base with hot-mix asphalt curb or berm. The center line of access drives shall be a minimum slope of 1% and a maximum slope of 7%. A hot-mix asphalt curb with a five-foot-wide walkway shall be provided along one side of the primary access drive with a three-inch-thick hot-mix asphalt pavement with an eight-inch-thick gravel base. Water distribution and sanitary sewer systems shall comply with the design requirements of the Planning Board Rules and Regulations. Cable utilities shall be installed underground. Stormwater management shall comply with this Bylaw.

**9.5.12 Operation and Maintenance Requirements.** All infrastructure within the Recreation and Residential Overlay District project shall remain forever private. Operation, maintenance, and repair of vehicle and pedestrian access facilities, parking and loading, utilities, stormwater management, sanitary sewer collection and treatment facilities, and landscaping shall be the responsibility of the property owner. Site plan review shall establish the organizational structure, funding mechanisms, and responsibilities of organizations which may include one or more homeowners' organizations responsible for infrastructure on the two-family lots, one or more business owners' organizations, if applicable, responsible for infrastructure on the golf course and multiuse clubhouse lots, and an overall property owners' organization responsible for infrastructure shared among the two-family, golf course, and multiuse clubhouse lots.

**9.5.13 Permitted Uses.**

1. Two-family dwellings (located in one or more buildings on a lot).
2. Golf course, golf driving range, and golf practice facility.
3. Multiuse clubhouse.
4. Gymnasium/health club/fitness center.
5. Tennis courts.
6. Swimming pool.

**9.5.14. Permitted Accessory Uses.**

1. Surface and garage parking for residences and multiuse clubhouse.
2. Security services and related uses, including guard houses.
3. A property sales office and facility management office.

4. Stormwater management facilities.
5. On-site septic systems in compliance with Title 5 and Sharon Board of Health Regulations, if and as applicable.
6. Wastewater treatment facilities and related appurtenances; provided that such wastewater treatment plants shall be subject to the issuance of a groundwater discharge permit issued by the Massachusetts Department of Environmental Protection (DEP) and to the issuance of a treatment works construction permit by the Sharon Board of Health if and as applicable, subject to provision of adequate funding mechanisms ensuring proper operation and maintenance protocols, Town monitoring and testing, and repair and replacement consistent with the requirements of the Department of Environmental Protection and the Sharon Board of Health, if and as applicable. In addition, at the boundary of the lot containing the wastewater disposal area, the groundwater shall meet Massachusetts drinking water standards and other limits on pollutants set forth hereinafter. Unless waived by the Planning Board during site plan review, the soil absorption system shall be located outside of any Water Resource Protection District.
7. Open space, which may include trails and parking at trail heads.
8. Maintenance buildings and garages for parking of service or facility vehicles, excluding any vehicle maintenance; provided, however, such maintenance building shall not exceed 8,000 square feet in floor area and the cart storage building shall not exceed 6,000 square feet in floor area.
9. Identifying signs indicating only the name and contact information of the owner or occupant, the street number and address, and the uses or occupations engaged in on the premises, limited to one identifying sign not exceeding 225 square feet in area and located within 200 feet of the I-95 right-of-way and one additional identifying sign not exceeding 50 square feet and located either within the golf course lot frontage or within the Multiuse clubhouse lot frontage.

**9.5.15. Performance Standards.** A Recreation and Residential Overlay District project shall comply with the following:

1. Overall development. Green development principles of energy efficiency and sustainability shall be incorporated by including those Leadership in Energy and Environmental Design (LEED) for Neighborhood Development (ND) strategies of Section 9.5. LEED for Neighborhood Development: Plan principles should be incorporated; however, formal LEED ND:Plan certification shall not be required and building design shall not be subject to the requirements of this section.
2. Wastewater collection and treatment. Wastewater collection and treatment shall comply with the following:

- a. Wastewater shall be collected and treated in compliance with requirements of the Massachusetts Department of Environmental Protection and the Sharon Board of Health, if and as applicable.
- b. Wastewater may be discharged to sanitary sewers tributary to the sanitary sewer systems in other municipalities or the Massachusetts Water Resources Authority sanitary sewer system.
- c. Wastewater may be discharged to an on-site wastewater treatment plant authorized by a DEP groundwater discharge permit and a Sharon Board of Health treatment works construction permit, if and as applicable, or to an on-site septic system authorized by a Sharon Board of Health disposal system construction permit in compliance with Sharon Board of Health Article 7 and Title 5 (310 CMR 15) and the Sharon Board of Health rules and regulations for a Recreation and Residential Overlay District project, if and as applicable. On-site septic systems shall not be allowed for two-family dwellings or for the multiuse clubhouse unless the Planning Board determines that sewage generation for the total Recreation and Residential Overlay District project will not exceed 10,000 gallons per day in perpetuity or unless wastewater generation during the initial phases of development has not reached the minimum threshold for which DEP will issue a groundwater discharge permit or for which the Sharon Board of Health will issue a treatment works construction permit.
- d. Wastewater treatment plant effluent shall meet Massachusetts Drinking Water Standards (310 CMR 22.00) and Massachusetts Surface Water Quality Standards for Class A surface waters.
- e. Any on-site sanitary sewers shall be subject to ongoing requirements for leak detection and repair.

3. Stormwater management. Stormwater management facilities shall be provided to collect and treat all stormwater runoff from all developed areas and shall comply with the Department of Environmental Protection's Stormwater Management Standards [310 CMR 10.05(6)(k) through (q)], whether or not the activity is subject to the Massachusetts Wetlands Protection Act (MGL c. 131, § 40).

- a. Stormwater management facilities shall attenuate increases in the rate of off-site discharge for the one-year-frequency storm event.
- b. Stormwater management facilities incorporating low-impact design measures shall be used to abate contaminants caused by golf course operation, including nitrogen and phosphorous.
- c. Low-impact design using on-lot stormwater management and recharge shall be used to the maximum extent practicable, including separate roofwater recharge facilities, including raingardens and lawn depressions, and porous pavement for

unit driveways and walkways. Grading for two-family dwellings, including its driveway grading, should disconnect lot runoff from the primary access drive.

- d. The stormwater management system shall provide for collection and treatment of runoff from the ten-year-frequency storm event and shall provide for no increase in the peak rate of discharge for the ten- and one-hundred-year-frequency storm events. Rainfall shall be based on NOAA Atlas 14.

4. Irrigation. Irrigation of the golf course lot and any portions of the golf course within easements on contiguous lots shall be allowed and shall not be subject to the requirements of the remainder of this paragraph. Irrigation on any lot containing two-family dwellings or the multiuse clubhouse (but not including the golf course) shall be allowed if potable water from the Sharon municipal water distribution system is not used for irrigation and if irrigation is subject to an irrigation management plan that incorporates staged drought management provisions and incorporates use of non-municipal water and treated effluent application to turf to the extent allowed by regulatory agencies. On-site well water may be used if authorized by agencies having jurisdiction, but drawdown (excluding drawdown by wells serving the golf course) affecting adjacent water supply wells shall be minimized.

5. Landscaping. Landscaping shall be provided for all two-family dwelling lots and the multiuse clubhouse lot (but not the golf course). Plant materials shall be native species where practicable. Invasive plants listed on the Massachusetts Department of Agricultural Resources' Massachusetts Prohibited Plant List shall not be planted. Methods of application and allowed quantities of fertilizers are subject to limitations of a turf management plan approved during site plan review.

6. Water conservation. Buildings shall, as practicable, incorporate water conservation devices, including water-efficient plumbing fixtures and appliances.

7. Traffic mitigation. Off-site intersection upgrades shall be provided that minimize the negative impact of project-generated traffic on operations at intersections in the traffic study area.

**9.5.16 Dimensional Regulations; Total Recreation and Residential Overlay District Project.** The requirements are as follows:

1. Minimum total project area: 180 acres.
2. Maximum total area of lots within a recreational and residential overlay district project:
  - a. For Two-family dwelling use: 20 acres.
  - b. For multiuse clubhouse use without golf course: 24 acres.

3. Maximum total project density.
  - a. Fifty-two dwelling units total per Recreation and Residential Overlay District Project.
  - b. One multiuse clubhouse per Recreation and Residential Overlay District project.
  - c. Two bedrooms per dwelling unit maximum and 104 bedrooms total per Recreation and Residential Overlay District project.
4. Maximum total project coverage limits.
  - a. Maximum area of impervious materials, including structures: 15%.
  - b. Minimum natural vegetation area: 10%.
5. Location requirements.
  - a. Two-family dwellings shall be located on one or more lots and more than one building containing two-family dwellings may be located on a lot. The golf course and the multiuse clubhouse shall each be located on a separate lot.
  - b. All two-family dwellings shall use primary access drives for access. Curb cuts for driveways serving individual two-family dwellings are prohibited on public ways in existence as of the date of an application for site plan approval of a Recreation and Residential Overlay District project.

**9.5.16 Dimensional Regulations; Lots.** Dimensional requirements for lots are as follows:

1. Minimum lot area for two-family dwelling use: the greater of 60,000 square feet or 8,500 square feet per dwelling unit.
2. Minimum lot area for golf course: 160 acres.
3. Minimum lot area for multiuse clubhouse: 10 acres.
4. Minimum lot width for all uses: 210 feet.
5. Minimum lot frontage:  $\frac{2}{3}$  of the minimum lot width.
6. Maximum lot coverage: 25%.
7. Maximum coverage limits of impervious materials, including structures:
  - a. For the golf course: 10%.

- b. For the multiuse clubhouse: 40%.
  - c. For the two-family dwellings: 50%.
8. Maximum gross floor area for the multiuse clubhouse facility: 50,000 square feet.
  9. Minimum street setback for principal or accessory buildings: 100 feet.
  10. Minimum setback for principal or accessory buildings:
    - a. From side lot lines: 15 feet.
    - b. From rear lot lines: 20 feet.
  11. Minimum separation between principal or accessory buildings on the same lot: 10 feet.
  12. Maximum separation between principal buildings in multiuse clubhouse use on the same lot: 50 feet.
  13. Maximum building height.
    - a. For dwellings: not to exceed the more restrictive of 2.5 stories or 35 feet.
    - b. For multiuse clubhouses: not to exceed the more restrictive of two stories or 40 feet, including rooftop mechanical equipment.
    - c. For accessory buildings: not to exceed the more restrictive of two stories or 30 feet.

**9.5.17 Required Off-Street Parking and Loading; Minimum Parking Requirements.**

1. Residences: two parking spaces per dwelling unit.
2. Multiuse clubhouse: five parking spaces per 1,000 square feet of floor area. As part of the site plan review and approval process, the Planning Board may reduce the number of parking spaces required upon submission of a parking management plan prepared by a civil professional engineer (PE).

**9.5.18. Design Requirements for Two-Family Dwelling Parking.**

1. Parking spaces shall be located within 100 feet of the residence.
2. Each parking space shall have direct access to an access drive, and stacked parking spaces shall not count toward the minimum number of required parking spaces.

3. Each parking space shall be capable of containing a rectangle not less than nine feet by 18 feet.

**9.5.19 Design Requirements for Golf Course and Multiuse Clubhouse Parking.**

1. Parking spaces shall be located within 700 feet of the multiuse clubhouse.
2. Each parking space shall have direct access to a parking aisle or access drive and shall be capable of containing a rectangle not less than nine feet by 18 feet.
3. Parking aisles shall have a minimum width of 24 feet for two-way traffic.
4. For event parking and other short-term periods of peak parking demand, the Planning Board may consider alternative parking provisions as conditions of site plan approval which include, but are not limited to, overflow parking on unpaved surfaces, shared parking, valet parking, and off-site parking with shuttle service.
5. Homeowner and property owner organization documents must include provisions for establishing and enforcing parking restrictions and prohibitions.
6. Minimum loading requirements for the multiuse clubhouse: one loading space per 50,000 square feet of gross floor.

**9.5.20. Design Requirements for Loading Spaces.** Each loading space shall have direct access to an access drive and shall be capable of containing a rectangle not less than 12 feet by 40 feet and vertical clearance of 14 feet.

**9.5.21 Site Plan Review and Approval.** All uses within a Recreation and Residential Overlay District require site plan approval from the Planning Board. Applicants are encouraged to submit sketch plans and meet informally with the Planning Board prior to formal submission of a site plan approval application. Site plans shall show the total Recreational and Residential Overlay District project, including all lot boundaries and all proposed phases of development within the Recreation and Residential Overlay District project, and all contiguous land within the Recreation and Residential Overlay District. A copy of the site plan application must be filed with the Town Clerk and a copy of the application, including the certification by the Town Clerk, must be filed forthwith by the petitioner with the Planning Board. The Planning Board shall hold a public hearing, for which notice has been given as provided in MGL Chapter 40A. Unless waived by the Planning Board, applications for site plan review and approval shall comply with the following:

1. Site plans shall be drawn to a scale of 40 feet to the inch (or such other scale as the Planning Board may accept). Site plans shall be prepared by a multidisciplinary team and shall be signed and sealed by a Massachusetts civil professional engineer (PE), a Massachusetts professional land surveyor (PLS), and a Massachusetts registered landscape architect (RLA).

