Part I: Administrative Legislation

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Penalties
[Adopted as Art. II of the Town Bylaws]

§ 1-1. General penalty.

Every violation of any of the provisions of the bylaws of the Town, unless otherwise provided by law or by said bylaws, shall be punished by a fine of not more than $300 for each violation, which shall inure to the Town or to such uses as it may direct.

§ 1-2. Noncriminal disposition of violations. [Amended 5-7-2018 ATM by Art. 17]

Violations of the following bylaws and the following rules and regulations of any Town officer, board or department, the violation of which is subject to a specific penalty, may be disposed of noncriminally pursuant to MGL c. 40, § 21D, as the same may from time to time be amended, by the imposition of the fine by the enforcing person, the amount of a fine and the title of the enforcing person each being set forth beside the citation of the bylaw, rule or regulation:

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 105, Advertising Materials	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 109, Art. I, Burglar Alarms	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 109, Art. II, False 911 Calls	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 109, Art. III, Fire Alarms	Violation of § 109-9B: $100 Violation of § 109-7B: $50 False alarm service fee: $50 for each false alarm more than 3 within a calendar year	Fire Chief

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 113, Alcoholic Beverages	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 116, Art. I, Trapping of Wildlife	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 116, Art. II, Animal Control		Animal Control Officer, Police Department
Violation of § 116-7: $100		
All other violations:		
	First offense: $25	
	Second offense: $50	
	Third and each subsequent offense: $100	
Chapter 120, Art. I and Art. II, Boats and Watercraft	Each offense: $20	Police Department, Public Works, Select Board
Chapter 125, Art. I, Numbering of Buildings	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 125, Art. II, Public Safety In-Building Radio Communications	First offense: $100 Second offense: $200 Third and each subsequent offense: $300, or alternatively, loss of certificate of occupancy	Building Inspector
Chapter 141, Earth Removal	First offense: $50 Second offense: $100 Third and each subsequent offense: $200	Building Inspector
Chapter 182, Junk	Each offense: $100	Police Department, Prosecuting Officer, Building Inspector

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 195, Noise, § 195-1	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 195, Noise, § 195-2	First offense: A warning Second offense: $50 Third and each subsequent offense: $100	Police Department, Prosecuting Officer
Chapter 200, Parades and Processions	First offense: $50 Second offense: $100 Third and each subsequent offense: $300	Police Department, Prosecuting Officer
Chapter 204, Art. II, Alcohol on Lake Massapoag	First offense: $50 Second offense: $100 Third and each subsequent offense: $300	Police Department
Chapter 208, Peace and Good Order	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 217, Secondhand Dealers	First offense per calendar year: $100 Second offense per calendar year: $200 Third and each subsequent offense per calendar year: $300	Police Department
Chapter 221, Signs	Each offense (per day): $50	Building Inspector
Chapter 226, Solid Waste, § 226-1, Dumping on private property prohibited	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 226, Solid Waste, §§ 226-2 through 226-10	First offense: $50 Second offense: $100 Third and each subsequent offense: $200	Superintendent of Public Works, Building Inspector
Chapter 230, Stormwater Management, Art. II, Construction Activity Discharges	Each offense (per day): $100	Select Board or designated representative
Chapter 235, Streets, Sidewalks and Public Places, Art. I, Use Restrictions	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 235, Streets, Sidewalks and Public Places, Art. II, Snow and Ice Removal	Each offense: $50	Superintendent of Public Works
Chapter 248, Art. I, Parking for Disabled Veterans or Handicapped Persons		Police Department, Prosecuting Officer
Insufficient designated parking	Each offense: $300	
Unauthorized parking in disabled space	Each offense: $200	
Chapter 248, Art. II, Parking Restrictions	$15 if paid to Town's Parking Clerk within 21 days, $20 if paid thereafter but before the Parking Clerk reports to the Registrar of Motor Vehicles, and $35 if paid thereafter	Police Department, Prosecuting Officer
Chapter 254, Water	First offense: $25 Second offense: $50 Third offense: $100 Fourth and each subsequent offense (per day): $200	Superintendent of Public Works or designated representative

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 258, Weapons and Explosives	Each offense: $50	Police Department officer, or in the case of land owned by the Conservation Commission, the Conservation Officer
Chapter 262, Wetlands Protection	Each offense: $50	Conservation Officer
Board of Health Regulations		
Chapter 300, Art. 2, Minimum Standards of Fitness for Human Habitation	First offense: $100 Second offense: $200 Third and each subsequent offense: $300	Health Agent or designated representative
Chapter 300, Art. 4, Nuisances and Dangers to Public Health	First offense: $25 Second offense: $50 Third offense: $100 Fourth and further offenses: $300	Health Agent or designated representative
Chapter 300, Art. 7, Minimum Requirements for Subsurface Disposal of Sanitary Sewage	First offense: $100 Second offense: $200 Third and each subsequent offense: $300	Health Agent or designated representative
Chapter 300, Art. 12, Minimum Sanitation Standards for Food Service Establishments and Retail Food Establishments	First offense: $100 Second offense: $200 Third and each subsequent offense: $300	Health Agent or designated representative
Chapter 300, Art. 22A, Regulation Affecting Youth Access to Tobacco and Nicotine Delivery Products, and Sale, Vending and Distribution	First offense: $100 Second offense: $200 Third and each subsequent offense: $300	Health Agent or designated representative
Chapter 300, Art. 22B, Regulation Prohibiting Smoking in Workplaces, Public Places and Membership Associations (control of premises)	First offense: $100 Second offense within 2 years of first offense: $200 Third and each subsequent offense: $300	Health Agent or designated representative

Bylaw, Rule or Regulation	Amount of Fine	Enforcing Person
Chapter 300, Art. 22B, Regulation Prohibiting Smoking in Workplaces, Public Places and Membership Associations (sale without permit)	$200 per day	Health Agent or designated representative
Chapter 300, Art. 22B, Regulation Prohibiting Smoking in Workplaces, Public Places and Membership Associations (smoking in a prohibited place)	$100 per offense	Health Agent or designated representative
Chapter 300, Art. 26, Animal Waste Regulation	First offense: $25 Second offense: $50 Third and each subsequent offense within a calendar year: $100	Health Agent, Animal Control Officer, or Police Department
Chapter 300, Art. 27, Regulation of Waterfowl	First offense: $25 Second offense: $50 Third and each subsequent offense within a calendar year: $100	Health Agent, Animal Control Officer, Police Department, Environmental Police Officers of the Division of Law Enforcement, Deputy Environmental Police Officers
Planning Board Regulations		
Chapter 325, Scenic Roads	Each offense: $300	Town Engineer, as agent of the Planning Board, and/or the Tree Warden or his or her agent

ARTICLE II
Codification of General Bylaws

[At the 5-1-2017 ATM, by Article 21, the Town voted to renumber and recaption the General Bylaws of the Town as follows: to assign a new number to each chapter of the General Bylaws; to renumber each section accordingly; to insert chapter and section titles; to update internal references to reflect the new numbering system; to reorganize defined terms to be indented and capitalized in the definitions sections of various chapters; and to enact certain global changes to the text of the General Bylaws of the Town, including consistent citation of statutory references and a standard system of capitalization and citation of numbers.

By this same enactment, the Town also voted to enact certain changes to the text of the General Bylaws of the Town, as noted by strikethroughs (indicating deletion) and underlines (indicating additions).

The above changes are highlighted in the document entitled "FINAL DRAFT (RED-LINE VERSION) – 1-19-2017," on file in the office of the Town Clerk.]

Editor's Note: Pursuant to Art. 24, adopted 5-6-2019 ATM, the Town Bylaws were amended to delete all instances of "Board of Selectmen" and replace those instances with "Select Board," and to delete all instances of "Selectmen" and replace those instances with "Select Board members."

Chapter 7

AFFORDABLE HOUSING TRUST FUND

§ 7-1. Establishment and purpose.