2. Existing conditions survey shall be based upon on-the-ground fieldwork. Layout shall be tied to the Mass State Coordinate System, and elevations shall be on North American Vertical Datum (NAVD 88).
3. Site plans shall include a cover sheet, layout sheet, grading and drainage sheet, landscaping sheet, details sheet, a sedimentation and erosion control sheet, a traffic control sheet, a lighting sheet, and a construction phasing sheet. The plans shall show, among other things, all existing and proposed lot boundaries, buildings and structures and their uses, means of building egress, parking areas, driveway openings, driveways for individual dwelling units, and zoning summary table.
4. Site plans shall show existing and proposed grading with a one-foot contour interval and spot grades based on NAVD 88.
5. Site plans shall show 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 site plan.
6. Site plans shall show sanitary sewer collection systems and wastewater treatment systems, including septic systems in compliance with Massachusetts Department of Environmental Protection and Sharon Board of Health regulations, if and as applicable; stormwater management systems; water distribution systems; and cable utility systems.
7. A stormwater management report shall be submitted that includes a narrative, a stormwater checklist signed and sealed by a civil professional engineer (PE), TR-55/TR-20 based hydrologic analysis, rational formula pipe sizing calculations, a long-term pollution prevention plan (Standards 4-6), a construction period pollution prevention and erosion and sedimentation control plan (Standard 8), and an operation and maintenance plan (Standard 9).
8. Site plans shall show, primary access drives, parking areas, accessible parking spaces and accessible routes, loading and service areas, pedestrian and bicycle facilities, waste disposal facilities and dumpsters, and open space.
9. Site plans shall also show all proposed two-family dwellings and related site improvements.
10. Site plans shall show a detailed plan of all golf course elements to be established or existing elements to be disturbed or changed, including fairways, tees, greens, rough areas and hazards, cart paths, golf driving range and practice facilities, irrigation system, irrigation wells, maintenance facilities; parking and loading areas; and shall show a detailed plan of open space, including natural vegetation areas.
11. Site plans shall show all components of the multiuse clubhouse, including means of building egress, parking and loading areas, pedestrian and bicycle facilities, refuse and other waste disposal facilities, and dumpsters.



12. Earthwork quantities shall be provided.
13. Site plans shall show all hydrants, fire protection systems, site lighting, and lighting fixture and pole details. All lighting fixtures shall be designed based upon dark skies principles by minimizing the upward projection of light.
14. Site plans shall include landscape plantings and planting details, and all hardscape elements. Site lighting fixture locations shall be shown for coordination purposes. The drawings shall show the quantity, location, species, and height or caliper of all trees and shrubs and the species, size, and quantity of all groundcovers. Details shall be provided for all structures and hardscape elements, and planting details shall be provided for coniferous and deciduous trees and shrubs of each size.
15. A report shall be submitted evaluating the LEED for Neighborhood Development: Plan points for which the site improvements within the Recreation and Residential Overlay District are eligible. However, formal LEED ND certification, evaluation of building design, and inclusion of at least one certified green building shall not be required.
16. Typical architectural plans and elevations and colors and materials shall be submitted for each typical two-family dwelling type. Specific architectural plans and elevations and colors and materials shall be submitted for all principal nonresidential buildings.
17. A complete sign package shall be submitted, including all informational and directional signage. All wall signs and freestanding signs shall be shown. Sign plans and details shall show locations, dimensions, colors, materials, finishes, methods of illumination and illumination levels, and methods of structural support.
18. A traffic study prepared by a traffic or civil professional engineer shall be submitted evaluating existing, no-build, and build intersection operations in the traffic study area (TSA) shall be submitted. The TSA shall be established by the Planning Board to include the nearest major intersection on each approach to the principal site entrance and other intersections as designated. Traffic counts must be taken within one year of the date of submission; trip generation shall be based on the Institute of Transportation Engineers (ITE); trip distribution and traffic assignment shall be quantitatively based; sight distance at the site entrance shall be evaluated, and intersection crash rates shall be calculated. For locations where intersection operations are impacted, measures to avoid, minimize, and mitigate traffic impacts shall be developed and evaluated; the applicant's commitment to mitigation shall be clearly stated.
19. Reports to the Planning Board. Within 10 days following receipt of a duly submitted site plan application, the Planning Board shall transmit one copy thereof to the Board of Health and Conservation Commission. The Board of Health and Conservation Commission shall review the site plan application and report in writing their recommendations to the Planning Board within 45 days. The Board of Health and

Conservation Commission may seek pertinent information from other Town officials or boards and may request additional information from the applicant. The Planning Board shall not take final action on said plan until it has received reports thereon from the Board of Health and Conservation Commission, or until 60 days have elapsed after the transmission of the plan to the board in question without submission of a report thereon.

**9.5.22 Criteria.** In granting site plan approval, the Planning Board shall consider the following:

1. The extent to which the site plan fulfills the objective of the Recreation and Residential Overlay District to create a viable residential community with the amenities afforded by an on-site golf course and multiuse clubhouse and passive open space areas.
2. The extent to which the overall development incorporates green development principles of energy efficiency and sustainability and utilizes LEED for Neighborhood Development (ND) strategies in accordance with Section 9.5.
3. The extent to which convenient and safe vehicular and pedestrian movements are accommodated within the site, and in relation to adjacent streets, property or improvements.
4. The extent to which adequate utility services are provided to serve proposed residential and recreational uses.
5. The extent to which adequate provisions are made for disposal for sewage, refuse or other wastes; drainage for surface water; and removal of snow.
6. The extent to which measures are provided to minimize impacts on surface water and groundwater.
7. The extent to which wastewater treatment plant effluent meets the Massachusetts Drinking Water Standards (310 CMR 22.00) and the Massachusetts Surface Water Quality Standards for Class A surface waters.
8. The extent to which stormwater management facilities shall attenuate increases in the volume of off-site discharge for the one-year-frequency storm event.
9. The extent to which stormwater management facilities conform to the Massachusetts Department of Environmental Protection's Stormwater Management Standards [310 CMR 10.05(6)(k) through (q)].
10. The extent to which stormwater management facilities in concert with low-impact design measures abate contaminants caused by golf course maintenance.
11. The extent to which low-impact design is used.

12. The extent to which the stormwater management system prevents any increase in the peak rate of discharge for the ten- and one-hundred-year-frequency storm events.
13. The extent to which buildings incorporate water conservation devices, including water-efficient plumbing fixtures.
14. The extent to which rooftop mechanical equipment is visually screened and acoustically buffered.
15. The extent to which negative traffic impacts are minimized in off-site intersections in the intersection study area through provision of necessary intersection upgrades.
16. The extent to which use of potable water from the Sharon municipal water distribution system for irrigation is avoided. The extent to which irrigation water use, including water from on-site wells, is minimized through adherence to an irrigation management plan; and for wells on two-family dwelling and multiuse clubhouse lots (but excluding consideration of wells serving the golf course), the extent to which irrigation well drawdown impacts affecting existing water supply wells on neighboring properties are minimized.
17. The extent to which native plant materials are used; invasive plants are avoided; and the quantities of pesticides, fertilizers, and herbicides are minimized.
18. The extent to which runoff from pedestrian areas, landscape areas, and low-volume vehicular areas is accommodated using low-impact design principles.
19. The extent to which underground utilities are provided.

**9.5.23 Final Action by the Planning Board.** The Planning Board final action shall consist of an approval based on the determination that the site plan for the Recreation and Residential Overlay District project is consistent with the criteria and requirements set forth in this Section, an approval subject to reasonable conditions consistent with the criteria and requirements set forth in this Section, or a denial based on a determination that:

1. The required site plan application filing materials for the Recreation and Residential Overlay District project is incomplete; or
2. The site plan is inconsistent with the criteria and requirements set forth in this Section (unless otherwise waived) so that it admits of no reasonable solution.

**9.5.24 Consultants.** To facilitate review of an application for a site plan, the Planning Board may engage outside consultants in accordance with M.G.L.44, s. 53G. Consultants may be engaged to review any or all components of the site plan submission or any off-site improvements proposed in conjunction with the project. Additionally, for projects requiring issuance of state or federal permits, consultants may be engaged to peer review submissions to the state or federal agency and to represent the Town before these agencies to protect the Town's

interests. Consultants may be engaged to observe construction of the site improvements authorized by site plan approval.

1. Scope of work. In the course of exercising its powers under this bylaw, the Planning Board may engage outside consultants for peer review of submissions, for peer review and representation in regard to state and federal permits and licensing, or for construction observation. Consultants are selected by majority vote of the Planning Board.

2. Review fees. Applicants shall reimburse the Town for the fees and expenses of outside consultants engaged by the Planning Board. Fees shall be paid prior to inception of each phase of the work. Escrow accounts shall be replenished within 15 days following receipt of notice. Failure to pay fees in accordance with the aforesaid shall be deemed, after notice to the applicant, with an opportunity to cure, to constitute withdrawal of the project. Fees shall be deposited in a special account established by the Town Treasurer and may be expended only for the purposes described above.

~~3. Prior to engaging the consultant, applicants may appeal selection of a particular consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Planning Board shall stand.~~

**9.5.25 Enforcement and Implementation.** Any site plan approval issued under this section shall lapse within one year if actual construction of site infrastructure in accordance with the approved site plan has not commenced sooner, except upon application within one year and for good cause shown. Construction shall not include site preparation and preliminary site clearing activities. Such time period shall be extended upon request by the applicant for one year. A Recreation and Residential Overlay District project may be constructed in multiple phases over time. Once construction of any portion of a Recreation and Residential Overlay District project has commenced, such site plan approval shall not lapse if the construction proceeds in phases in accordance with an overall project schedule of completion not to exceed four years unless extended by the Planning Board for good cause shown.

## **9.6 PLANNED DEVELOPMENT (PD) DISTRICT.**

**9.6.1 Purpose and Intent.** The Planned Development (PD) District is intended to:

1. Permit an entity to propose, and for Town Meeting vote, a development proposal that specifies a mixture of commercial, industrial, residential, open space or other uses and the site development requirements to be used for a specific site.

2. Permit some flexibility in the development of individual tracts of land by required and predetermined standards, whether as of right subject to site plan approval, or by special permit.

3. Permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.

4. Permit the Town to evaluate the potential impacts of a proposed development and to authorize the Planning Board, as the Special Permit Granting Authority (SPGA) or site plan review authority, to require that the development of the site substantially conforms to site development standards approved as part of the rezoning to PD District and intended to mitigate or compensate for the potential impacts.

**9.6.2 Types.** There are three types of Planned Development Districts:

1. *Planned Commercial Development District (PCD).* Primarily Commercial, Industrial and other Nonresidential uses alone or in combination.

2. *Planned Residential Development District (PRD).* Primarily Residential uses alone or in combination with Nonresidential uses.

3. *Planned Mixed Use Development District. (PMUD).* Balanced residential and nonresidential mixed use.

**9.6.3 Procedures.** A Planned Development District requires an amendment to this Zoning Ordinance. The PD District does not have any minimum lot size and there is no minimum lot area required to seek a rezoning to the PD District. Applicants for a PD District shall observe the following procedures in order to promote review of the proposed amendment and to facilitate public-private cooperation in the establishment of the PD District.

1. *Pre-Application Review.* Applicants are strongly encouraged to schedule a pre-application review with the Planning Board or its designee and Town Administrator. Pre-application review should precede the preparation of detailed plans or specifications. For the Pre-Application Review, an applicant will submit a project description that describes the uses to be proposed and the benefits to the Town from those uses.

2. *Bylaw Submission.* The applicant shall submit a proposed amendment to this Bylaw for the PD District rezoning in consultation with the Planning Board and Town Administrator. The proposed amendment shall contain the information required by this Section. The Planning Board or its designee shall prepare the text of the proposed amendment and locate the new district on the Zoning Map. The finalized amendment shall be presented to the Town Counsel for approval as to form of the proposed PDD.

3. *Statutory Requirements.* The zoning amendment shall thereafter be processed in accordance with M.G.L. c. 40A, s. 5 and Section 1.6 of this Bylaw.

**9.6.4 Submission Requirements for a PD Rezoning.** The application for a PD District Rezoning shall include any required submission fee and a preliminary plan which shall include the following at a level of detail sufficient to enable a peer review, if required by the SPGA. Documents shall also be made available electronically for access by the general public.

1. A narrative that addresses the special permit criteria set forth in Section 10.5 and the site plan approval criteria set forth in Section 10.6:

2. A preliminary plan showing the proposed location of buildings, number of stories, approximate floor area and maximum height of each building, the distance (in feet) between buildings; general topography, grading and landscaping; lot lines; parking areas; utilities; stormwater management system.

3. Table of proposed with a description of the type and character of uses requested. This may include a cross reference of uses to be permitted as they appear in the Table of Use Regulations.

4. In addition to the submission requirements outlined in this Section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

**9.6.5 Town Meeting Vote.** Upon the agreement of the proponent and the Planning Board, an amendment to establish a PD District may be placed on the warrant for the Annual or a Special Town Meeting all in accordance with the procedures set forth in M.G.L. c. 40A, s. 5.

1. Any PD District Rezoning shall require the final approval of the Planned Development by the Planning Board under (1) a special permit; (2) site plan approval; or (3) both.

**9.6.6 Criteria for PD Special Permit or PD Site Plan Approval.** The SPGA may approve the PD Special Permit using the criteria set forth in Section 10.5.2, and/or grant PD site plan approval using the criteria set forth in Section 10.6. In addition, the Board shall find that the Special Permit and Site Plan Approval is substantially in conformance with the PD Rezoning Bylaw as approved by Town Meeting. The SPGA may permit insubstantial changes in view of the more detailed survey and engineering design provided that they do not conflict with the intent of the PD Rezoning Bylaw.

**9.6.7 Changes in a Site Development and Use Plan.** Changes in uses or changes in the site development that substantially deviate from the PD Bylaw are not permitted without the amendment of the PD Bylaw and the approval of Town Meeting pursuant to the procedures set forth in M.G.L. c. 40A, s. 5.

## **SECTION 10.0 ADMINISTRATION**

### **10.1 PERMITS**

**10.1.1 Inspector of Buildings.** The Inspector of Buildings, if one shall be appointed or elected, or otherwise the Select Board members of the Town, shall execute the provisions of this bylaw except where otherwise provided, and, in so doing, shall have the same power as is provided for the execution and enforcement of bylaws relating to the inspection of buildings. Wherever in this bylaw it is required that the Inspector of Buildings shall act, it shall be understood that if no Inspector of Buildings is appointed or elected, the Select Board members shall act in his or her place.

**10.1.2 Certification.** Buildings, structures or signs may not be erected, substantially altered, moved or changed in use, and land may not be substantially altered or changed in principal use without certification by the Inspector of Buildings that such action is in compliance with the then-applicable zoning, or without review by them regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a building permit or certification of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

**10.1.3 Permit Issuance.** The Inspector of Buildings shall not issue a permit for the construction, alteration, enlargement, reconstruction, moving or razing of any building or structure which would be a violation of any of the provisions of this bylaw. Furthermore, the Inspector of Buildings shall not grant a permit or license for a new use of a building, structure or land which use would be a violation of any of the provisions of this bylaw.

**10.1.4 Process.** If application is made for a permit which if issued might, on account of the provisions of this bylaw, affect the real estate of any person other than the applicant, the Inspector of Buildings, unless it is intended to refuse such permit, shall cause:

1. A copy of such application to be posted within 24 hours, upon the property to which such application relates, in a conspicuous place thereon adjacent to the street, to which shall be appended a notice to all persons who may properly object to the issuance of such permit ordering them to give notice in writing to the Inspector of Buildings of any objection thereto within seven days of the posting of such notice.
2. The applicant to notify forthwith, in a manner satisfactory to the Inspector of Buildings, all the owners of such real estate as in the opinion of the Inspector of Buildings might be affected by the issuance of the permit ordering them to notify the Inspector of Buildings of any objections they have within seven days thereof. If at the expiration of seven days the Inspector of Buildings has received notification from any persons objecting to the issuance of the permit, a date shall be set for a hearing thereon and all parties objecting and the applicant notified thereof. After such hearing, the Inspector of Buildings may issue or refuse such permit.

### **10.2 ENFORCEMENT.**

**10.2.1 General.** This Bylaw shall be enforced by the Inspector of Buildings or other duly authorized agent appointed by the Select Board.

**10.2.2 Enforcement Request.** If the Inspector of Buildings or other duly appointed agent is requested, in writing, to enforce the provisions of this chapter against a person allegedly in violation of the same and they decline to act, they 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.

**10.2.3 Notice of Violation.** If a violation shall be determined by the Inspector of Buildings or other duly appointed agent by an investigation of the facts and inspection of the premises, a written notice thereof shall be transmitted to the owner or their duly authorized agent. Such notice shall order that any use or condition of the premises contrary to the provisions of this chapter shall cease immediately. A copy of such notice shall also be delivered to the Select Board by the Inspector of Buildings or agent.

**10.2.4 Penalties.** Any person violating any provision of this Bylaw, upon conviction, shall be fined \$300.00 for each offense, and each day that such violation continues shall constitute a separate offense.

## **~~6140. Penalty.~~**

~~Whoever violates any of the provisions of this bylaw, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be punished by a fine of \$100 for each violation. Each day that such violation continues shall constitute a separate offense.~~

**10.2.5 Noncriminal Disposition.** In addition to the procedures for enforcement as described in the previous paragraph, the provisions of this Bylaw may be enforced by the Inspector of Buildings by noncriminal complaint pursuant to the provisions of M.G.L. c. 40, s. 21D. The penalty for violation of any provision of this Bylaw shall be \$100.00 for the first offense; \$200.00 for the second offense; and \$300.00 for the third and each subsequent offense.

## **10.3 ZONING BOARD OF APPEALS.**

**10.3.1 Establishment.** The Zoning Board of Appeals shall consist of three members and three associate members, who shall be appointed and act in all matters under this bylaw in the manner prescribed by Chapters 40A and 41 of the General Laws, as amended.

**10.3.2 Powers.** The Zoning 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. The Board's powers are as follows:



1. Special permits. To hear and decide applications for special permits upon which the Board is empowered to act under this Bylaw.

2. Variances. To hear and decide appeals or petitions for variances from the terms of this Bylaw, excluding variances for use, with respect to particular land or structures. Such variances shall be granted **only in accordance with M.G.L. c. 40A, s. 10**, ~~cases where the Board of Appeals finds all of the following:~~

~~a.~~

~~A literal enforcement of the provisions of this bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.~~

~~b.~~

~~The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.~~

~~c.~~

~~Desirable relief may be granted without:~~

~~(1)~~

~~Substantial detriment to the public good; and~~

~~(2)~~

~~Without nullifying or substantially derogating from the intent or purpose of this bylaw.~~

~~If the rights authorized by a variance are not exercised within one year from the date of grant of such variance, they shall lapse, and may be reestablished only after notice and a new hearing.~~

3. Appeals. Other **administrative** appeals will also be heard and decided by the Board of Appeals when taken by:

a. Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. c. 40A; or by

b. The Metropolitan Area Planning Council; or by

c. Any person, including any officer or board of the Town of Sharon or of any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of M.G.L. c. c. 40A or this Bylaw.

4. Withheld Building Permits. Building permits withheld by the Inspector of Buildings acting under M.G.L. c. 41, § 81Y, as a means of enforcing the Subdivision Control Law may be issued by the Zoning Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

**5. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L. c. 40B, ss. 20-23.**

**10.3.3 Rules and Regulations; Fees.** The Board may by majority vote adopt rules and regulations and may impose fees for any application, including consultant fees pursuant to M.G.L. c. 44, s. 53G.

## **10.4 PLANNING BOARD.**

**10.4.1 Establishment.** The Planning Board shall consist of five (5) elected members.

**10.4.2 Powers.** The Planning Board shall have the following powers:

1. To hear and decide applications for special permits, when designated as the SPGA in this Bylaw.

**0.3.3 Rules and Regulations; Fees.** The Planning Board may by majority vote adopt rules and regulations and may impose fees for any application, including consultant fees pursuant to M.G.L. c. 44, s. 53G.

## **10.5 SPECIAL PERMITS.**

**10.5.1 Special Permit Granting Authority.** When designated by this Bylaw, the Zoning Board of Appeals, the Select Board, or the Planning Board shall act as the Special Permit Granting Authority (SPGA).

**10.5.2 Criteria.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

~~6312.~~ The SPGA shall not approve any application for a special permit unless it finds that in its judgment all the following conditions are met:

- ~~a.~~ The specific site is an appropriate location for such a use, structure or condition;
- ~~b.~~ The use as developed will not adversely affect the neighborhood;
- ~~c.~~ There will be no nuisance or serious hazard to vehicles or pedestrians;
- ~~d.~~ Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

**10.5.3 Procedures.** An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

**10.5.4 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. Such conditions may include, but are not limited to the following:

~~6313. approving a special permit, the SPGA may consider, but is not limited to, the following:~~

1. Requirement of street side or rear yards greater than the minimum required by this Bylaw.
2. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, plantings or other devices.
3. Modification of the exterior features or appearance of the structure.
4. Limitation of size, number of occupants, method or time of operation or extent of facilities.
5. Regulation of number, design and location of access drives or other traffic features.
6. Requirement of off-street parking or other special features beyond the minimum required by this Bylaw or other applicable bylaws.
7. Adequacy of method of sewage disposal, source of drinking water and drainage.
8. Requirements to ensure the adequacy of utilities and other public services.
9. Measures to minimize adverse impacts on public and private water supplies.
10. If within Business District D, the extent to which buildings exceeding the gross floor area and footprint limitations of Section 4.0, and satisfy the requirements, design requirements, and performance standards of **Section 6.2** in a manner comparable to buildings otherwise permitted herein.
11. If within the Surface Water Resource Protection District, measures to minimize cumulative impacts on Lake Massapoag and its tributary streams, including consideration of nitrate-nitrogen loadings and other chemicals as specified by state and federal regulations for surface water.
12. If within the Groundwater Resource Protection District, measures to minimize cumulative impacts on municipal water supplies, including consideration of nitrate-

nitrogen loadings and other chemicals as specified by state and federal regulations for drinking water.

13. If within Professional Districts, potential risk in terms of health and safety, including without limitation biohazards and risk related to behavioral characteristics of patients.

14. Requirement for inspection and monitoring of any condition of the special permit in order to determine compliance with the terms of the special permit.

15. For special permits under Section 9.2.9, the adequacy of proposed method and supporting evidence of the ability to recharge, on-site, any increase in the volume of runoff from an impervious area, and/or the adequacy of proposed method and supporting evidence to recharge the underlying groundwater deposit and minimize sedimentation of surface water.

~~6314. The SPGA may, after a hearing and a finding of violation of any limitations or conditions in the special permit or any misuse of the terms of the permit, withdraw the same, after which the use shall be discontinued.~~

~~6315. Special permits shall only be issued following public hearings within 65 days after filing with the SPGA an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.~~

**10.5.5 Referral.** The Zoning Board of Appeals, Select Board and Planning Board, when serving as the SPGA, shall refer a special permit application to the Board of Health, Conservation Commission, and the Department of Public Works for written comments and recommendations before taking final action on said special permit application. The SPGA may refer a special permit application to any other town agency, board, or department for comments and recommendations if it so desires before taking final action on said special permit application. A public hearing on said referral shall not be required. Any such Board or Agency to which applications are referred for comment shall make its recommendations and send copies thereof to the SPGA and the applicant within thirty-five (35) days of receipt of the referral request by said board or agency or there shall be deemed no opposition or desire to comment. The SPGA shall not act upon said special permit until either comments from referred board or agencies have been received, or said thirty five (35) days have elapsed, whichever is sooner. Applications referred to more than one board or agency may be reviewed jointly by said boards or agencies.

**10.5.6 Plans.** Unless otherwise provided by the rules and regulations of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 10.6, herein. The provisions of this Section shall not apply to applications for special permits pursuant to Section 5.0 to alter a nonconformity. The Zoning Board of Appeals shall establish procedures governing such applications by regulation.

**10.5.7 Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

**10.5.8 Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees pursuant to M.G.L. c. 44, s. 53G for applications for special permits.

**10.5.9 Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

## **10.6 SITE PLAN REVIEW.**

**10.6.1 Site Plan Approval Required.** In all instances where site plan approval is required, no building or structure shall be erected, moved or externally enlarged and no area for parking, loading or vehicular services (including driveways giving access thereto) shall be established or changed, except in conformity with a duly endorsed site plan.

**10.6.2 Zoning Board of Appeals.** Unless specifically designated otherwise, the Zoning Board of Appeals is authorized to grant site plan approval. Site plan review is a tiered process which provides additional requirements for larger projects which have greater potential to cause significant impacts.

**10.6.3 Types of Site Plan Review.** Site Plan Review (SPR) shall either be Minor Site Plan Review (Minor), or Major Site Plan Review (Major), as set forth herein.

**10.6.4 Applicability; Minor SPR.** Minor (SPR) is required for the following projects listed below from 0 to 10,000 square feet of gross floor area, provided that the Zoning Board of Appeals may waive site plan review for minor changes to existing facilities:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or residential structure with \_\_\_ or more dwelling unit; or:
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or residential structure with five or more parking spaces.

**10.6.5 Applicability; Major SPR.** Major SPR is required for the following projects listed below from 10,001 to 25,000 square feet of gross floor area:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or residential structure with two or more dwelling units, or:
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or residential structure with twenty or more parking spaces.

**10.6.6 Coordinated Review.** Coordinated review is required under the Stormwater Discharges Generated by Construction Activity General Bylaw in all districts for site plans that disturb in excess of one acre of land. For the purposes of this subsection, the designation "disturb" shall

mean any land area which, according to the plan, will be subject to any activity such as clearing, grading and excavating that exposes soil, sand, rock, gravel or similar earth material. See Ch. [230](#), Stormwater Management, Art. [II](#), Construction Activity Discharges.

**10.6.7 Reports to the Zoning Board of Appeals.** Within 10 days following receipt of a duly submitted site plan, the Zoning Board of Appeals shall transmit one copy thereof to the Design Review Committee, Planning Board, Board of Health, and Conservation Commission. The Design Review Committee, Planning Board, Board of Health, and Conservation Commission shall investigate the case and report in writing their recommendations to the Zoning Board of Appeals. The Design Review Committee, Planning Board, Board of Health, and Conservation Commission may seek pertinent information from other Town officials or boards and may request additional information from the applicant. The Zoning Board of Appeals shall not take final action on said plan until it has received a report thereon from the Design Review Committee, Planning Board, Board of Health, and Conservation Commission, or until 45 days have elapsed after receipt of such plan without submission of a report thereon. In reaching its decision, the Zoning Board of Appeals shall fully consider the recommendations set forth in these reports and shall accord particular weight to reports identifying significant adverse impacts that cannot be avoided, minimized, or mitigated.

**Consultants.**

~~a. To facilitate review of an application for a site plan, the Board of Appeals may engage outside consultants in accordance with Subsection 6340.~~

~~b. Consultants may be engaged to review any or all components of the site plan submission or any off-site improvements proposed in conjunction with the project. For projects requiring issuance of state or federal permits, the Board of Appeals may select a peer review consultant to review submissions to the state or federal agency and to represent the Town before these agencies to protect the Town's interests.~~

**10.6.8 Submission Requirements.** **Applications Minor and Major SPR shall** follow these submission requirements:

1. Applicants are encouraged to submit a sketch plan of proposed projects prior to formal site plan submission.
2. Site plan submissions shall be prepared by a multidisciplinary team. The drawings shall be signed and sealed by a Massachusetts civil professional engineer (PE), a Massachusetts professional land surveyor (PLS), and a Massachusetts registered landscape architect (RLA).
3. Site plans shall include a cover sheet, layout sheet, grading and drainage sheet, traffic control sheet, landscaping sheet, lighting sheet, photometric sheet, construction details sheet, a construction phasing sheet, and a sedimentation and erosion control sheet.
4. Site plans shall conform to the requirements of the Board with respect to scale, dimensions, legend, form and preparation acceptable to the Board. The Board may promulgate submission standards and requirements for site plan submission. Site plans

shall be drawn at a suitable scale and layout shall be tied to the Mass State Coordinate System and elevations shall be on North American Vertical Datum (NAVD 88).

5. Existing conditions shall be based on an on-the-ground survey based on fieldwork performed no more than two years prior to submission.

**10.6.9 Contents of Site Plan (SPR).** A site plan (SPR) shall show, among other things:

1. All existing and proposed buildings and structures and their uses, means of building egress, parking areas, access drives, loading areas, refuse and other waste disposal facilities and dumpsters, driveway openings, driveways, service areas and all other open space areas, zoning summary table, accessible parking spaces, and accessible routes.

2. Existing and proposed grading shall be shown with one-foot contours and spot grades. Earthwork quantities, geotechnical investigations, and foundation engineering reports shall be provided as required by the Zoning Board of Appeals.