There is hereby established the Sharon Affordable Housing Trust Fund, established by the vote under Article 23 of the Warrant for the 2006 Annual Town Meeting. The purpose of the trust is to provide for the creation and preservation of affordable housing in the Town of Sharon for the benefit of low- and moderate-income households.

§ 7-2. Board of Trustees.

There shall be a Board of Trustees of the Sharon Affordable Housing Trust Fund, which shall consist of seven Trustees, including all of the members of the Select Board, who shall serve only during such time as they are members of the Select Board, with the remaining members to be appointed by the Select Board. Trustees shall serve for a term of two years. Initially, two Trustees shall be appointed to a one-year term, and two Trustees will be appointed for two-year terms.

§ 7-3. Powers and duties of Board.

The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in this act, include, but are not limited to, the following:

A. To accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the trust in connection with provisions of any zoning ordinance or bylaw or any other ordinance or bylaw;

B. To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

C. To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the Board deems advisable, notwithstanding the length of any such lease or contract;

D. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments, sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the trust;

E. To employ advisors and agents, such as accountants, appraisers and lawyers, as the Board deems necessary;

F. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;

G. To apportion receipts and charges between income and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

H. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

I. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;

J. To carry property for accounting purposes other than acquisition date values;

K. To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;

L. To make distributions or divisions of principal in kind;

M. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;

N. To manage or improve real property; and to abandon any property which the Board determines not to be worth retaining;

O. To hold all or part of the trust property uninvested for such purposes and for such time as the Board may deem appropriate; and

P. To extend the time for payment of any obligation to the trust.

§ 7-4. Quorum and meetings.

The Sharon Affordable Housing Trust Fund Board of Trustees shall not meet or conduct business without the presence of a quorum. A majority of the members of the Board of Trustees shall constitute a quorum. The Board of Trustees shall approve its actions by majority vote. The Board shall conduct its meetings in accordance with the Open Meeting Law.[1]

1. **Editor's Note: See MGL c. 30A, §§ 18 through 25.**

Chapter 12

BOARDS, COMMISSIONS AND COMMITTEES

ARTICLE I
Residency Requirements
[Adopted as Art. 2A of the Town Bylaws]

§ 12-1. Town residency required.

Unless otherwise required by statute, no person shall serve as a voting member of any appointed or elected board, commission, committee, or other appointed or elected governmental body of the Town of Sharon who is not a resident thereof. The Select Board may waive this requirement in a specific case. If a member is no longer a resident of the Town, that individual shall be deemed to have vacated the position. Nonresidency may be indicated by removal from the voter list, by a census update or by other means. Nonvoting members, if any, shall not be considered in determining the presence of a quorum and are not to be affected by this article.

§ 12-2. Applicability.

This article shall apply to any board, committee, commission or other body of the Town, however named or constituted, which is composed of two or more members and has been or is established pursuant to statute, these bylaws, vote of the Town Meeting or vote of the Select Board.

§ 12-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPOINTED BOARD — A board any of the members of which are appointed by an appointing authority.

ELECTED BOARD — Any board the members of which are elected by the voters of the Town at a Town election.

ARTICLE II
Attendance at Adjudicatory Hearings
[Adopted as Art. 2B of the Town Bylaws]

§ 12-4. Purpose.

This bylaw is enacted pursuant to MGL c. 39, § 23D(b) for the purpose of establishing minimum additional requirements for attendance at scheduled Town board, committee and commission hearings under said statute as accepted by the Town of Sharon Special Town Meeting of November 13, 2006.

§ 12-5. Procedure.

A member of any Town board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single hearing session of said board, committee or commission at which testimony or other evidence relative to the matter is received. Before any such vote, the board, committee or commission member shall certify in writing that he/she has examined all of the evidence submitted to said board, committee or commission at the missed session. This written certification shall become part of the record of the hearing. For purposes of this bylaw, such evidence shall be all of the documents, maps, exhibits, submissions and other materials received by a board, committee or commission at the missed session. Said evidence shall also include an audio or video recording of the missed session. The reading or review of a transcript of any missed session does not alone satisfy the requirement that a member examine all of the evidence received by a board, committee or commission at the missed session.

ARTICLE III
Finance Committee
[Adopted as Art. 2 of the Town Bylaws]

§ 12-6. Nominations; composition; terms.

A. It shall be the duty of the Moderator to present to the voters for approval or other appropriate action at each annual Town Meeting the names of five voters who will act as a Nominating Committee for filling expiring terms and vacancies of the Finance Committee during the ensuing year. At the next Annual Town Meeting after being so constituted, the Nominating Committee shall present to the voters for approval or other appropriate action its nominees to fill some or all of the expiring terms and vacancies on the Finance Committee. The Moderator may fill any vacancy on the Nominating Committee created by the resignation of a member prior to the expiration of his or her term.

B. The Finance Committee shall consist of not less than six and not more than 12 registered voters of the Town. Members of the Finance Committee shall serve staggered three-year terms such that the terms of approximately 1/3 of the members shall expire after each Annual Town Meeting.

§ 12-7. Meetings; filling of vacancies.

The Finance Committee shall meet at the call of the Town Clerk within two weeks after each Annual Town Meeting for purposes of organization and the election of a Chairperson, Vice-Chairperson or -persons and a Clerk. In the event the Town Clerk fails to issue the call, any member of the Finance Committee may do so. The Committee shall meet thereafter from time to time, as it deems advisable, and shall keep a true record of all proceedings. The Finance Committee shall have the power to fill vacancies on the Committee by vote, such candidates to be presented by the Nominating Committee, an attested copy of which shall be sent by the Clerk of the Committee to the Town Clerk. Any member so appointed by the Committee shall serve thereon until the next Annual Town Meeting.

§ 12-8. Information to Committee.

It shall be the duty of the Finance Committee to inform themselves as to those affairs and interests of the Town, the matter of which is generally included in the warrants for its Town Meeting; and the officers of the Town shall, upon their request, furnish them with facts, figures, and any other information pertaining to their several departments; provided, however, that any such information may be withheld when in the opinion of the officer, or board of officers, so requested, the communication thereof might affect injuriously the interests of the Town.

§ 12-9. Review of Town Meeting warrant.

A. The Finance Committee shall consider the various articles in the warrant for all Town Meetings (including, with respect to each member of the Committee, the articles in the warrant for the Annual Town Meeting after which such member's term expires) and shall report in print prior to all such Town Meetings the

Committee's estimates and recommendations for the action of the Town together with the Committee's reasons therefor. The Committee shall cause such report to be mailed or otherwise delivered to every residence at least seven days before each Town Meeting.

B. The Finance Committee shall prepare the following schedules, with appropriate input from the Board of Assessors, for inclusion in the warrant of each Annual Town Meeting:

(1) A comparative computation of the tax rate showing the actual computation for the then-current year and the estimated calculation for the next year;

(2) A comparative schedule of receipts and available funds for the same periods as above; and

(3) A schedule of reserve fund transfers.

§ 12-10. Notice of selection.

It shall be the duty of the Town Clerk to immediately notify in writing persons elected or appointed to the Finance Committee pursuant to the above provisions, such notice to state the business upon which members of the Committee are to act.

ARTICLE IV
Standing Building Committee
[Adopted as Art. 3, § 6, of the Town Bylaws]

§ 12-11. Establishment; membership; terms.

There is hereby established within the Town of Sharon a committee to be known as the "Town Standing Building Committee," to be made up of six to 10 regular members and special member(s) detailed below, as follows: the six to 10 regular members to be chosen by a selection committee to be made up of one member of the Sharon School Committee, one member of the Sharon Select Board, one member of the Planning Board, one member of the Capital Outlay Committee, one member of the Finance Committee, and one member chosen by the Moderator; all regular members shall be for terms of three years except that the original terms of appointments for at least two members shall be for three years; at least two other members shall be for two years and the remaining members shall be for one year. One special member shall be appointed by each board or committee which has proposed a project for which the Town incurs bonded debt. Said special member shall serve for the duration of the project, and shall have duties and responsibilities with respect to that project only. The selecting committee shall designate the exact number of members of the Town Standing Building Committee.

§ 12-12. Responsibilities.