3. All facilities for sanitary sewer collection systems, wastewater treatment systems, stormwater management systems, stormwater collection systems, water storage and supply systems, fire protection systems, site lighting, lighting and pole details, lighting photometric, and cable utility systems. Lighting fixture locations shall be shown for coordination purposes.

4. Landscape plan and detail sheets showing all hardscape and planting elements. Use of native plant materials is encouraged. Plants included on the Massachusetts Department of Agriculture's Massachusetts Prohibited Plant List shall not be used. The drawings shall show the quantity, location, species, and height or caliper of all trees and shrubs and the species, size, and quantity of all groundcovers. Construction details shall be provided for all structures and hardscape elements, and planting details shall be provided for coniferous and deciduous trees and shrubs of each size.

5. Drainage calculations and a narrative report shall be submitted detailing runoff under existing predeveloped conditions and under future post-development conditions and should identify changes in the peak rate and total volume of stormwater runoff for the one-, two-, ten-, twenty-five-, and one-hundred-year-frequency storm events.

6. Architectural plans and elevations for all structures shall be submitted, signed and sealed by a Massachusetts registered architect (RA).

7. A complete sign package shall be submitted, including all advertising and way-finding signage. All wall signs and freestanding signs shall be shown. Sign plans and details shall show locations, dimensions, colors, materials, finishes, methods of illumination and illumination levels, and methods of structural support.

8. In addition, the Zoning Board of Appeals will establish a "scope" detailing the design, fiscal, environmental, and community issues to be evaluated based upon the likely

impacts of the proposed project. In establishing the scope, the Board shall consider the comments of Town boards and officials having special expertise in the issues being evaluated. The scope of each study shall be proportional to the significance of related impacts on the site and Town.

**10.6.10 Contents of Major Site Plan (MSPR).** A major site plan (MSPR) shall show, among other things all requirements of Section 10.6.9. In addition, the Zoning Board of Appeals will establish a "scope" detailing the design, fiscal, environmental, and community issues to be evaluated based upon the likely impacts of the proposed project. In establishing the scope, the Board shall consider the comments of Town boards and officials having special expertise in the issues being evaluated and the review thresholds set forth below. The scope of each study shall be proportional to the significance of related impacts on the site and Town.

1. Traffic studies, if required, shall conform to the EOEA/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989). **The traffic study area (TSA) shall be established by the Zoning Board of Appeals.** ~~Traffic shall be evaluated for the "existing case," the "no-build plus five-year case," and for the "build plus five-year case." The "no-build plus five-year case" is defined as conditions existing five years following issuance of all required approvals under this bylaw, including required site plan approval, special permit, or variance, excluding project-generated traffic. The "build plus five-year case" is defined as conditions existing with full build-out and occupancy of the project five years following issuance of all required approvals under this bylaw, including required site plan approval, special permit, or variance, including all project-generated traffic. The level of service shall be determined in accordance with the Transportation Research Board's Highway Capacity Manual. Trips shall be distributed and traffic assigned to specific facilities using origins and destinations set forth in a market study prepared for the project. In the absence of a market study, the Board of Appeals may require that a market study be submitted or may require that origins and destinations be established through a gravity model.~~

Review thresholds. In establishing the scope, the Zoning Board of Appeals shall consider the following:

- a. For projects generating more than 3,000 vehicle trips per day, the traffic study area (TSA) shall encompass all intersections within 3,000 feet of the project boundary.
- b. For projects generating more than 1,000 vehicle trips per day, the traffic study area (TSA) shall encompass all major intersections whose peak-hour traffic volumes are increased by 200 or more vehicle trips per day or whose peak-hour traffic volumes are increased by 10% or more, and such other locations included in the scope established by the Zoning Board of Appeals.
- c. For projects generating more than 3,000 vehicle trips per day, plans for roadway and intersection upgrades for all roadway segments and intersections within the traffic study area as defined in Paragraph (1) shall be provided that are sufficient to provide Level of Service D or better under the "build plus five-year case" for the AM peak hour, the PM peak hour, and the Saturday peak hour.



2. Construction impacts and truck traffic shall be provided for sites disturbing over five acres.
3. Acoustical studies shall be provided where rooftop mechanical equipment is proposed or where the proposed use will generate noise when said building or use is within 500 feet of residences.
4. Air quality studies shall be provided where intersections in the traffic study area will operate at Level of Service E or F.
5. Groundwater flow, including geohydro models and aquifer recharge studies, where on-site wastewater disposal exceeds 5,000 gallons per day or where more than 40,000 square feet of impervious material will be placed within a Water Resource Protection District.
6. Visual quality and aesthetic studies shall be provided for projects exceeding 60,000 square feet of gross floor area.
7. Fiscal impact and property tax studies shall be provided for projects exceeding 60,000 square feet of gross floor area.
8. Infrastructure studies shall be provided for projects exceeding 60,000 square feet of gross floor area.

**10.6.11 Decision Making Criteria.** In determining whether site plan approval should be granted, the Board should consider the following:

1. The extent to which the site plan protects adjoining premises and on-site residential uses against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
2. The extent to which the site plan provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent street, property or improvements;
3. The extent to which the site plan provides adequate methods of disposal for sewage, refuse or other wastes resulting from the uses permitted or permissible on the site, the methods of drainage for surface water, and of provisions for the removal of snow from circulation and parking areas;
4. The extent to which the site plan provides adequate parking and street loading facilities;
5. The extent to which the site plan promotes public safety in terms of adequate fire and police protection and access.

6. If within the Surface Water Resource Protection District, the extent to which the site plan incorporates measures to minimize cumulative impacts on Lake Massapoag and its tributary streams, including consideration of nitrate-nitrogen loadings. All related information shall be provided and distributed by the applicant.
7. If within the Groundwater Resource Protection District, the extent to which the site plan incorporates measures to minimize cumulative impacts on municipal water supplies, including consideration of nitrate-nitrogen loadings. All related information shall be provided and distributed by the applicant.
8. If within Water Resource Protection Districts, the extent to which earthwork minimizes impacts on groundwater resources.

**10.6.12 Additional Criteria for Business Districts A and C; Town Center.** The purpose of this Section, ~~in addition to and not in limitation of the purposes set forth in Section 1.0;~~ is to assist owners, tenants and designers of buildings in the Town Center in strengthening the social and economic base, to make the district an attractive place in which to live, visit, work and shop, to preserve property values, to prevent alterations or additions that are incompatible with the Town Center village vision portrayed in supporting guidelines, and to enhance the provision of safe and adequate circulation, parking utilities and drainage.

**In addition to the criteria set forth in Section 10.6.11,** the site plan review criteria to be applied for projects located within the Business A or the Business C District are summarized below and are portrayed in the Post Office Square Design Guidelines.

1. Site design and its relation to the neighborhood. Buildings should be located to establish a uniform streetscape and to ensure that drives, parking areas, walks, service and septic uses have a functional, safe, and harmonious interrelationship, are compatible with the existing site features and adjacent buildings, and establish common public areas for circulation and seating. The plan should protect adjoining premises and on-site residential uses against any possible detrimental design or site plan features.
2. If within the Groundwater Resource Protection District, all related information should be provided and distributed by the applicant identifying measures to minimize cumulative impacts on municipal water supplies, including consideration of nitrate-nitrogen loadings.
3. Building and facade design. Buildings should relate in scale and design features to the surrounding buildings as well as to their location at corners or along view corridors. Design which is compatible with the promotion of architecture of a traditional New England village downtown business district should be encouraged through the use of appropriate building materials, breaks in roof and wall lines, differentiation between ground-floor commercial and upper-floor residential uses.

4. Parking, loading, auto service uses. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Where appropriate, a traffic study will be undertaken to estimate 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, adequate circulation, and provision for off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use within the site.

5. Landscaping, buffers, fencing, paving, lighting. The plan shall identify landscaping which is complementary to the scale and location of the building and its relationship to the street and adjacent structures. Lighting, screening, paving materials should reinforce a New England village theme.

6. Signs. The plan shall create a sign that is appropriate in relation to development scale, and should serve to enhance architectural elements of the building. The sign design, materials and placement should provide continuity with signage from neighboring structures, and should reinforce that of a New England village theme.

~~10.6.12 Site Plan Approval in Business A and C Districts. Projects requiring low impact site plan approval. Unless a site plan has been endorsed by the Planning Board, no building permit shall be issued in the Business A or the Business C District for:~~

- ~~a. The construction, reconstruction, addition, exterior alteration, or change in use of any structure, other than a single or two family dwelling, for uses permitted by right or by special permit in the Table of Use Regulations; or~~
- ~~b. The construction, reconstruction, addition, exterior alteration, or change in use of any structure for uses permitted by special permit as identified in Subsection 2326\*\*\*.~~

~~The Planning Board will establish a two-tier review process. In the opinion of the Planning Board, projects which meet a checklist of criteria adopted by the Planning Board in its rules and regulations as part of the Post Office Square Design Guidelines shall be approved within 21 days, subject to Board of Health approval, if such approval is required for the project, and referred to the Building Department. In the opinion of the Planning Board, projects which do not meet this checklist will be reviewed and a decision filed within 45 days of the determination that further review is required. Such guidelines may be adopted and/or amended from time to time by the Planning Board and are incorporated in this bylaw by reference. Any project including new construction, reconstruction, addition, exterior alteration or change in use that requires (prior to any reductions under Subsection 3111\*\*\*) 20 or more parking spaces on one lot or in one shared parking area shall be subject to the extended review process as set forth above and in Subsection 6334. Any project including new construction, reconstruction, addition, exterior alteration or change in use that requires (prior to any reductions under Subsection 3111\*\*\*) fewer than 20 parking spaces on one lot or in one shared parking area shall be subject only to the twenty one-day review process.~~

~~Any alterations or improvements generated in compliance with the Americans with Disabilities Act shall be exempt.~~

~~Application for Site Plan Approval. Each application for site plan approval shall be submitted at a meeting of the Planning Board by the current owner of record, or such persons authorized in writing to act on behalf of such owner, accompanied by 10 copies of the site plan and 10 copies of the elevation plan. For projects which the Planning Board will review within the extended forty five day time period, the Board will transmit, within five days, one copy each to the Building Inspector, Board of Health, Conservation Commission, Select Board, Department of Public Works, Fire Department, Police Department, Sign Committee, and Historic District Commission.~~

~~Required Site Plan Contents. All site plans shall be prepared by a registered architect, landscape architect, or professional engineer unless this requirement is waived by the Planning Board because of unusually simple circumstances. All site plans shall be prepared at a scale established with the Planning Board in the above referenced guidelines and adequate to show those items enumerated in this Section 10.6 as well as the adequacy of fire and police protection and access. Elevation plans shall be prepared showing the part or portions of the structure visible from the street that provide the lot's frontage, showing the relationship of the structure to the structures on the lots on either side. The submission of site and building elevation plans shall be subject to such further rules relating to scale, dimensions, legend, form and preparation as may from time to time be promulgated by the Planning Board.~~

~~The Planning Board shall, within 21 days of the submission, determine if the criteria in the Post Office Square Design Guidelines have been met and that further review is not required or that extended review within an additional forty five day time period is required. If extended review is required, the Planning Board shall refer copies of the application and plans to those agencies and boards identified in Subsection 6332, who shall review the application and submit their recommendations and comments to the Planning Board. Failure of the boards to make recommendations within 21 days of the referral of the application shall be deemed to be lack of opposition.~~

~~The Planning Board, after due consideration, shall take final action, consistent with Subsection 6336, within 45 days of its determination under Paragraph a of this Subsection 6334 unless the Planning Board determines an extension is necessary to provide an adequate review. Where special permits are required, the Planning Board and the Board of Appeals may start their process at the same time. The Planning Board will forward its determination to the Board of Appeals, which may incorporate the Planning Board's decision into its decision.~~

~~Final action. The Planning Board's final action shall consist of either:  
determination that the proposed project is in compliance with the criteria set forth in this bylaw;  
A denial for submission of incomplete information or for not having met the standards established for site plan review;  
Approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary, consistent with the provisions of this bylaw.~~

~~Enforcement and implementation.~~

~~Any site plan approval issued under this section shall lapse within one year if substantial construction thereof has not commenced sooner, except upon application within one year and for good cause shown. Such time period may be extended by the Planning Board for one year.~~

~~The Planning Board may periodically adopt or amend rules and regulations relating to the procedures and administration of this for the Post Office Square Design Guidelines.~~

### **10.6.13 Additional Criteria for Business District D.**

1. The extent to which the site plan fulfills the objective of the Business District D to provide a New England village style development accommodating retail, office and uses otherwise permitted within freestanding residential-scale structures.
2. The extent to which proposed structures reflect New England's architectural heritage.
3. The extent to which nearby buildings have distinct but harmonious architectural elements.
4. The extent to which the site plan provides grouped buildings that are visually distinct and separate.
5. The extent to which high-quality landscape elements and amenities are provided within the public open spaces within building groups.
6. The extent to which each parking field is visually distinct and the extent to which unbroken and monotonous expanses of pavement are avoided.
7. The extent to which roadways serving the site conform to collector street standards.
8. The extent to which annual recharge for the "build case" exceeds annual recharge for the "existing case."
9. The extent to which peak-hour levels of service at intersections within the traffic study area operate at Level of Service D or higher under the "build plus five-year case."
10. The extent to which on-site wastewater treatment allows groundwater to meet Massachusetts drinking water standards at the property line.
11. The extent to which rooftop mechanical equipment shall be visually screened and acoustically buffered and to which day-night average sound levels caused by this equipment do not exceed 55 dB at the property line.
12. The extent to which drive-through facilities conform to the design requirements of Section 6.1.

#### 6340. Outside consultants.

~~6341. Consultants. In the course of exercising its powers under this bylaw, the Board of Appeals may engage outside consultants for peer review of submissions or for construction observation. Consultants are selected by majority vote of the Board of Appeals. To the extent practicable, the Board shall work cooperatively with the applicant and, when appropriate, shall seek input from the Planning Board, Board of Health, and Conservation Commission with~~

respect to identifying appropriate consultants. Applicants are responsible for payment of consultant fees.

~~6342. Review fees.~~

~~a. Applicants shall reimburse the Town for the fees and expenses of outside consultants engaged by the Board of Appeals. Fees shall be paid prior to inception of each phase of the work. Escrow accounts shall be replenished within seven days following receipt of notice. Failure to pay fees in accordance with the aforesaid shall be deemed to constitute withdrawal of the project. Fees shall be deposited in a special account established by the Town Treasurer pursuant to MGL c. 44, § 53G.~~

~~b. These funds may be expended only for the purposes described in Subsection 6341 above, and in compliance with the Uniform Procurement Act, MGL c. 30B, §§ 1 through 20. Within 30 days of completion of the project or of withdrawal of the proposal, applicants shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest. The Town Accountant shall submit annually a report of the special account to the Select Board and Town Administrator for review and for publication in the Sharon Annual Report.~~

~~c. Review related fees will only be imposed if the work constitutes peer review of materials prepared on behalf of the applicant and not of independent studies performed on behalf of the Board; if the work is performed in connection with the applicant's specific projects; and if the findings and reports are made part of the public record.~~

~~d. Procurement of outside consultant services shall comply with the Uniform Procurement Act, MGL c. 30B, §§ 1 through 20, and with the following additional requirements:~~

~~(1) The applicant shall be given five days' notice and opportunity to attach written comments to the invitation for bids or request for proposals;~~

~~(2) At least three bona fide bids or proposals shall be solicited; and~~

~~(3) The applicant shall be given five days' notice and opportunity to comment on all bids or proposals prior to the selection of the consultant and the award of a contract.~~

~~e. Consultants shall be qualified and, where applicable, duly licensed to evaluate specific issues before the Board. Bona fide bids or proposals shall include: the name of each person performing the work; the educational and professional credentials of each person performing the work; the work experience of each person performing the work; a description of the work to be performed; the hourly rate charged by each person performing the work; and all other expenses to be incurred. Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within 10 days of receiving written notification of selection of a bidder or offer, the Board may deny the application.~~

~~f. Fees assessed pursuant to this section shall be reasonable in light of: the complexity of the proposed project as a whole; the complexity of particular technical issues; the number of housing units proposed; the size and character of the site; the projected construction costs; and fees charged by similar consultants in the area. Generally, fees will not exceed amounts that would be expended by the Town to review a comparable project.~~

~~6343. Appeal of selection. Prior to paying the review fee, applicants may appeal selection of a particular consultant to the Select Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related~~

~~field. The required time limits for action upon the application by the Board shall be extended by the duration of the appeal. In the event that no decision is made by the Select Board within one month following the filing of the appeal, the selection made by the Board shall stand.~~

**10.6.13 Procedures.** The Zoning Board of Appeals shall hold a public hearing for consideration of an application of site plan approval. Said hearing shall be conducted in accordance with the procedures set forth in M.G.L. c. 40A, s. 11 for special permits. The written decision of the Zoning Board of Appeals shall be filed with the Town Clerk within 90 days of the close of the public hearing. Failure to file the decision within 90 days of the close of the public hearing shall be constructive approval of the site plan application.

**10.6.14 Lapse.** 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 Board upon the written request of the applicant.

**10.6.15 Regulations.** The Board may adopt reasonable regulations for the administration of site plan review.

**10.6.16 Fee.** The Board may adopt reasonable administrative fees and technical review fees for site plan review.

**10.6.17 Appeal.** Any decision of the Zoning Board of Appeals pursuant to this Section shall be appealed in accordance with M.G.L. c. 40A, s. 17 to a court of competent jurisdiction.

## **10.7 SITE PLAN REVIEW FOR DOVER AMENDMENT USES.**

**10.7.1 Purpose.** The purpose of this Section is to provide for site plan review of religious uses, educational uses, and child care centers otherwise “exempt” pursuant to M.G.L. c. 40A, s. 3. These are items B.1, B.2 and B.3 in the Table of Use and Parking Regulations.

**10.7.2 Site Plan Review Required.** Prior to the issuance of any building permit or certificate of occupancy, the establishment, alteration, change, extension, or reconstruction of uses B.1, B.2, or B.3, as set forth in the Table of Use and Parking Regulations, shall require site plan approval from the Planning Board pursuant to this Section.

**10.7.3 Scope of Site Plan Review.** Under this Section, Site Plan Review shall be limited to two inquiries:

1. Whether the use qualifies for protection under M.G.L. c. 40A, s. 3; and, if so,
2. What reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any, should be imposed on the use.

**10.7.4 Required Information.** All applications for Site Plan Review shall be in writing and provide the information required by Section 10.6 necessary to determine the scope of reasonable regulations that shall be applied to the Dover Amendment Use.

**10.7.5 Decision.** The Planning Board may approve, approve with conditions, or deny an application for site plan approval. In making its decision, the Board shall be guided exclusively by M.G.L. c. 40A, s. 3. The Board shall file a written decision with the Town Clerk within 90 days of receipt of the application. Failure to file a decision within ninety (90) days shall constitute constructive approval of the site plan.

**10.7.6 Appeal.** Any appeal of the Planning Board's decision shall be made pursuant to M.G.L. c. 40A, s. 17, to a court of competent jurisdiction.

## **10.8 REQUEST FOR REASONABLE ACCOMMODATION.**

**10.8.1 Purpose.** Under the FHA, it is a discriminatory practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling" 42 U.S.C. § 3604(f)(3)(B). The same standard applies under the ADA, which also addresses nonresidential facilities providing services to persons with disabilities. 42 U.S.C. 12112(b)(5). See also M.G.L. c. 40A, s. 3. The purpose of this Section is to facilitate housing and/or services for persons with disabilities and to comply fully with the spirit and the letter of the FHA and, where applicable, the ADA.

**10.8.2 Request.** Any person eligible under the FHA or any provider of housing to persons eligible under the FHA, or any person eligible to operate a nonresidential facility providing services to persons eligible under the ADA, may request a Reasonable Accommodation as provided by the Fair Housing Act and/or the ADA. A Request for a Reasonable Accommodation does not affect a person's or provider's obligations to act in compliance with other applicable laws and regulations not at issue in the requested accommodation.

**10.8.3 Zoning Board of Appeals.** All requests for Reasonable Accommodation under the FHA and/or the ADA shall be submitted to the Zoning Board of Appeals (ZBA).

**10.8.4 Information.** All requests for Reasonable Accommodation shall be in writing and provide, at a minimum, the following information:

1. Name and address of person(s) or entity requesting accommodation;
2. Name and address of property owner;
3. Name and address of dwelling or facility at which accommodation is requested;
4. Description of the requested accommodation and specific regulation or regulations for which accommodation is sought;
5. Reason that the requested accommodation may be necessary for the person or persons with disabilities to use and enjoy the premises; and



6. If the requested accommodation relates to the number of persons allowed to occupy a dwelling, the anticipated number of residents, including facility staff (if any).

7. If necessary to reach a decision on the request for Reasonable Accommodation, the ZBA may request further information from the applicant consistent with the FHA and/or ADA, specifying in detail the information required.

**10.8.5 ZBA Procedures.** The ZBA shall decide a request for reasonable accommodation by majority vote at an open meeting. The ZBA may hold a public hearing using the procedures, including notice, set forth in M.G.L. c. 40A, §§ 11 and 15. The deadlines imposed in M.G.L. c. 40A, s. 11 or s. 15 may be extended upon the request of the applicant and the approval of the ZBA. The ZBA may seek information from other Town agencies in assessing the impact of the requested accommodation on the rules, policies, and procedures of the Town. Upon written notice to the ZBA, an applicant for a reasonable accommodation may withdraw the request without prejudice. The ZBA shall consider the following criteria when deciding whether a request for accommodation is reasonable:

1. Whether the requested accommodation is reasonable;
2. Whether the requested accommodation would require a fundamental alteration of a legitimate Town policy; and
3. Whether the requested accommodation would impose undue financial or administrative burdens on the Town government.

**10.8.6 Decision.** After conducting an appropriate inquiry into the request for reasonable accommodation, the ZBA may:

1. Grant the request;
2. Grant the request subject to specified conditions; or
3. Deny the request.

The ZBA shall issue a written final decision on the request in accordance with M.G.L. c. 40A, s. 15. If the ZBA fails to render its decision on a request for reasonable accommodation within the time allotted by M.G.L. c. 40A, s. 15, the request shall be deemed granted. The ZBA's decision shall be filed with the Town Clerk and sent to the applicant by certified mail.

**10.8.7 Appeal.** The ZBA's decision pursuant to this Section may be appealed to a court of competent jurisdiction in accordance with M.G.L. c. 40A, s. 17 or otherwise.

**10.8.8 File.** The ZBA shall maintain a file of all requests for reasonable accommodation under the FHA and/or the ADA and a file of all decisions made on such requests. The file(s) may be reviewed in the Office of the ZBA upon request during regular business hours.

**10.8.9 Other Laws.** While a request for a reasonable accommodation is pending, all laws and regulations otherwise applicable to the premises that is the subject of the request shall remain in full force and effect.

## SECTION 11.0 DEFINITIONS

For the purpose of this Bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the Sharon Subdivision Rules and Regulations and the State Building Code shall have the meanings given therein unless a contrary intention clearly appears.

**Accessory building or structure:** A building or structure devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.

**Accessory use:** A use **customary and** incidental to, and on the same lot as, a principal use, ~~and occupying less than 25% of the habitable floor area on the premises and less than 50% of the lot area.~~

**Adult day care:** A "Social Day Care (SDC) Program" or "Adult Day Health" Program as those terms are defined by the Commonwealth's Executive Office of Elder Affairs (EOEA), serving not more than 15 persons.

**Adult use:** For the purposes of Section 7.1, the following definitions shall apply:

**Adult use:** Adult bookstores, adult cabarets, adult motion-picture theaters, adult paraphernalia stores and adult video stores, or a combination thereof operated as a single business, or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in M.G.L. c. 272, § 31, and as defined in this Bylaw. For purposes of interpreting the definition of "adult use" as defined by this Bylaw, "regular or regularly" shall mean a consistent, ongoing and substantial course of conduct, such that the films, performances or business activities so described constitute a significant and substantial portion of the films, performances or business activities offered as a part of the ongoing business of the sexually oriented business. For purposes of this Bylaw, "significant or substantial" shall mean more than 25% of the subject establishment's inventory of stock or more than 25% of the subject premises' gross floor area.

**Adult bookstore:** An establishment having as 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. c. 272, § 31.

**Adult cabaret:** A nightclub, bar, restaurant, tavern, dance hall or similar commercial establishment which regularly features persons or entertainers who appear in a state of

nudity or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement, as defined in M.G.L. c. 272, § 31.

**Adult motion-picture theater:** An enclosed building or any portion thereof regularly used for presenting material (motion-picture films, videocassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in M.G.L. c. 272, § 31.

**Adult paraphernalia store:** An establishment having as 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. c. 272, § 31.

**Adult video store:** An establishment having as a substantial or significant portion of its stock-in-trade, for sale or rent, motion-picture films, video cassettes and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in M.G.L. c. 272, § 31.

**Affordable housing; BA District:** For the purposes of Section 8.6, the following definitions shall apply:

**Affordable homeownership unit:** An affordable housing unit required to be sold to an eligible household.

**Affordable housing:** Housing that is affordable to and occupied by eligible households. The unit must be approvable to be added to the subsidized housing inventory (SHI) pursuant to M.G.L. c. 40B. Units must be approved through the Local Action Unit (LAU) program of the Massachusetts Department of Housing and Community Development, if not filed as part of a 40B comprehensive permit filing.

**Affordable housing restriction:** A deed restriction of affordable housing meeting statutory requirements in M.G.L. c. 184, § 31, and the requirements of this Bylaw.

**Affordable rental unit:** An affordable housing unit required to be rented to an eligible household.

**Eligible household:** An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Affordable housing; BD District:** For the purposes of Section 8.7, the following definitions shall apply:

**Affordable housing:** Housing that is affordable to and occupied by eligible households. The unit must be approvable to be added to the subsidized housing inventory (SHI) pursuant to M.G.L. c. 40B. Units must be approved through the local action unit (LAU) program of the Massachusetts Department of Housing and Community Development.

**Antenna:** A device for transmitting or receiving electromagnetic waves, which is attached to a tower or other structure. Examples include, but are not limited to, whip, panel, and dish antenna(s).

**Apartment:** An apartment (or flat) is a self-contained dwelling unit that occupies only part of a larger building that may contain one or more additional apartments, nonresidential uses, or both. Apartments may be owned (by an owner-occupier) or rented (by tenants).

**Art gallery:** A place devoted to the display and sale of objects of art.

**Artist's studio:** Working place of an artist or a place for the study of art.

**Basement:** A story with at least 40% of its height below finished grade. However, for purposes of determining compliance with the height limit requirements of this bylaw, a basement shall not be considered a story unless its ceiling is five feet or more above the average finished grade abutting the building.

**Bed and breakfast facility:** The providing of room and breakfast in a dwelling to not more than three transient guests for remuneration. There shall be no more than two persons per room. There shall be adequate off-street parking for residents and guests.

**Bedroom:** Any area in a dwelling unit which is or could be used for the provision of private sleeping accommodations for residents of the premises, whether such area is designated as a bedroom, guestroom, maid's room, dressing room, den, study, library, or by another name. Any room intended for regular use by all occupants of the dwelling unit, such as a living room, dining area or kitchen, shall not be considered a bedroom, nor shall bathrooms, halls or closets having no horizontal dimension over six feet.

**Boarder:** An individual other than a family member occupying a dwelling unit who, for consideration, is furnished sleeping accommodations, meals, and may be provided personal care or other services, but excluding guests at a bed and breakfast.

**Body art establishment:** The practice of physical adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine in the Commonwealth, such as implants under the skin which shall not be performed in a body art establishment.

**Building, attached:** A building having any portion of one or more walls in common with adjoining buildings.

**Building coverage:** The aggregate of the maximum horizontal cross-section area of all buildings on a lot, exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

**Building, detached:** A building surrounded by open space on the same lot.

**Building, principal:** A building in which is conducted the principal use of the lot on which it is located.

**Business District D Development (BDDD):** A project comprised of one or more contiguous lots of land within the Business District D with provisions as may be required for permanent easements running with the land, a master deed and condominium, or other mechanism acceptable to the Zoning Board of Appeals sufficient to ensure vital access and utility service to each lot.