The Standing Building Committee, as to those projects for which funds are appropriated to the Committee, shall be responsible for:

A. Financial estimates;

B. Design, including schematic design, design development, and construction documents (or equivalent documents) developed from the project goals established by the proposing board or committee; and

C. All aspects of construction, including whatever is necessary to implement or complete a project.

§ 12-13. Proposed projects.

Any board or committee which intends to propose to Town Meeting a project consisting of the erection, alteration, rehabilitation, or remodeling of a Town building shall provide information regarding the project to the Standing Building Committee. This proposal and information shall be simultaneously submitted to the Finance Committee and the Capital Outlay Committee. The Standing Building Committee shall review the proposal and information provided to determine whether the sums requested are reasonable with respect to the financial requirements of the project and shall report to Town Meeting thereon.

§ 12-14. Appropriation and expenditure of funds.

A. For projects as defined in § 12-13 for which the Town proposes to incur bonded debt up to $500,000, funds for the design and construction of a project shall be appropriated to and expended under the direction of the board or committee

proposing the project; however, the Standing Building Committee may supervise the construction of said projects at the request of the proposing board or committee.

B. For all projects as defined in § 12-13 for which the Town proposes to incur bonded debt in excess of $500,000, the Standing Building Committee shall exercise its responsibilities as set forth in § 12-12, above.

§ 12-15. Feasibility studies.

Any board or committee undertaking a project feasibility study shall inform the Standing Building Committee of the study.

§ 12-16. Drawings and specifications.

The Standing Building Committee shall retain record drawings and specifications. These copies shall be kept on file in the Building Department's office.

§ 12-17. Vacancies.

A. Any vacancy in the regular membership of the Standing Building Committee shall be filled by the Selection Committee. Any vacancy in the Selection Committee shall be filled by the authority which appointed that member whose position has been vacated.

B. Any vacancy in the special membership which occurs while the project is still pending, for which the special member was appointed, shall be filled by the board or committee which has proposed said project.

ARTICLE V
Priorities Committee
[Adopted as Art. 3, § 7, of the Town Bylaws]

§ 12-18. Establishment; membership; terms; Chair. [Amended 5-3-2016 ATM by Art. 23]

There is hereby established within the Town of Sharon a committee to be known as the "Priorities Committee," to be made up of six members detailed as follows: the Chairperson and Clerk of the Select Board; the Chairperson and the Vice Chairperson of the School Committee; and the Chairperson and the Vice Chairperson of the Finance Committee. Each respective board or committee may designate a member other than the member indicated herein to serve on the within Committee and may designate an alternate to serve should a member be unable to attend any meeting. The above members shall serve by virtue of their original board or committee memberships, and their membership on the Priorities Committee shall terminate should a member's original board or committee membership terminate for any reason. Each respective Chairperson shall serve as Chairperson of the Priorities Committee for a term of one year, beginning with the Chairperson of the Select Board, then the Chairperson of the School Committee and the Chairperson of the Finance Committee.

§ 12-19. Duties.

The Priorities Committee's duties shall be as follows:

A. Inform itself of the Town's revenue forecasts, sources of funding for the current fiscal year and estimates for the next fiscal year;

B. Inform itself of the Town's fixed uncontrollable special expenditure items;

C. Inform itself of an estimate of available appropriations;

D. Aid and coordinate budget forecasts for the Select Board, School Committee and Finance Committee;

E. Inform itself of sources of revenue including, without limitation, state aid, excise taxation, payments in lieu of taxes and taxation revenues;

F. Inform itself of and forecast debt levels and the availability of free cash;

G. Present to the Select Board, School Committee and Finance Committee a coordinated financial forecast and projected budget allocations and/or adjustments related thereto for the ensuing fiscal year.

ARTICLE VI
Planning Board
[Adopted as Art. 14, §§ 1-3, of the Town Bylaws]

§ 12-20. Establishment; authority; terms.

The Town adopts a bylaw establishing a Planning Board under the provisions of MGL c. 41, §§ 81A through 81J, inclusive, with all the powers and duties therein and in any existing bylaws of the Town provided, to consist of five members to be elected at the Annual Town Meeting in March 1935, one for a term of one year, two for a term of two years, two for a term of three years, and thereafter in accordance with the provisions of the statute. (Note: Subsequent revision of MGL c. 41, § 81A, provides that "members of the planning board under this section shall be elected or appointed for terms of such lengths and so arranged that the term of at least one member will expire each year and their successors shall be elected or appointed for terms of five years each.")

§ 12-21. Duties; meetings.

The duties of such Board shall be such as are stated in MGL c. 41, §§ 70 through 72, and further to consider and advise upon municipal improvements either at the request of other officials of the Town or upon its own initiative. It shall consider and develop a Town plan, with special attention to main ways, land developments, zoning, playgrounds, parks and sites for permanent school plants. The Board shall meet at regular intervals. It may hold public meetings. It shall at all reasonable times have access to public documents or information in the possession of any Town official or department. It shall examine the plans for the exterior of any public building, monument or similar feature, and for the development and treatment of the grounds about the same before the adoption thereof, and may make such recommendation thereon as it may deem needful. It may provide for public lectures and other educational work in connection with its recommendations. It may incur expenses necessary to the carrying on of its work within the amount of its annual appropriations.

§ 12-22. Public buildings.

All plans of land for the site of any public building, and all plans for the location, erection or alteration of public buildings, shall be submitted to said Board for its opinion at least two weeks in advance of action by the Select Board.

ARTICLE VII
Council on Aging
[Adopted as Art. 19 of the Town Bylaws]

§ 12-23. Establishment; purpose; membership; officers. [Amended 10-12-2020 ATM by Art. 23]

There shall be established a Council on Aging for the purpose of carrying out programs designed to meet the problems of the aging in coordination with state and federal agencies. Said Council shall consist of from seven to 11 members and three alternates, appointed by the Select Board for a term of three years, unless the appointment is to fill the unexpired term of a retiring member. At least five members shall be over the age of 60 at the time of their appointment. The Council shall annually elect a Chairman and a Secretary from its membership and shall report the fact to the Town Clerk.

ARTICLE VIII
Community Preservation Committee
[Adopted as Art. 36 of the Town Bylaws]

§ 12-24. Establishment; purpose; membership; terms; vacancies.

There shall be established a Community Preservation Committee for the purpose of administering the Community Preservation Act, MGL c. 44B, which shall consist of seven members as follows: one member from the Conservation Commission established under MGL c. 40, § 8C, as designated by that Commission, who shall serve for an initial term of three years; one member from the Historical Commission established under MGL c. 40, § 8D, as designated by that Commission, who shall serve for an initial term of two years; one member from the Planning Board established under MGL c. 41, § 81A, as designated by that Board, who shall serve for an initial term of three years; one member appointed by the Select Board, acting as Park Commissioners under MGL c. 45, § 2, as designated by that Board, who shall serve for an initial term of two years; and one member from the Housing Authority established under MGL c. 121B, § 3, as designated by that Authority, who shall serve for an initial term of three years. The remaining two members of said Committee shall be at-large members, one appointed by the Select Board, and one appointed by the Moderator, each for an initial term of one year. Thereafter, each member shall be appointed for a three-year term. Members may be reappointed for consecutive terms. Vacancies shall be filled by the original appointing authority.

§ 12-25. Exemption from surcharge.

Applications for exemption from the Community Preservation Act[2] (CPA) surcharge must be filed with the Board of Assessors on or before December 15 of each year, or three months after the actual (not preliminary) real estate tax bills are mailed for the fiscal year, if later.

2. **Editor's Note: See MGL c. 44B, § 1 et seq.**

Chapter 24

FINANCES

ARTICLE I
Finance Department
[Adopted as Art. 3A of the Town Bylaws]

§ 24-1. Establishment and authority.

There shall be a consolidated Department of Municipal Finance as provided under MGL c. 43C, § 11, and as provided for in the following sections of this bylaw.

§ 24-2. Composition; coordination with other boards.

The Department of Municipal Finance shall include the following statutory, bylaw or otherwise authorized presently existing entities as follows: Town Accountant, Town Treasurer, Administrative Assessor and Information Technology Personnel. Additionally, the Director of Municipal Finance, acting in an ex-officio capacity, shall coordinate and assist the following financial committees: Finance Committee, Priorities Committee, Capital Outlay Committee.

§ 24-3. Conflicts and interpretation.

When in conflict, this bylaw shall prevail over other articles in the bylaws, or statutes as provided for in MGL c. 43C.

§ 24-4. Director.

There shall be a Director of Municipal Finance who shall be appointed by the Select Board and report to the Town Administrator when acting as the Select Board's designee. The term of office for said position shall not be less than three years nor more than five years, subject to removal as provided for in this bylaw.

§ 24-5. Appointments.

A. The Director of Municipal Finance shall appoint the Accountant, Treasurer, Administrative Assessor and the Information Technology Personnel, subject to approval by the Select Board members, except the appointment of the Administrative Assessor is subject to the approval of the Board of Assessors. In performing duties where the approval of the Board of Assessors is statutorily required, the Administrative Assessor may be directed by the Director of Municipal Finance, but any final decision will be made by the Board of Assessors.

B. All officers appointed by the Director of Municipal Finance may be appointed for a term of office of up to three years.

§ 24-6. Ex-officio financial positions.

The person holding the position of Director of Municipal Finance may also be appointed to hold in an ex-officio capacity other financial positions identified in this bylaw, except that no person shall hold both the Town Accountant and Town Treasurer positions at the same time.

§ 24-7. Removal of Director.

The Director of Municipal Finance shall be subject to removal for due cause as determined and so voted upon by the Select Board or as may be otherwise provided by statute.

§ 24-8. Department functions and duties.

The Department of Municipal Finance shall be responsible for and shall include the following functions:

A. The coordination of all Town financial services and activities;

B. The maintenance of all Town accounting records and other financial statements and the supervision of all annual and special audits or reviews auditing functions, including such audits or reviews provided by independent auditors;

C. The payment of all the Town's obligations;

D. The receipt of all funds due the Town from any source, either directly or by means of the responsible department head;

E. The rendering of advice, assistance and guidance to all other Town departments, offices and agencies in any matter related to financial or fiscal affairs;

F. The monitoring throughout the fiscal year of the expenditure of all funds by Town departments, offices and agencies, including periodic reporting to all such departments, offices and agencies on the status of accounts with recommendations concerning fiscal and financial policies to be implemented by such departments, offices and agencies;

G. The supervision of all purchases of goods, materials and supplies by Town departments, offices and agencies except the School Department and maintenance of inventory controls;

H. The supervision of all data processing facilities, functions and activities.

§ 24-9. Director functions and duties.

The Director of Municipal Finance shall be responsible for the functions of the Department of Municipal Finance. He/She shall be specifically responsible, in conjunction with the Town Administrator, for the annual budgeting process.

§ 24-10. Procurement officer.

Subject to the approval of the Select Board, the Director of Municipal Finance shall serve as the Town Chief Procurement Officer pursuant to the provisions of MGL c. 30B, § 2.

§ 24-11. Installment payment agreements. [Added 5-3-2016 ATM by Art. 17]

A. The Treasurer shall have the authority to enter into written installment payment agreements with persons entitled to redeem parcels in tax title on such terms and

conditions as the Treasurer may determine in the Treasurer's reasonable discretion and in accordance with MGL c. 60, § 62A. This bylaw shall apply to all taxpayers with parcels in tax title in the Town of Sharon.

B. All installment payment agreements shall comply with the following minimum requirements:

(1) The installment payment agreement shall have a maximum term of five years;

(2) The installment payment agreement may include a waiver of up to 50% of the interest that has accrued in the tax title account, but only if the taxpayer complies with the terms of the agreement (no taxes or collection costs may be waived); and

(3) The installment payment agreement must state the amount of the payment due from the taxpayer at the time of execution of the agreement, which must be at least 25% of the amount needed to redeem the parcel at the inception of the agreement.

ARTICLE II
General Provisions
[Adopted as Art. 3, §§ 1-5, of the Town Bylaws]

§ 24-12. Fiscal year.

The financial year shall begin with the first day of July in each year and end with the last day of June following.

§ 24-13. Bonds.

It shall be the duty of the Select Board to take charge of the bonds of the Town Treasurer and Collector of Taxes, and deposit them in a safe place.

§ 24-14. Approval of invoices.

No bill, charge, or account against the Town shall be paid without the approval, in writing, first obtained of the person, persons, board or committee contracting the same.

§ 24-15. Unexpended appropriations.

Any portion of any appropriation remaining unexpended at the close of the financial year shall revert to the Town treasury, unless otherwise provided by law.

§ 24-16. Agency, board and department budgets.

A. All Town agencies, boards, departments and elected officials who submit budgets for appropriation to the Town's Annual Meeting shall be required to post, at least 14 days prior to the Annual Meeting, a reasonable number of detailed copies of said budgets, said posting to be in the Sharon Public Library, and additionally copies of said budgets shall be made available for the public to pick up at the Town Clerk's office.

B. Said agencies, boards, departments and officials shall also post and provide, at the same time as the posting required in Subsection A above, copies of the detailed budgets as actually approved for the Town fiscal year then (as of the Town Meeting) in progress, along with a breakdown of all monies expended to a then reasonably current date and with an estimate of the expenditures required until the end of the then current fiscal year.

C. All of said budgets to be provided pursuant to Subsections A and B above shall be provided in substantially the same form so as to allow an ease of comparison for the Town's citizens. Additionally, the detail required of budgets shall be at a minimum a breakdown to the level of account numbers and subdivisions thereof as maintained as independent units or subunits on the Town's or School Department's computer system. If the names of individuals are included within the names of said accounting units and subunits, they shall be deleted and positions, titles or other appropriate generic identification shall be provided.

ARTICLE III
Department Revolving Funds
[Adopted 11-6-2017 STM by Art. 5]

§ 24-17. Purpose.

This bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

§ 24-18. Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund (except for those employed as school bus drivers).

B. No liability shall be incurred in excess of the available balance of the fund.

C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and the Finance Committee.

§ 24-19. Interest.

Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.

§ 24-20. Procedures and reports.

Except as provided in MGL c. 44, § 53E 1/2, and this bylaw, the laws, charter provisions, bylaws/ordinance, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

§ 24-21. Authorized revolving funds. [Amended 5-7-2018 ATM by Art. 13; 10-12-2020 ATM by Art. 14]

The Table establishes:

A. Each revolving fund authorized for use by a Town department, board, committee, agency or officer;

B. The department or agency head, board, committee or officer authorized to spend from each fund;

C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant/ Finance Director;