**Child care center:** A child care center or school age child care program as those terms are defined in M.G.L. c. 15D, s. 1A.

~~CONGREGATE HOUSING AS AUTHORIZED BY MGL C. 121B, § 39, that provides a shared living environment with separate sleeping quarters and shared common facilities which are designed to integrate the housing and services needs of persons aged 60 and over or qualified disabled and that have applied to the Sharon Housing Authority.~~

**Commercial vehicle:** A vehicle registered for commercial use.

**Common driveway:** A driveway serving more than one lot.

**Craft shop:** Shop for the fabrication, alteration or maintenance of hand-portable goods and household furnishings, such as cabinet makers, upholsterers, etc., to be delivered on the premises, (1) That at least 25% of the floor area of such a permitted shop is devoted to retail sales; (2) That all such work is done directly for the ultimate consumer; (3) That no motor in excess of 10 horsepower is used.

#### ~~DAY CARE~~

~~Private, nonprofit, or public organization providing supervision and facilities for children and/or adults during the day.~~

**Discharge:** The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous materials upon or into any land or water in the Town of Sharon. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage system and disposal of such materials into any on-site sewage disposal system, dry well, catch basin or unapproved landfill. The term "discharge" shall not include the following:

- a. Proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose;

- b. Application of fertilizers and pesticides in accordance with label recommendations and with regulations of the Massachusetts Pesticide Control Board;
- c. Application of road salts in conformance with snow control programs of the Massachusetts Department of Transportation; and
- d. Disposal of sanitary sewage to subsurface sewage disposals systems as defined and permitted by Title V of the Massachusetts Environmental Code and the Town of Sharon Board of Health regulations.

**Dormitory:** A building containing sleeping rooms, dining rooms, common rooms, and accessory facilities intended exclusively for the use of students of an educational institution, having been constructed or converted by that institution or with its specific authorization.

**Drive-through:** A facility located on one side of a building through which customers receive services, food or merchandise while remaining in their motor vehicles.

**Dwelling:** A building designed exclusively for residential occupancy, including one-family, two-family and multiple residences, but not including hotels or boardinghouses.

**Dwelling, multifamily:** A detached residential building containing at least three dwelling units.

**Dwelling, single family:** A detached residential building intended and designed to be occupied by a single family.

**Dwelling, two family:** A residential building intended and designed to be occupied by two families.

**Dwelling unit:** An area within a dwelling consisting of one or more rooms, providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including rooms for living, sleeping and eating.

**Essential services:** Services and facilities offered by public utility or governmental agency by the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, excluding power plants or transfer stations. Facilities necessary for the provisions of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are municipal, state, or federal services and facilities.

**Family day care home, large:** An accessory use as defined in M.G.L. c. 15D, s. 1A.

**Family day care home, small:** An accessory use as defined in M.G.L. c. 15D, s. 1A.

**Floor area, habitable:** That area of a structure satisfying the requirements for a habitable room in the Minimum Standards of Fitness for Human Habitation of the Massachusetts Department of Public Health (Article II of the State Sanitary Code).

**Floor area ratio:** The gross floor area (as defined below) of all buildings on a lot divided by the lot area (as defined below).

**Funeral establishment:** Facility for the conducting of funerals and related activities such as embalming or cremation.

**Garage, group:** A building, a part of a building, or a group of buildings, other than a private garage, made up of units containing provisions for not more than two motor vehicles in each unit, in which motor vehicles are kept and taken care of by their respective owners, who are either tenants or owners of each unit in which their motor vehicles are kept, all said motor vehicles being solely for private or professional use, and not for sale, rent, hire, exhibition or demonstration purposes.

**Garage, private:** A building or part of a building in which one or more vehicles are kept for private or professional use, and in which no motor vehicles are kept for sale, rent, hire, exhibition or demonstration purposes.

**Garage, public:** Any building or part of a building in which motor vehicles are kept other than a private garage or group garage. A salesroom or showroom for motor vehicles shall be regarded as a public garage if any motor vehicle is kept in such room with gasoline in its tank.

#### ~~GASOLINE SERVICE STATION~~

~~A tank, pump or other appliance for supplying motor vehicles with gasoline, compressed air, oil, water, and similar supplies, but not for the purpose of making repairs; together with the building, part of a building or other structure used in connection with such appliance.~~

**General service establishment:** Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service person, mason, painter, plumber or roofer.

**Gross floor area:** The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet but not exceed the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.



**Gross leasable floor area:** The total floor area reserved for tenant occupancy and exclusive use of a business, measured from centerlines of joint partitions and from the exterior faces of external walls. As in "gross floor area," it does not include cellars, etc.

**Half story:** ~~A story directly under a sloping roof where, in the case of a roof having one uniform degree of pitch (such as in gable or shed roof types), the points of intersection of the bottom of the rafters and the interior faces of the exterior walls are less than two feet above the floor level on at least two opposite exterior walls or, in the case of a roof having two or more pitches on each of two or more sides (such as gambrel or mansard roof types), the average finished floor to finished ceiling height is less than six feet. Dormers may be constructed on the roof and exterior walls, provided they are structurally supported on the roof rafters and the length of the dormer(s) as measured between the lowest bearing points of the dormer(s) on the rafters of the sloping roof does not exceed 50% of the length of the sloping roof to which it is attached.~~

**Health care center:** May include urgent care services, primary care services, specialist services, clinics, outpatient facilities, diagnostic and lab services, day surgery, rehabilitation and sports medicine, mental health, and similar medical services provided that no overnight patient beds are provided.

**Height, building:** The vertical distance of the highest point of the roof beams above the mean grade of the curb or of the street surface at the centerline of the highest adjoining street, or the mean grade of the ground adjoining the building if such building does not lie nearer than 12 feet to a street line. The limitations as to building height in feet shall not apply to such nonresidential accessories as chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other accessory features which are required or are customarily carried above roofs, nor to towers, spires, domes, cupolas and ornamental features of churches and other buildings, if such features are not used for living purposes.

**Height, Structure:** The vertical distance between the highest point of the structure, other than a building, including any devices attached thereto, and the grade.

**Home occupation:** An accessory activity carried on by only the permanent resident of a dwelling, inside the principal building, requiring only customary home or hobby type equipment and no physical evidence of which is observable from outside the building. See Section 3.4.

**Hospital:** A building housing a facility or institution licensed to provide short-term acute in-patient and/or outpatient medical and/or surgical care; not to include a doctor's office.

**Hotel:** A building designed for occupancy as the temporary residence of transient tourists who are lodged with or without meals, and in which no provision shall be made for cooking in any individual room or suite.

**Impervious:** Any surface impenetrable by surface water, or having a percolation rate longer than 30 minutes per inch.

**Lot:** an area or parcel of land or any part thereof in individual, joint or common ownership, or in ownership by the entirety, which is designated on a plan as a separate lot and which has boundaries identical with those on a plan recorded in the county registry of deeds or Land Court.

**Lot area:** The horizontal area of the lot, exclusive of any area in a street or recorded way open or proposed to be open to public use. For lots created subsequent to the adoption of this provision, at least 90% of the lot area required for zoning compliance shall be land other than that under any body of water, including watercourses, or any bog, swamp, wet meadow or marsh, as defined in M.G.L. c. 131, § 40, to be determined by the Inspector of Buildings, following consultation with the Conservation Commission.

**Lot, corner:** A lot fronting on the street lines of two intersecting streets, which street lines form an interior angle of 120° or less; or a lot located on a bend in a street where the street line bends so as to form an interior angle of 120° or less; or a lot on a curve in a street, or on a curve at the intersection of two streets, where two lines tangent to the street line at the intersection of each sideline of the lot with the street lines, if prolonged towards the curve, form an interior angle of 120° or less.

**Lot coverage:** The percent of lot area covered by roofed any impervious surface.

**Lot, interior:** Any lot or part of a plot other than a corner lot.

**Major Nonresidential Development:** Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or residential structure with 10 or more dwelling units with 25,001 or more square feet of gross floor area. All Major Nonresidential Developments shall require a special permit from the Planning Board.

**Manufacturing:** A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding the following: Acid manufacture; Cement, bituminous concrete or asphalt manufacture; lime, gypsum or plaster of paris manufacture; Production of chlorine or similar noxious gases; Distillation of bones; Drop-forge industries manufacturing forging with power hammers; Manufacture or storage of explosives in bulk quantities; Fertilizer manufacture; Garbage, offal, or dead animal reduction or dumping; Glue manufacture; Hair manufacture; Petroleum refining; Processing of sauerkraut, vinegar or yeast; Rendering or refining of fats or oils; Smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill; Stockyard or feeding pen; Slaughter of animals, not including the killing of fowl.

**Manufacturing, light:** Light industry or light manufacturing: Includes the following (with related offices): a. Assembly of previously prepared or manufactured parts; b. Machine shops or other metal working; c. Printing and graphic arts establishments; d. Manufacture, compounding, processing, packaging, stamping or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical and biotechnical, toiletries and food products, and wood, but not including the rendering of fats or oils.

**Marijuana establishment:** For the purposes of Section 7.3, the following definitions shall apply:

**Marijuana establishment:** A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

**Registered marijuana dispensary (RMD):** A building or structure used for a medical marijuana treatment center approved and licensed by the Massachusetts Department of Public Health pursuant to 105 CMR 725.000, owned and operated by a not-for-profit or for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as marijuana-infused products, 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. Unless otherwise specified, "RMD" refers to the site(s) of dispensing, cultivation and preparation of marijuana.

**Mixed-use building:** A building intended and designed to be used for at least two different permitted uses – one residential, the other nonresidential - as allowed in this Bylaw.

**Medical clinic:** A facility as defined in 105 CMR 145.020, including a mobile clinic and urgent care facility.

**Medical office:** A building designed and used as an office by physicians, dentists, or psychotherapists for the diagnosis and treatment of human patients that does not include overnight care facilities or licensing as a clinic.

**Mobile home:** Any vehicle or object, which is drawn by or used in connection with a motor vehicle, and which is so designed and constructed or reconstructed 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. The term "mobile home" includes the type of vehicle or modular construction commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

**Motor vehicle:** Any vehicle self propelled by a battery-powered, electric or internal combustion engine, which are permitted and requires a valid registration legally issued by a governmental authority in order to be operated on a public way. A motor vehicle shall include but not be limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors.

**Motor vehicle light service station:** A building or premises used for the dispensing, sales or offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any repairs shall be activities minor in scope and clearly subordinate to

the sale of motor fuels, oils and lubricants. No drive-through facilities are permitted without further zoning relief.

**Motor vehicle repair shop:** A building or part of a building in which structural repairs are made to motor vehicles, or a repair shop in a garage or other building in which machinery is used. An automobile school or a motor vehicle auto body or paint shop shall be regarded as a motor vehicle repair shop.

**Multiple residence:** A building containing three or more dwelling units. Also known as a "multifamily dwelling," "garden apartment," "townhouse" or "condominium."

**Municipal commercial solar energy systems:** System on land owned by the Town of Sharon, other than land under the control of the Sharon Conservation Commission; provided, however, such use is permitted only on a parcel consisting of two or more acres. Parcels separated by a road shall be considered adjacent for purposes of this definition. Municipal commercial Solar energy systems permitted under this definition shall be exempt from lot coverage, natural vegetation and impervious surface requirements as otherwise set forth in this Bylaw.

**Municipal indoor/outdoor recreation:** Facility on land owned by a municipal body, other than land under the control of the Sharon Conservation Commission; provided, however, such use is permitted only on a parcel consisting of two or more acres and which parcel is adjacent to existing municipal recreation or park uses. Parcels separated by a road shall be considered adjacent for purposes of this definition.

**Natural vegetation area:** Land having a well-established cover of thatch, mulch or leaves, characterized by a prevalence of native plants requiring minimal use of fertilizers, herbicides or pesticides and no underground piped irrigation systems allowed.

**Nonconforming building structure:** A lawfully created structure building the use of which, in whole or in part, does not conform to the regulations of the district in which the building is located.

**Nonconforming use:** A lawfully created use which does not conform to the use regulations of the district in which such use exists.

**Office, business or professional:** A business establishment, which does not offer a product or merchandise for sale to the public but offers a professional service to the public. However, general or personal service establishments are not to be included in the definition of business offices.

**Open space:** A portion of a lot or other area of land associated with and adjacent to a building or group of buildings in relation to which it serves to provide light and air, for scenic, recreational or similar purposes. Such space shall be available for use by the occupants of the building(s) with which it is associated, and to the general public as appropriate with respect to the location of the open space on the lot and the nature of the use. Open space shall include parks, plazas, playgrounds, lawns, landscaped areas, decorative plantings and pedestrian ways.

Streets, parking lots, driveways, service roads, loading areas, and areas normally inaccessible to pedestrian circulation shall not be counted in determining required open space.

**Outdoor storage and display of goods for sale:** Whether as a principal or accessory use, but not including secondhand goods or parts, nor bulk goods such as lumber or gravel, provided all outdoor storage and display is screened from side and rear lot lines in the manner described in this Bylaw.

**Outside storage of materials, supplies, equipment, construction equipment, and manufactured products, in a storage yard:** Provided that the storage is appropriately screened in accordance with all applicable sections of this Bylaw.

#### ~~OPEN LAND~~

~~The land in a cluster subdivision which is preserved under the provisions of Section 4300.~~

#### ~~ORGANIZED BUSINESS, INDUSTRY, TRADE, MANUFACTURING OR COMMERCIAL ENTERPRISE~~

~~Within the meaning of this phrase as used in Section 2300 is an activity in which the owner, manager or agent employs other persons in such number or conducts the enterprise in such manner as to give to the premises used therefor the appearance of a place of business, industry, trade or manufacturing as distinguished from or in addition to a place of residence.~~

**Parking Facility:** A surface parking lot, or a structure, providing three or more parking spaces together with internal islands, dividers, walks, and landscaping, plus vehicular drives which abut those elements, but not including other portions of entrance or exit drives.

**Personal service establishment:** A facility providing personal services such as hair or nail salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

**Private nonprofit club or lodge:** A social, sports or fraternal nonprofit association or organization which is used exclusively by members and their guests which may contain bar facilities.

#### ~~RELATED PERSONS~~

~~Two or more persons who are within the second degree of kinship to each other, as defined by civil law, and their respective spouses and offspring.~~

**Recreation and residential overlay district:** For the purposes of Section 9.5, the following definitions shall apply:

**Multiuse clubhouse:** A facility in one or more buildings grouped around a common parking area that includes a golf clubhouse if the project includes an operational golf course and may include one or more private facilities as follows: a sit-down restaurant, function facility, or gymnasium/health club/fitness center.

**Primary access drive:** A vehicular and pedestrian access facility, including appurtenant utilities, providing primary access to three or more buildings containing two-family dwellings or to a building containing a multiuse clubhouse or to a parking facility for golf course users or any of the aforesaid.

**Recreation and residential overlay district project:** A project located on one or more contiguous lots of land within the Recreation and Residential Overlay District and developed pursuant to the requirements of Section 9.5 with two-family dwellings, a multiuse clubhouse, a golf course, and open space used for active recreation and/or conservation purposes and with uses of land and buildings or dimensional, parking, and loading requirements governed by the provisions of Section 9.5.

**Recreational vehicle:** A vehicle designed for recreational use (as in camping).

**Recreational use or facility, indoor:** Indoor public or private commercial sport use or facility for amusement, leisure, or recreation, theater, motion picture house, bowling alley, dance hall, pool room, and the like.

**Recreational use or facility, outdoor:** Outdoor public or private commercial sport use or facility for amusement, leisure, or recreation, including boat livery, outdoor ice skating rink, recreation camp, ski ground, riding academy or stable, golf driving range, miniature golf course, and the like.

**Research and development; laboratory:** Laboratory or research establishments including biotechnology companies, but excluding laboratories categorized as Level 3 and Level 4 by the National Institutes for Health.

**Restaurant, fast food:** An establishment whose primary business is the sale of food for consumption on or off the premises which is: (1) Primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (2) Available upon a short waiting time; and (3) Packaged or presented in such a manner that it can be readily eaten, either inside or outside the premises where it is sold.

**Retail large:** A facility with more than 10,000 square feet of gross floor area selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

**Retail, small:** A facility with less than 10,000 square feet of gross floor area selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

**Sales and service facility:** The land and buildings thereon primarily used for the particular purpose of selling and servicing manufactured or processed products.

**Senior housing facility:** For the purposes of Section 8.2, the following definitions shall apply:

**Assisted living facility:** A residential development subject to certification by the

Executive Office of Elder Affairs under M.G.L. c. 19D and 651 CMR 12.00.

**Continuing care facility:** A facility regulated by M.G.L. c. 93, s. 76.

**Independent living facility:** A facility providing apartments for rent, with optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the facility.

**Long term care facility:** A facility, including a convalescent or nursing home, rest home, infirmary maintained in towns, and charitable homes for the aged, as defined and regulated in 105 CMR 150.001.

**Senior housing:** Housing for persons over the age of 55 subject to the Senior Housing Laws, as defined herein.

**Senior housing facility:** An Assisted Living Facility, Continuing Care Facility, Independent Living Facility, or Long Term Care Facility, whether operated as a free-standing facility or in combination with another type of facility on the same lot or adjacent lot in common control.

**Senior housing laws:** Collectively and separately, the Fair Housing Act, 42 USC Section 3607(b), 24 CFR Subtitle B, Ch. 1, Section 100.300 et seq. and M.G.L. c. 151B, s. 4.

**Sharon commons smart growth overlay district:** For the purposes of Section 9.4, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section. To the extent that there is any conflict between the definitions set forth in this Section and the Enabling Laws, the terms of the Enabling Laws shall govern.

**Affordable homeownership unit:** An affordable housing unit required to be sold to an eligible household.

**Affordable housing:** Housing that is affordable to and occupied by eligible households.

**Affordable housing restriction:** A deed restriction of affordable housing meeting statutory requirements in M.G.L. c. 184, § 31 and the requirements of subsection 9.4.4.

**Affordable rental unit:** An affordable housing unit required to be rented to an eligible household.

**As-of-right project or project:** A residential development allowed under section 9.4 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

**Assisted living facility:** A residential development subject to certification by the Executive Office of Elder Affairs under M.G.L. c. 19D and 651 CMR 12.00.

**Design standards:** See Section 9.4.13.

**Development project:** A residential development undertaken within the SCSGOD. A development project shall be identified on a site plan which is submitted to the plan approval authority for site plan review in accordance with the requirements of section 9.4.

**DHCD:** The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

**Eligible household:** An individual or household whose annual income is less than 80% of the area-wide median income as determined by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Enabling laws:** M.G.L. c. 40R and 760 CMR 59.00.

**Multifamily use:** dwelling containing four or more dwelling units.

**Plan approval:** Standards and criteria which a project in the SCSGOD must meet under the procedures established herein and in the enabling laws.

**Plan approval authority (PAA):** For purposes of reviewing project applications and issuing decisions on development projects within the SCSGOD, the PAA, consistent with M.G.L. c. 40R and 760 CMR 59.00, shall be the Zoning Board of Appeals. The PAA is authorized to approve a site plan to implement a project.

**Site plan:** A plan depicting a proposed development project for all or a portion of the SCSGOD and which is submitted to the PAA for its review and approval in accordance with provisions of this Bylaw.

**Townhouse use:** A dwelling containing two or three dwelling units.

**Shipping container:** An intermodal freight container, that is, a container designed to be moved from one mode of transport to another without unloading and reloading.

**Solar Energy System:** See M.G.L. c. 40A, s. 1A.

**Large-scale ground-mounted solar photovoltaic 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, not constructed on a lot containing a habitable building.



**Special permit granting authority (SPGA):** A public board of the Town of Sharon authorized under enabling provisions of M.G.L. c. 40A and specific provisions of this bylaw to hold hearings, make determinations and findings, and subsequently issue or deny special permits, variances, or other special approvals specified in this bylaw. The special permit granting authority shall be the Zoning Board of Appeals unless specifically designated otherwise in this bylaw to be another authorized board or agency as allowed under the Massachusetts General Laws.

**Stable, private:** A building or part of a building in which one or more horses are kept for the private use of the owners or residents of the premises.

**Stable, public:** Any building or part of building in which horses are kept, other than a private stable.

**Story:** The portion of a building included between the surface of a floor and the surface of the floor or roof next above, unless described as a "half story," and not including a below-grade parking structure or basement.

**Street or way:** Includes all public ways and all private ways commonly used as streets, or for the purpose of passing and repassing. It also includes Select Board layouts.

**Structure:** A combination of materials for permanent or temporary occupancy of use, such as a building, bridge trestle, tower, framework, retaining wall supporting more than four feet of unbalanced fill, tank, tunnel, tent (except those less than 120 square feet and erected for fewer than 30 days), solar panel, wind turbine, stadium, reviewing stand, platform when more than one foot above grade, swimming pool, permanently affixed play structure, shelter, pier, storage container, sign, fuel pump, recreational court, or the like.

**Studio apartment:** A dwelling unit containing less than 400 square feet and without a separate bedroom.

**Telecommunications facility:** For the purposes of Section 7.2, the following definitions shall apply:

**Adequate capacity:** Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the telecommunications facility in question, where the blocking of wireless telephone calls is due to frequency contention at the antenna(s).

**Adequate coverage:** Coverage is considered to be "adequate" for a given area if the telecommunications services provided by a given telecommunications provider for that area meet reasonable standards of service. Any party wishing to install additional telecommunications equipment or facilities in the Town of Sharon must provide sufficient evidence to the SPGA, subject to independent review, that the additional

telecommunications equipment or facilities are necessary to provide adequate coverage for the area in question.

**Antenna:** A device for transmitting or receiving electromagnetic waves, which is attached to a tower or other structure. Examples include, but are not limited to, whip, panel, and dish antenna(s).

**Available space:** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

**Base Station:** The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of telecommunications provider can be located at a single telecommunications facility.

**Bulletin 65:** Published by the FCC Office of Engineering and Technology specifying radio frequency radiation levels and methods to determine compliance.

**Camouflaged:** Telecommunications equipment or a telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure is considered "camouflaged."

**Channel:** The segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

**Co-location:** The use of a single mount on the ground by more than one telecommunications provider (vertical co-location), and/or several mounts at an existing site by more than one telecommunications provider.

**Communication equipment shelter:** A structure located at a telecommunications facility designed principally to enclose telecommunications equipment.

**Data mapping:** Depicting on a map, by graphical (colors, shading or symbols) means, the actual or predicted values of signal-coverage parameters in order to establish adequacy of capacity or coverage.

**dBm:** Unit of measure at the input of a receiver, given its antenna system gain at a particular frequency, expressed as decibels (dB) above one milliwatt. Signal predictions with this measure are valid at one particular frequency, and must identify all receiver and antenna combinations.

**dBu:** Unit of measure of the field intensity of an electromagnetic signal, expressed as decibels (dB) above one microvolt per meter, an absolute measure for describing and comparing service areas, independent of the many variables (see dBm) introduced by different receiver configurations. This unit of measure shall be used for coverage prediction plots.

**Drive testing:** Testing in which reception results, obtained by driving through an area using a vehicle-mounted receiver, are recorded for analysis. Preliminary drive tests may be made of existing telecommunications facility coverage and/or the propagation characteristics of transmission from a possible telecommunications facility location (using a temporary antenna and low-power transmitter); follow-up drive testing may be used after activation of a telecommunications facility and in conjunction with cell tuning.

**Electromagnetically able:** The determination that the proposed antenna(s) meets manufacturers' minimum separation recommendations, given the location and operating parameters of existing and proposed antenna(s).

**Elevation:** The elevation at grade or ground level shall be given as above mean sea level (AMSL). The height of a telecommunications facility shall be given as above ground level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of a telecommunications facility is AGL plus AMSL.

**EMF:** Electromagnetic field. The radio frequency emissions or radiation produced by wireless transmitters.

**Environmental assessment (EA):** The document required by the FCC and the National Environmental Policy Act (NEPA) when a telecommunications facility is to be placed in certain designated areas such as wetlands or other sensitive habitats. A copy of any EA filed with the FCC shall also be filed with the SPGA.

**ERP:** Effective radiated power.

**Facility site:** A property, or any part thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facilities and required landscaping are located.

**Fall zone:** The area on the ground within a prescribed radius from the base of a tower. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**FCC:** Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

**GHZ:** Gigahertz: A measure of electromagnetic radiation equaling one billion hertz.

**Grade of service:** A measure of the percentage of wireless telephone calls which are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number such as p.05, which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

**Height of tower:** The vertical distance between the highest point of the tower, including any devices attached thereto, and the grade.

**HERTZ (HZ):** One hertz is the frequency of an electric or magnetic field that reverses polarity once each second, or one cycle per second.

**Licensed carrier:** An entity authorized by the FCC to construct and operate a telecommunications facility.

**Location:** References to a facility site location shall include the exact longitude and latitude to the nearest tenth of a second, with bearing or orientation referenced to true North.

**Major modification of an existing telecommunications facility:** Any change or proposed change in power input or output, number of antennas, change in antenna type or model, repositioning of antennas, or change in number of channels per antenna above the maximum number approved under an existing special use permit.

**Major modification of an existing tower:** Any increase or proposed increase in dimensions of an existing or permitted tower or other structure designed to support telecommunications transmissions, receiving and/or relaying antennas and/or other telecommunications equipment.

**MHZ:** Megahertz. A measure of electromagnetic radiation equaling one million hertz.

**Monitoring:** The measurement, by the use of instruments in the field, of nonionizing radiation exposure at a given location.

**Monitoring protocol:** The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities upon adoption of this Bylaw. As telecommunications technology changes, the SPGA may require by regulation the use of other monitoring protocols. A copy of the monitoring protocol shall be kept on file with the Select Board and the Town Clerk.

**Monopole:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of galvanized or other unpainted metal, or wood, with below grade foundations. (See "tower.")

**Nonionizing radiation:** Any electromagnetic radiation, including radio frequency radiation, incapable of producing ions directly or indirectly.

**Personal wireless services:** Commercial mobile services, unlicensed wireless services, and common-carrier wireless exchange access services. These services include: cellular

services, personal communications systems (PCS), specialized mobile radio services, and paging services.

**Radial plots:** Radial plots are the result of drawing equally spaced lines (radials) from the point of an antenna, calculating the expected signal, and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage; i.e., the points meeting the threshold of adequate coverage.

**Radiated-signal propagation studies or coverage plots:** Computer-generated estimates of the signal emanating from antenna(s) or repeater(s) sited on a specific tower or structure, and prediction of coverage. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the facility site and its surroundings are all taken into account to create these estimates, which are the primary tools for determining whether a facility site will provide adequate coverage for the telecommunications facility proposed for that site.

**Radio frequency engineer:** An engineer who specializes in the design, review, and monitoring of radio frequency technologies.

**Repeater:** A low-power receiver/relay transmitter generally of less than 20 watts' output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.

**Scenic view:** A wide angle or panoramic field of sight and may include natural and/or man-made structures and activities. A scenic view may be from a stationary viewpoint or be seen traveling along a roadway, waterway, or path, and may also be to a far away object or a nearby object.

**Security barrier:** A locked, impenetrable wall, fence or berm, which completely seals an area from unauthorized entry or trespass. Razor wire may not be used. Security barriers shall be compatible with the surrounding landscape.

**Separation:** The distance between one telecommunications provider's array of antennas and another telecommunications provider's array of antennas.

**Site:** The land area that is, or will be, temporarily or permanently altered during construction and/or use of any telecommunications tower or facility. Alterations include all construction activities, fencing, landscaping, screening, structures, parking facilities, etc. Access roads and utility lines shall not be considered to be part of the site, except where specified in these regulations.