D. The expenses of the program or activity for which each fund may be used;

E. Any restrictions or conditions on expenditures from each fund;

F. Any reporting or other requirements that apply to each fund; and

G. The fiscal years each fund shall operate under this bylaw/ordinance.

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Cable TV Licensing and Relicensing Fund	Select Board	Receipts to be deposited to this fund shall be solely derived from the annual proceeds received by the Town from the cable television licensee under the terms of a renewal license granted by the Select Board.	The purpose of this fund is to prepare for future cable licensing or relicensing, and to defray the costs incurred by the Town in providing public internet access.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $20,000	Any unused balance, subject to subsequent Town Meeting authorization, shall carry forward for the benefit of Sharon cable subscribers to cover any costs incurred at the time of license issuance or renewal.	Fiscal Year 2018 and subsequent years
Library Public-Use Supplies Replacement Fund	Library Director, with the approval of the Library Board of Trustees	Receipts to be deposited in this fund shall be monies collected as a user fee paid by the users of computer printers and/or the recipients of faxes. Such monies represent the replacement cost of the supplies.	The purpose of this fund is to acquire supplies associated with the use of public-use computer printers and faxes such as, but not limited to, paper and ink cartridges.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $7,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Library Materials Replacement Fund	Library Director, with the approval of the Library Board of Trustees	Receipts to be deposited in this fund shall be monies paid by the borrowers of the lost materials. Such monies represent the replacement cost of the material.	The purpose of this fund is to acquire equivalent Public Library materials to replace items lost by those who borrow such materials.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $3,500.		Fiscal Year 2018 and subsequent years
Street Opening Fund	Superintendent of Public Works, with the approval of the Select Board	Receipts to be deposited in this fund shall be monies paid by utility companies, contractors and/ or the Town Water Division in accordance with the requirements of the Town of Sharon Street Opening Manual.	The purpose of this fund is to defray the cost of making permanent repairs to openings in Town streets by utility companies, contractors, and/ or the Town Water Division.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $25,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Solid Waste and Recycling Fund	Superintendent of Public Works, with the approval of the Select Board	Receipts to be deposited to this fund shall be receipts related to the Town's solid waste and recycling program.	The purpose of this fund is to support the solid waste and recycling program of the Town of Sharon and to purchase and install shade trees and shrubs to be planted in the public ways of the Town and otherwise as provided for in MGL c. 87, § 7.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $1,800,000		Fiscal Year 2018 and subsequent years
Community Center Building Maintenance Fund	Superintendent of Public Works, with the approval of the Select Board	Receipts to be deposited into the fund shall be monies collected from users and lessees of the Community Center.	The purpose of this fund is to provide and pay for the maintenance, repair, improvement, monitoring, and operation of the Community Center.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $100,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Parking Lot Fund	Superintendent of Public Works, with the approval of the Select Board	Receipts to be deposited to this fund shall be solely derived from the receipt of parking fees and charges.	The purpose of this fund is to provide and pay for the maintenance, repair, improvement, monitoring, and operation, including payment for public liability coverage, for municipal parking lots within the Town that are subject to the control of the Select Board, including, but not limited to, the parking lot located on Pond Street which was accepted at Special Town Meeting on June 21, 1978, by gift of the Sharon Civic Foundation, and/or to purchase or lease additional parking lots, and in general for any traffic control or traffic safety purposes.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $65,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Railroad Parking Fund	Superintendent of Public Works, with the approval of the Select Board	Receipts to be deposited to this fund shall be solely derived from the receipt of MBTA parking fees and charges.	The purpose of this fund is to provide and pay for the maintenance, repair, improvement, monitoring, and operation, including payment for public liability coverage, for the MBTA parking lot and in general for any traffic control or traffic safety purposes related thereto.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $500,000.		Fiscal Year 2018 and subsequent years
Recreation Programs Revolving Fund	Recreation Director, with the approval of the Select Board	Receipts to be deposited into this fund shall be monies collected from users of the Recreation Department programs and facilities.	The purpose of this fund is to support the fee-based Recreation Department programs.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $400,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Waterfront Recreation Programs Revolving Fund	Recreation Director, with the approval of the Select Board		The purpose of this fund is to utilize all program monies associated with Massapoag Lake to be utilized for expenses incurred related to programs occurring on the lake as well as the beaches.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $200,000.		Fiscal Year 2018 and subsequent years
Conservation Commission Advertising Revolving Fund	Conservation Commission	Receipts to be deposited in this fund shall be monies paid by persons requesting hearings before the Sharon Conservation Commission.	The purpose of this fund shall be to defray the cost of advertising for hearings and meetings before the Sharon Conservation Commission.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $4,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Board of Health Fund for Monitoring Compliance with Septic Variance	Board of Health	Receipts to be deposited into this fund shall be monies collected from fees generated from application fees for all new on-site wastewater disposal installations, which require variance from the requirements of Title V or Article 7 and annual fees, assessed to owners of new and existing on-site wastewater disposal installations that require reporting, annual or more frequent pumping, testing, or other actions by the owner, as required by their variance from Title V or Article 7.	The purpose of this fund is to support the Board of Health's efforts to protect public health through the successful management and oversight of all required reporting and testing requirements placed on on-site wastewater disposal installations that have been and will be approved for installation requiring mandated variances.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $20,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Health Department Revolving Fund	Board of Health	Receipts to be deposited into this fund shall be monies collected through reimbursements for immunizations.	The purpose of this fund is to support health promotion clinics for Sharon residents, including, but not limited to, influenza and pneumococcal vaccination clinics and to address public health emergency needs and pay for temporary staffing to support Health Department surge capacity; to support disease outreach programs and publications, and infectious disease training and education for Board of Health and staff.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $40,000.		Fiscal Year 2018 and subsequent years

A	B	C	D	E	F	G
Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to Spend from Fund**	**Fees, Charges or Other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**	**Other Requirements/ Reports**	**Fiscal Years**
Council on Aging Program Revolving Fund	Council on Aging Director, with the approval of the Select Board	Receipts to be deposited into the fund shall be monies collected from programming at the Council on Aging.	The purpose of this fund is to support fee based Council on Aging programs.	Expenditures in the current fiscal year shall not exceed the balance in the fund carried forward from the prior fiscal year plus receipts deposited into the fund during the current fiscal year and in any case shall not exceed $50,000 (as authorized by Article 13 of the May 2019 Annual Town Meeting).		Fiscal Year 2018 and subsequent years

Chapter 43

LEGAL AFFAIRS

§ 43-1. Appointment of Town and Special Counsel.

The Select Board shall annually appoint an Attorney-at-Law to act as Town Counsel, and said Board shall have full authority to employ special or additional counsel whenever in its judgment necessity therefor arises.

§ 43-2. Authority to present and defend legal actions.

The Select Board shall have full authority, as agents of the Town, to institute, prosecute, and compromise suits in the name of the Town and to appear, defend and compromise suits brought against it, and to appear in proceedings before any tribunal, unless it is otherwise specially voted by the Town.

§ 43-3. Authority to execute legal documents.

Whenever it shall be necessary to execute any deed conveying land or any other instrument required to carry into effect any vote of the Town, the same shall be executed by the Treasurer in behalf of the Town, unless the Town shall otherwise vote in any special case.

§ 43-4. Custody of Seal; filing of deeds and conveyances.

The Town Clerk shall have the custody of the Town Seal, and shall keep a true copy in a book for such purpose alone of all deeds or conveyances executed in behalf of the Town by any Town officer. It shall be the duty of the Town Clerk to see that every conveyance to the Town of any interest in real estate is properly recorded in the Registry of Deeds.

§ 43-5. Authority to lease land. [Added 11-4-2019 STM by Art. 3]

A. The Town Administrator, subject to approval by the Select Board, is hereby authorized to solicit, award and enter into lease or license agreements for the use of land owned by the Town and under the care, custody, management and control of the Select Board, which is declared to be surplus and no longer needed for its current purpose, for a period of up to 30 years, inclusive of any renewal, extension or option provision, without the necessity for further authorization by Town Meeting.

B. Nothing herein shall be construed to limit the Town's, the Town Administrator's or the Select Board's authority to solicit, award and enter into such a lease or license agreement for a longer term pursuant to any applicable law, including, without limitation, (1) MGL c. 40, § 3, authorizing the Select Board to enter into leases for the use of municipal buildings for a period of up to 30 years; and (2) any action by Town Meeting authorizing the Town Administrator or the Select Board to enter into a specific lease or license, or category of leases or licenses.

Chapter 49

MEETINGS

§ 49-1. Number and type of meetings.

The Town Meeting shall meet once a year at an Annual Town Meeting as provided in § 49-4, and may meet at a Special Town Meeting as provided in § 49-5, and at such other times as the Select Board may direct, or as otherwise provided by law.

§ 49-2. Notice of Annual or Special Town Meeting; zoning amendments.

Every Town Meeting shall be notified by posting attested copies of the warrant, calling the same, at 10 places within the Town, one of which shall be the post office, at least 14 days before the day appointed for the Annual Meeting or any Special Meeting of the Town. The Town Clerk shall mail, or otherwise deliver, copies of the Town warrant to every residence at least seven days before each meeting of the Town. When the warrant contains proposed amendments to the Zoning Bylaw,[3] a redline/strikeout version of the Zoning Bylaw amendments shall be posted in 10 public places and electronically posted on the Town website at the same time as the attested warrant is posted.

§ 49-3. Notice of adjourned meetings.

Notice of every adjourned meeting shall be posted by the Town Clerk in not less than 10 public places in the Town and, if time shall permit, be advertised in a newspaper published in Sharon, if any, as soon as practicable after the adjournment, stating briefly the business to come before such adjourned meeting.

§ 49-4. Annual Town Meeting; annual election of officers.

A. There shall be an Annual Town Meeting held in the spring, which shall be primarily concerned with the adoption of an annual budget and other warrant articles which have a fiscal effect on the Town. The portion of the Annual Town Meeting for the transaction of business shall be held on the first Monday in May of each year at 7:00 p.m. and shall continue, by adjournment from time to time, until disposition has been made of all articles contained in the warrant.

B. The portion of the Annual Town Meeting for the election of officers and such other matters as may be voted on the official ballot shall be held on the third Tuesday of May of each year.

§ 49-5. Special Town Meetings.

There may be a Special Town Meeting held in the Fall, as determined by the Select Board, which shall be primarily concerned with nonfiscal matters. The date of such Special Town Meeting shall be determined by the Select Board by January 15 of that year and in any event shall occur no earlier than September 1 of that year and no later than December 15 of that year. Such Special Town Meeting shall commence on the appointed day at 7:00 p.m. and shall continue, by adjournment from time to time,

3. **Editor's Note: See Ch. 275, Zoning.**

until disposition has been made of all articles contained in the warrant. The foregoing notwithstanding, the Select Board shall comply with the requirements of MGL c. 39, § 10, regarding the call of a Special Town Meeting upon the request in writing of 200 registered voters or 20% of the total number of registered voters of the Town, whichever number is the lesser.

§ 49-6. Debate on questions.

In conducting meetings, the Town Moderator is encouraged to avoid cutting off debate, or allowing a motion from the floor to call the question, on any proposed article until prescheduled speakers both for and against the proposed article, as well as a representative number of speakers from the floor both for and against the proposed article, have had an equal opportunity to speak and any and all questions that have been posed from the floor to Town officials or article proponents have been addressed.

§ 49-7. Reconsideration of votes.

A motion to reconsider any prior votes of Town Meeting shall not be accepted, except when, in the best judgment of the Moderator, a significant error or omission occurred in the language or process of the original action on the article, or a significant change of circumstances has occurred, such that there is a substantial likelihood that the outcome could change upon reconsideration or that reconsideration would be in the Town's best interest. Such errors, omission or change of circumstances shall be brought to the Moderator's attention as soon as they are known, and the Moderator shall determine if and when the matter will be taken up. The Moderator shall announce this decision to the Town Meeting. If the Moderator determines that the matter may be taken up pursuant to this section, a majority vote shall be necessary in order to proceed with reconsideration.

§ 49-8. Numbering of bylaws. [Added 5-1-2017 ATM by Art. 23]

A. The Town Clerk, or an agent designated by the Town Clerk, shall be authorized to assign appropriate numbers to sections, subsections, paragraphs and subparagraphs of the Town general bylaws and zoning bylaws, where none are approved by Town Meeting.

B. Where Town Meeting has approved numbering of sections, subsections, paragraphs and subparagraphs of Town general bylaws and zoning bylaws, the Town Clerk, or an agent designated by the Town Clerk, after consultation with the Town Administrator, shall be authorized to make nonsubstantive editorial revisions to the numbering to ensure consistent and appropriate sequencing, organization and numbering of the bylaws.

Chapter 56

OFFICERS AND EMPLOYEES

ARTICLE I
Conflicts of Interest
[Adopted as Art. 9 of the Town Bylaws]

§ 56-1. Sale of materials, supplies or labor.

No Town officer and no salaried employee of the Town, or any agent of such officer or employee, shall sell materials or supplies or furnish labor to the Town, by contract or otherwise, without permission of the Select Board, or other board authorized to purchase or otherwise secure materials, supplies, and labor for the Town, expressed in a vote, which shall appear on the records of such board, with the reason therefor.

§ 56-2. Outside employment.

No Town officer and no salaried employee of the Town, or any agent of any such officer or employee, shall receive any compensation for work done or service performed by him for the Town, except his official salary or fees allowed by the law, without the permission of the Select Board, or other board authorizing such work or service, expressed in a vote, which shall appear upon the records of such board, with the reason therefor.[4]

§ 56-3. Payment of fees to Town treasury.

All Town officers shall pay all fees received by them by virtue of their office into the Town treasury.

4. **Editor's Note: Original Art. 9, Sec. 3, which immediately followed this section was deleted 1971 ATM by Art. 38.**

ARTICLE II
Indemnification of Treasurer and Tax Collector
[Adopted as Art. 28 of the Town Bylaws]

§ 56-4. Purpose.

A. Although MGL c. 258, § 2, immunizes all public employees, including elected officers, from liability "for any injury or loss of property or personal injury or death caused by his negligent or wrongful act or omission while acting within the scope of his office or employment," MGL c. 258, § 9, permits municipalities to indemnify their employees, acting within the scope of their official duties or employment, from personal financial loss or expenses, including legal fees and costs, arising out of intentional torts or civil rights violations, and MGL c. 258, § 13, obligates the Town, which accepted § 13, to "indemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission...if the official at the time of such act or omission was acting within the scope of his official duties or employment"; those sections deal with claims of third persons against a municipality or an employee or official on account of the negligence or other wrongful act or omission of the employee or official. Those sections do not protect the Town Treasurer and Tax Collector from claims against him and his surety and against him by his surety for any losses of money which has come into his possession, even losses resulting without fault on his part. Town of Mansfield v. Hannaford, 250 Mass. 559, 146 N.E. 39 (1925).

B. There is no reason why all of the Town officials, including the Treasurer and Tax Collector and Town employees should not be protected in the case of an action commenced by a third person against the Town on account of his or her negligence or other wrongful act or omission, and the Town Treasurer and Tax Collector should be protected in case money which comes into his possession is lost through no fault of his own.

C. The purpose of this bylaw is to assure the Town Treasurer and Tax Collector that in case of any loss (except a loss arising out of his or her own personal and willful malfeasance and defaults), he or she will be indemnified and saved harmless and that neither he or she nor any surety company will be sued by the Town on any bond furnished to the Town, except for his or her own personal and willful malfeasance and defaults.

§ 56-5. Indemnity and covenant not to sue.

The Select Board members are authorized, if they find it in the public interest so to do, to enter into an agreement with the Town Treasurer and Tax Collector under the terms of which the Town would:

A. Agree to indemnify and save harmless the Town Treasurer and Tax Collector from personal financial loss or expense, including reasonable legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of any act or omission of any other person or by reason of any action taken, suffered or omitted in good

faith or be so liable or accountable for more money or other property than he or she actually receives, or be so liable, accountable or deprived by reason of an honest error of judgment or mistakes of fact or law, or by reason of anything except his or her own personal and willful malfeasance and defaults; and

B. Covenant not to sue either him or her or the surety company on any bond given by the Town Treasurer and Tax Collector to the Town for or on account of any act or omission of any other person or by reason of any action taken, suffered or omitted in good faith or be so liable or accountable for more money or other property than he or she actually receives, or be so liable, accountable or deprived by reason of an honest error of judgment or mistakes of fact or law, or by reason of anything except his or her own personal and willful malfeasance and defaults.

§ 56-6. Severability.

The invalidity, unconstitutionality or enforceability of any section or provision of this article shall not affect or impair any other section or provision.

ARTICLE III
Chief of Police
[Adopted as Art. 5 of the Town Bylaws]

§ 56-7. Appointment; compensation; term of office.

The Select Board shall appoint a Chief of Police, who shall receive such pay, if any, as the Select Board shall determine, who shall hold said office until another is appointed in his stead, subject to removal by said Board.

§ 56-8. Annual report.

It shall be the duty of the Chief of Police to report in writing, annually, upon all matters pertaining to his department, with recommendations as to the same, to the Select Board.