**Special permit granting authority (SPGA):** The Zoning Board of Appeals shall be the special permit granting authority for the purposes of this Bylaw.

**Structurally able:** A determination that a tower or structure is capable of carrying the physical load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by a professional structural engineering analysis.

**Telecommunications:** Commercial mobile services, unlicensed wireless services, and personal wireless services. Said services include cellular services, personal communications services (PCS), specialized mobile radio services, broadcast and paging services. The FCC regulates such services.

**Telecommunications Act:** The Telecommunications Act of 1996, PUBLIC LAW 104–104—FEB. 8, 1996.

**Telecommunications equipment:** All equipment (including repeaters) at a given site with which a telecommunications provider broadcasts and receives the radio frequency waves which carry its services. This equipment may be sited on one or more towers or structures owned and permitted by another owner or entity.

**Telecommunications facility:** All telecommunications equipment and the structures enclosing or supporting that equipment, such as towers and communications equipment shelters, at a given location. For the purposes of this Bylaw, the terms "wireless communications facility" and "teleport" shall be governed by this bylaw's provisions regarding telecommunications facilities.

**Telecommunications provider:** An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**Teleport:** A facility using satellite dishes of greater than three feet in diameter, which are designed to up-link to communications satellites.

**Tiled coverage plots:** Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern.

**Tower:** A structure intended to support antenna(s) and associated equipment.

**Trailer:** Any vehicle or object which is drawn by a motor vehicle.

**Toxic or hazardous materials:** All liquid hydrocarbon products, including, but not limited to, gasoline, fuel and diesel oil; and also any other toxic, caustic or corrosive chemicals, radioactive materials, or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste under the provisions of M.G.L. c. 21C.

**Trade workshop:** Shop of a carpenter, plumber, electrician, mason at which goods are stored and used in the trade, not for sale.

**Warehouse; distribution facility:** A structure designed or used for the storage of goods awaiting distribution.

**Warehouse, self-storage:** A facility where individual portions of the space are rented to consumers for the temporary storage of business or personal items.

**Yard:** A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

**Yard, front:** A yard extending for the width of the lot between the front line of the nearest building wall and the front lot line.

**Yard, rear:** A yard, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard side:** Yard extending for the full length of a building between the nearest building wall and the side lot line.

**TABLE 1: TABLE OF USE REGULATIONS**

Y= Yes

N= No

BA= Zoning Board of Appeals

PB= Planning Board

SB= Select Board

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>A. RESIDENTIAL USES</b>														
1. Single family residence	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N
2. Two-family residence	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	N
3. Dwelling units over nonresidential first floor uses (see Section 8.5)	N	N	N	N	N	N	N	N	BA	BA	N	N	N	N
4. Multifamily or mixed-use buildings (see Section 8.5)	N	N	N	N	N	N	N	BA	N	N	BA	N	N	N
5. Conversion to create one or more dwelling units (see Section 8.4)	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
6. Conversion of municipal building (see Section 8.4)	SB	SB	SB	SB	SB	SB	N	N	N	SB	N	N	N	N
7. Open Space Residential Development (see Section 8.3)	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
8. Senior Housing Facility (see Section 8.2)	BA	BA	BA	BA	BA	BA	BA	N	N	N	BA	Y	N	Y



	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>B. COMMUNITY USES</b>														
1. Use of land or structures for religious purposes on land owned or leased by a religious sect or denomination	Y	Y	Y	Y	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	Y	Y	Y	Y
3. Child care center or school-aged child care program	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Municipal uses and facilities, including indoor/outdoor recreation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Essential services	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
6. Hospital or sanitorium	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	Y	N	N
7. Health care center	N	N	N	N	N	N	N	N	N	N	BA	Y	N	N
8. Home health agency; hospice; physical therapy or speech pathology facility; renal care facility; temporary nursing agency	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
9. Cemetery not conducted for profit	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>C. OPEN RECREATIONAL AND AGRICULTURAL USES</b>														
1. Indoor recreational facility	N	N	N	N	N	N	N	N	BA	N	BA	BA	N	N
2. Outdoor recreational facility	BA	BA	N	N	N	N	N	N	BA	N	BA	BA	N	N
3. Exempt agriculture	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Market garden; nursery, commercial greenhouse	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	Y	N	N
5. Private stable	BA	BA	N	N	BA	BA	N	N	N	N	N	N	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>D. COMMERCIAL USES</b>														
1. Wellness center or health club	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
2. Club operated as a business	N	N	N	N	N	N	N	BA	BA	N	BA	N	N	N
3. Private nonprofit club or lodge	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
4. Trade, professional, or other school operated for profit	N	N	N	N	N	N	N	N	N	N	BA	N	N	N
5. Training or conference center	N	N	N	N	N	N	N	N	N	N	BA	N	N	N
6. Hotel	N	BA	N	N	N	N	Y	N	N	N	Y	Y	N	N
7. Retail delivery service or postal boxes	N	N	N	N	N	N	N	N	N	N	BA	N	N	N
8. Mortuary, undertaking or funeral establishment	N	N	N	N	N	N	N	N	BA	N	BA	Y	N	N
9. Adult use	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
10. Bed and breakfast facilities	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
11. Major Nonresidential and Mixed-Use Development	N	N	N	N	N	N	PB	PB	PB	PB	PB	PB	PB	PB

	R1	R2	Sub 1	Sub 2	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro 1	Pro 2
<b>E. OFFICE USES</b>														
1. Business, professional, or government office	N	N	N	N	N	N	N	Y	Y	N	Y	Y	BA	BA
2. Business services	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
3. Medical or dental office, clinic or laboratory	N	N	N	N	N	N	N	Y	Y	N	Y	Y	BA	BA
4. Medical development, research, experimental or testing laboratory	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
5. Bank and other financial institution	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>F. RETAIL AND SERVICE USES</b>														
1. Small-scale retail sales	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
2. Large-scale retail sales	N	N	N	N	N	N	N	N	BA	N	Y	Y	N	N
3. Retail sale of firearms	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
4. Warehouse store	N	N	N	N	N	N	N	N	N	N	Y	N	N	N
5. Club or membership store	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N
6. Personal service establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N	N
7. Dry cleaner, laundry, laundromat	N	N	N	N	N	N	N	Y	Y	N	N	Y	N	N
8. Body art establishment	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
9. Trade workshop	N	N	N	N	N	N	N	N	Y	N	N	N	N	N
10. Craftsman shop	N	N	N	N	N	N	N	Y	Y	Y	N	Y	N	N
11. Repair, maintenance, and service industry	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
12. Artist studio	BA	BA	BA	BA	BA	BA	BA	Y	Y	N	N	Y	N	N
13. Art gallery	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>G. EATING, DRINKING, AND ENTERTAINMENT ESTABLISHMENTS</b>														
1. Food preparation and service, with all on-premises service to be at tables or counters	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
2. Food preparation and sale of food to be consumed off-premises	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N
3. Fast food restaurant	N	N	N	N	N	N	N	N	Y	N	Y	Y	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>H. MOTOR VEHICLE RELATED USES</b>														
1. Motor vehicle light service station	N	N	N	N	N	N	N	N	Y	N	N	Y	N	N
2. Motor vehicle repair establishment	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
3. Motor vehicle body shop	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
3. Motor vehicle sales or rental of new vehicles only, accessory storage entirely within enclosed structure	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
4. Outdoor storage or overnight parking of vehicles exceeding 15,000 GVW	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
5. Paved commercial parking lot not accessory to principal use	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
6. Temporary parking lot	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
7. Motor vehicle wash within enclosed structure	N	N	N	N	N	N	N	N	BA	N	N	BA	N	N
8. Drive-through services	N	N	N	N	N	N	N	BA	BA	N	BA	BA	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>I. MISCELLANEOUS COMMERCIAL USES</b>														
1. Store serving as drop-off or pick-up location for cleaning or laundry service, excluding laundromat or on site processing	N	N	N	N	N	N	N	Y	Y	N	Y	N	N	N
2. Outdoor storage and display of goods for sale, whether as a principal or accessory use	N	N	N	N	N	N	N	N	BA	N	BA	Y	N	N
3. Storage building for goods to be repaired or sold at retail directly to the consumer or temporarily stored for the consumer	N	N	N	N	N	N	N	N	BA	N	BA	Y	N	N
4. Printing or publishing establishment	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
5. Medical or adult-use marijuana establishment	N	N	N	N	N	N	N	N	N	N	N	BA	N	N
6. Commercial fuel storage and sales	N	N	N	N	N	N	N	BA	N	N	BA	N	N	N
7. Natural gas custody transfer stations (see Section 7.5)	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
8. Earth removal (see Chapter 141)	SB	SB	SB	SB	SB	SB	SB	N	N	N	N	SB	Y	Y
9. Solar energy system	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
10. Major Nonresidential Development	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	N	N
11. Major parking facility	N	N	N	N	N	N	N	BA	BA	BA	N	N	N	N
12. Landscaping equipment, supply, and service business	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
13. Animal or veterinarian hospital or kennel, provided all structures for housing animals are located not less that 200' from all lot lines	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>J. WHOLESALE, TRANSPORTATION, INDUSTRIAL USES</b>														
1. Machine shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
2. Manufacturing	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
3. Research and development facility; testing laboratory	N	N	N	N	N	N	N	N	N	N	BA	Y	N	N
4. Warehouse, storage, distribution facility; wholesale facility	N	N	N	N	N	N	N	N	N	N	N	Y	N	N
5. Mini or self-storage warehouse	N	N	N	N	N	N	N	N	N	N	N	BA	N	N

	R1	R2	Sub A	Sub B	SRA	SRB	GR	BA	BB	BC	BD	LI	Pro A	Pro B
<b>K. ACCESSORY USES</b>														
1. Home occupation (see Section 3.4) As of right OR by special permit	Y BA	Y BA	Y BA	Y BA	Y BA	Y BA	Y BA	N BA	N	N	N	N	N	N
2. Craft or Trade Shop	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
3. Accessory child care center or school-aged child care program	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Family day care home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Family day care home, large	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
6. Adult day care home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Renting of one or two rooms without separate cooking facilities to lodgers within a dwelling unit to one or two total lodgers	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	N
8. Off-street parking spaces accessory to use in Pro A or Pro B District	N	N	N	N	BA	BA	BA	N	N	N	N	N	N	N
8. Private garage with provision for not more than 3 motor vehicles	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N
9. Private garage with provision for more than 3 motor vehicles or group garage	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
10. Scientific research and development as set forth in G.L. c. 40A, s. 9	BA	BA	BA	BA	BA	BA	BA	N	BA	N	BA	N	N	N
11. Outdoor storage or display of parts, materials or inventory	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N
12. Enclosed storage or parts, materials or inventory in excess of amounts reasonably required for work to be done on the premises or goods to be delivered on the premises	N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N
11. Vending machine, unless placed within	N	N	N	N	N	N	N	Y	Y	N	Y	N	N	N



a building or parking lot														

ZONE	LOT AREA (Sq. Ft.)	LOT WIDTH	FRONTAGE	FRONT SET-BACK (from sideline)	REAR/SIDE SET-BACK	MAXIMUM HEIGHT	MAXIMUM STORIES	PERCENT OF LOT COVERAGE	PERCENT OF NATURAL COVERAGE
Rural District 1	60,000	175'	116'-8"	50'	30' (principal building) 10' (accessory building)	35'	-	15% (2)	50%
Rural District 2	80,000	175'	116'-8"	50'	30' (principal building) 10' (accessory building)	35'	-	15% (2)	50%
Suburban District 1	40,000	125'	82'-6"	30'	20' residential 10' all other	35'	-	25%	no requirement
Suburban District 2	60,000	175'	116'-8"	50'	30' (principal building) 10' (accessory building)	35'	-	15% (2)	50%
Single Residence District A	40,000	150'	100'	30'	20' residential 10' all other	35'	-	25%	no requirement
Single Residence District B	20,000	100'	66'-8"	30'	20' residential 10' all other	35'	-	25%	no requirement
General Residence	8,000 10,000 two family	70 80' two family	46'-8" single fam. 53'-4" two family	30'	20' residential 10' all other	35'	-	40%	no requirement
Business District A	10,000 for single or two family	80' one family and two family	70'	20' max 1&2 family 10' max all other	20' residential 10' all other	other uses 45' 40' residential	3	25% 1 and 2 family 60% all other	20%
Business District B	8,000 10,000 two family	80' two family (4)	70'	10'	20' residential 10' all other	60' commercial 40' residential	4 commercial 3 residential	25% residential 20% all other	n/a
Business District C	8,000 10,000 two family	80' two family (4)	70'	20' max 1&2 family 10' max all other	20' residential 10' all other	45' commercial 40' residential	3	25% 1 and 2 family 35% multi family 50% all other	30%
Business District D	53 acres	80' two family (4)	1,000'	10' from I-95, 50' from Old Post Rd., 100' from all other	100'	60' commercial 40' residential'	3	20% (3)	35%
Professional District A	20,000	80' two family (4) 150' all other	100'	n/a	20' residential 10' all other	40'	3	n/a	n/a
Professional District B	60,000	80' two family (4) 150' all other	100'	40'	20' residential 10' all other	40'	3	20%	30%
Light Industrial District	40,000	150'	100'	75' and 100'	100' residential 30' all other	80'	5	60% 75% including parking structures	20% (landscaped or open space)
Housing Authority District	40,000 [ 5,000 ](1)	no requirement	no requirement	30' and 50'	20' residential 10' all other	35'	-	25%	no requirement

**NOTES:**

- (1) Per dwelling unit (4 persons in a group arrangement = dwelling unit)
- (2) Includes paving and walks
- (3) Excluding parking decks
- (4) All other uses, see Section 4.1.3 of Zoning By-Laws

**Note: Lots located within Groundwater Protection District have a minimum lot size of 60,000 sf.**

**Note: Lots located within Surface Water Protection District have a minimum lot size of 80,000 sf.**

**Note: Lot Width is measured as set forth in Section 4.1.3.**

**NOTE: SEE SECTION 4.1.4.4 FOR SHAPE FACTOR WHEN CALCULATING LOT AREA.**