Chapter 61

PUBLIC PROPERTY

ARTICLE I
Sale of Surplus Property
[Adopted as Art. 31 of the Town Bylaws]

§ 61-1. Authority to dispose; interdepartmental transfers; approval required.

A. Any board or department of the Town may sell, trade in, give away or otherwise dispose of any personal property of the Town that is within its possession or control and which has become obsolete or is not required for its further use, if it determines that no other Town board or department could make use of the property. If another board or department could make use of the property, it shall be transferred, without cost, to that department.

B. Before property valued at $5,000 or more is transferred, sold, traded in, given away or otherwise disposed of, the transaction shall be approved by the School Committee, in the case of schools and departments under its control, or the Select Board, in the case of all other boards and departments. A public notice of the availability shall be posted at least 14 days prior to the disposition of all property valued at $5,000 or more, except that which is transferred to another Town department. **[Amended 12-12-2016 STM by Art. 5]**

ARTICLE II
Naming of Public Buildings and Lands
[Adopted as Art. 34A of the Town Bylaws]

§ 61-2. Purpose.

This bylaw is enacted for the purpose of preserving the history of the Town by insuring that in naming, renaming or otherwise designating public buildings and public lands, the Town seeks to recognize individuals and/or events of significance to local history.

§ 61-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DESIGNATE — The act of calling by a distinctive title, term or expression any public buildings or public lands as defined in this bylaw.

NAME — A word or phrase that constitutes the distinctive designation of any public buildings or public lands as defined in this bylaw.

PUBLIC BUILDING — Any structure, edifice or other facility owned or maintained by the Town of Sharon.

PUBLIC LAND — Any real property owned or maintained by the Town of Sharon.

RENAME — The act of redesignating any public buildings or public lands as defined in this bylaw.

§ 61-4. Procedure.

A. The naming, renaming or other designation of any public building or public land shall be by a two-thirds majority vote of Town Meeting.

B. Any proposed name or designation of any public building or land shall be submitted to the Sharon Historical Commission for its review and recommendation as to the historic significance of the proposed name or designation. The Sharon Historical Commission shall forward its recommendation to the Town Meeting.

ARTICLE III
Artificial Turf Field Moratorium
[Adopted 10-12-2020 ATM by Art. 18]

§ 61-5. Artificial turf field moratorium in the Town of Sharon.

A. Purpose. The purpose of this moratorium is to protect Lake Massapoag, and the Town's wetlands, rivers, streams, ponds, groundwater, drinking water, soil, fish and wildlife, as well as human health. Current artificial turf carpets have known environmental and health hazards. They contain toxic chemicals, including flame retardants, plasticizers, and PFAS, a class of synthetic compounds that includes approximately 4,700 chemicals. PFAS are a particular health threat, as they are highly persistent "forever chemicals" that never fully degrade, accumulate in our bodies, and adversely impact human health even at low levels of exposure. A new regulation promulgated by the Massachusetts Department of Environmental Protection establishes a drinking water standard of 20 parts per trillion for the sum of six specific PFAS. Thus, artificial turf installation could potentially contaminate Lake Massapoag, rivers, streams, ponds, ground water, soil and drinking water in the Town of Sharon by leaching chemicals. Plastic grass blades also break off artificial turf and would be blown by the wind to surrounding areas where they would break down into microplastic which does not fully degrade, thereby threatening to contaminate the nearby natural areas with PFAS, microplastics and other chemicals. Current infill materials are also problematic: crumb rubber from scrap tires is likely toxic, organic infill must be watered to get it to stay in place, and can freeze, which requires the addition of anti-freeze substances to prevent athlete falls. Artificial turf carpets are produced from petroleum. They are also not currently recyclable in the U.S. One facility in Pennsylvania collects turf fields for "recycling," but only recycles the crumb rubber that is removed from the plastic carpet. Current plastic artificial turf fields are also not biodegradable or compostable.

B. Definitions.

ARTIFICIAL TURF — Any grass turf carpet composed of petroleum-based plastic, whether or not the plastic turf contains PFAS.

PFAS — A class of per- and poly-fluoroalkyl substances.

C. Regulated conduct. The Town of Sharon shall not install artificial turf on any land, of any size, owned by the Town, for a period of three years from the effective date of the moratorium.

D. Exemptions. Synthetic turf grass carpets made of plant-based bioplastic which is entirely biodegradable or compostable, and is certified to be free of PFAS.

Chapter 67

REPORTS AND RECORDS

§ 67-1. Annual reports required.

All boards, standing committees, special committees or officers of the Town having charge of the expenditure of money shall, annually, report thereon, in writing, in such manner as to give the citizens a fair and full understanding of the objects and method of expenditure, referring, however, to the report of the Treasurer or auditors for specified details, and shall make therein such recommendations as they deem proper.

§ 67-2. Submission deadline.

All reports shall be placed in the hands of the Select Board for printing and publishing as soon as possible, not later than the first day of February each year.

§ 67-3. Distribution of reports.

The Select Board shall, annually, print and make available, not less than five days before the Annual Meeting, to the taxpayers of the Town, the reports of the officers of the various departments and boards of the Town, and reports upon such matters as directed by the Town in these bylaws. It shall have the custody and distribution of the same.

§ 67-4. Financial estimates.

The Select Board and all other boards shall, in addition to the requirements of § 67-2, report in detail their estimates of the amounts of money which will be required for the next fiscal year.

§ 67-5. Abstracts.

The Town Clerk shall furnish for publication in the annual Town report an abstract of the official records of all Town meetings held during the preceding year. He shall also furnish an abstract of the vital statistics for the preceding year.

§ 67-6. Location of highways.

Whenever a Town way is laid out or altered, a plan thereof shall be made and filed with the Town Clerk, with the location thereof, and it shall be the duty of the Town Clerk to keep a book of records for the sole purpose of recording the location of all highways and Town ways within the Town, with an index thereto.

§ 67-7. Valuation of estates.

Each quinquennial valuation of estates made by the Assessors, or an abstract thereof, shall be printed in the Annual Report for the next year after same shall be made.

§ 67-8. Debts and expenditures.

In his annual report, the Town Treasurer shall state specifically the objects for which

the debt of the Town was increased, if any, during the preceding year, and recite the votes under which this money was borrowed, and shall render a classified statement of all expenditures and receipts of the Town in such detail as to give a fair and full exhibit of the objects and methods of all expenditures.

Part II: General Legislation

Chapter 105

ADVERTISING MATERIALS

GENERAL REFERENCES

Hawkers and peddlers — See Ch. 166. **Signs — See Ch. 221.**

§ 105-1. Restrictions on distribution.

It shall be unlawful for any person to distribute advertising material at any residence within the Town of Sharon, other than at the residence of a person soliciting the same, by placing such material at the home or on the property of the person owning or occupying the home, unless the person distributing such advertising material has obtained the written consent of the person occupying the home.

§ 105-2. Exceptions.

The foregoing provision shall not apply to the distribution of advertising material through the United States mail, or to the distribution of advertising material by or for any nonprofit charitable organization.

Chapter 109

ALARMS

GENERAL REFERENCES

Noise — See Ch. 195.

ARTICLE I
Burglar Alarms
[Adopted as Art. 10, § 30, of the Town Bylaws]

§ 109-1. Definitions.

For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ALARM SYSTEM — An assembly of equipment and devices or a single device such as solid-state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention or an incident to which police customarily or reasonably are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this bylaw.

FALSE ALARM —

A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.

B. Any signal or oral communication transmitted to the Police Department requesting or requiring, or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion into a premises and/or no attempted robbery, or burglary, or attempt thereat.

   For purposes of this definition, activation of alarm systems by Acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

§ 109-2. Control and curtailment of signals.

A. Every alarm system user shall submit to the Chief of Police the names and telephone numbers of at least two persons who are authorized to respond to an emergency transmitted by the alarm system, and who can open the premises wherein the alarm system is installed and reset the alarm system. Users who subscribe to a private monitoring service shall supply said information to said service.

B. All audible alarm systems installed after the effective date of this bylaw which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within 15 minutes of the activation of the alarm system.

C. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated under Subsection A of

this section, and which disturbs the peace, comfort, or repose of a community, a neighborhood, or a number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance.

(1) Upon receiving a complaint of such a continuous and uninterrupted signal, the Chief of Police shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Subsection A of this section in an effort to abate the nuisance. If such efforts do not result in the silencing of the alarm within 30 minutes of its activation, or such other reasonable time as determined by the Chief or his designee, the Police Chief may, at the expense of the owner, order its deactivation using whatever means may be appropriate to the occasion.

(2) The Police Chief shall cause to be recorded the names and addresses of all complainants, and the time of each complaint.

§ 109-3. Penalties.

Upon receipt of three or more false alarms within a calendar year:

A. The Police Chief may:

(1) Order the user to discontinue the use of the alarm;

(2) Disconnect any direct connections to the Police Department; and/or

(3) Order that further connections to the communications console in the Police Department will be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell within 15 minutes after activation of the alarm system.

B. The user shall be assessed $50 as a false alarm service fine for each false alarm in excess of three occurring within a calendar year. If a user has not complied with § 109-2A and has failed to register with the Chief of Police the required information or has failed to provide a private monitoring service with the required information, then said user shall be required to pay such fine upon their first false alarm and for each subsequent false alarm. A grace period of 30 days shall apply to the first offense, and if said user files the appropriate information with the Chief of Police or provides proof that they have filed the appropriate information with their private monitoring service within said thirty-day period, then the fine shall be waived. All fines assessed hereunder shall be paid to the Town Treasurer for deposit to the general fund.

ARTICLE II
False 911 Calls
[Adopted as Art. 10, § 30A, of the Town Bylaws]

§ 109-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

911 CALL — A call received by the Sharon Police Department as a result of a user of telephone service dialing or causing to be dialed the numbers "911" on a telephone, whether by manually dialing such numbers or by the use of an automatic alarm or other alerting device used to dial the numbers "911" automatically or a prerecorded message which accesses emergency services directly.

FALSE ALARM —

A. The dialing of the numbers "911" on a telephone by either:

   (1) Activation, through mechanical failure, malfunction, improper installation or negligence of the user or its employees or agents, of an automatic alarm or other alerting device used to dial the numbers "911" automatically; or

   (2) A user of a telephone system who negligently dials, causes to be dialed, or allows to be dialed the numbers "911" when in fact there has been no emergency or event requiring a response by public safety officials, including, but not limited to, the Police Department, the Fire Department, or emergency medical technicians.

B. For purposes of this article, activation of 911 telephone calls by Acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm. In addition, any documented error or omission of the company providing telephone service which causes to be placed a 911 call in error shall not be deemed to be a false alarm.

§ 109-5. Fees for false alarms.

Upon receipt of three or more false alarms within a calendar year from the same user, said user shall be assessed $50 as a false alarm service fee for each false alarm in excess of three occurring within a calendar year. All fees assessed hereunder shall be paid to the Town Treasurer for deposit into the general fund.

ARTICLE III
Fire Alarms
[Adopted as Art. 30 of the Town Bylaws]

§ 109-6. Definitions.

For the purpose of this bylaw, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ALARM SYSTEM — An assembly of equipment and devices or a single device such as a solid-state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the Fire Department is expected to respond.

FALSE ALARM —

A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.

B. An incident in which the Fire Department is dispatched to the alarmed premises due to any signal or oral communication transmitted to the Fire Department requesting or requiring a response on the part of the Fire Department when in fact there has been no real cause for the alarm.

   For the purposes of this definition, activation of alarm systems by Acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

§ 109-7. Interconnection of automatic dialing devices.

A. No automatic dialing device shall be interconnected to any telephone numbers at the Fire Department after the effective date of this article.

B. Within six months after the effective date of this article, all automatic dialing devices interconnected to any telephone numbers at the Fire Department shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification by the Fire Chief and/or his designee.

§ 109-8. Control and curtailment of signals.

A. Every alarm user shall submit to the Fire Chief and/or his designee the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.

B. All alarm systems installed after the effective date of this article which use an

audible horn or bell shall be equipped with a device that will shut off such horn or bell within 15 minutes after activation of the alarm system.

C. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes between 7:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section, and which disturbs the peace, comfort, or repose of a community, neighborhood or of a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Fire Chief and/or his designee shall endeavor to contact the alarm user, or member of the alarm user's family, or those persons designated by the alarm user under Subsection A of this section in an effort to abate the nuisance. The Fire Chief and/or his designee shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

§ 109-9. Penalties; notification of maintenance.

A. Upon receipt of more than three false alarms within a calendar year, the Fire Chief and/or his designee may order the user to discontinue the use of the alarm.

B. Before any repairs, testing, cleaning by any maintenance personnel is to be done on any fire alarm system, they shall notify the Fire Department; whoever violates any provision of this subsection shall be liable to a penalty of not more than $100 for each violation.

C. Any user who fails to comply with § 109-7B regarding disconnection of automatic dialing devices will be subject to a fine of not more than $50.

D. All users shall be assessed $50 as a false alarm service fee for each false alarm more than three occurring within a calendar year. All fees assessed hereunder shall be paid to the Town of Sharon Treasurer-Collector for deposit in the general fund.

Chapter 113

ALCOHOLIC BEVERAGES

GENERAL REFERENCES

Parks and recreation areas — See Ch. 204. **Peace and good order — See Ch. 208.**

§ 113-1. Definitions.

The following words, as used in this chapter, unless the context otherwise requires, shall have the following meanings:

BEACH — Any beach under the care and control of the Town and beaches within the limits of the Town to which the public has a right of access.

PARKS — Any public park under the care and control of the Town.

PLAYGROUND — Any playground under the care and control of the Town.

PRIVATE PARKING AREAS — Any private parking area throughout the Town to which the public has the general right of access.

PUBLIC BUILDINGS — Within any public building except by vote, consent, and conditions as stipulated by the Select Board.

PUBLIC LAND — Any land owned by the Town or under the care and control of its Conservation Commission.

PUBLIC PARKING AREAS — Any public parking area under the care and control of the Town.

PUBLIC WAYS — All ways to which the public has the right of access.

TOWN FOREST — Any Town forest under the care and control of the Town.

§ 113-2. Public consumption prohibited.

No person shall drink or consume alcoholic beverages as defined in MGL c. 138, § 1, while on, in, or upon the public ways and places set forth in § 113-1 above, whether in or upon a vehicle, motor vehicle or on foot, or place to which members of the public have access as invitees or licensees, or parks, Town forests, public parking areas, or playgrounds, or any beach within the limits of the Town to which the public has a right of access, or private land or place without the consent of the owner or person in control.

§ 113-3. Restaurant exception.

Notwithstanding § 113-2 above, the Select Board, in conjunction with the issuance of a license to serve alcoholic beverages, including beer and wine, in accordance with Chapter 138 of the General Laws, may permit the consumption of alcoholic beverages, including beer and wine, on public sidewalks as part of outdoor restaurant seating and food consumption.

§ 113-4. Violations and penalties.

A police officer may arrest without a warrant anyone who violates this chapter while committing a breach of the peace. Whoever violates any provisions of this chapter shall be liable to a penalty of not more than $50 for each violation.

Chapter 116

ANIMALS

GENERAL REFERENCES

Noise — See Ch. 195.

Housing and management of domesticated animals — See Ch. 300, Art. 13.

Animal waste regulations — See Ch. 300, Art. 26.

Waterfowl regulations — See Ch. 300, Art. 27.

ARTICLE I
Trapping of Wildlife
[Adopted as Art. 10, § 28B, of the Town Bylaws; amended 11-17-2008 STM]

§ 116-1. Permit required.

No person shall trap wildlife on any land owned by the Town or by the Town's Conservation Commission unless a written permit shall have been obtained prior to the opening of each trapping season from the Select Board members in the case of land owned by the Town or from the Conservation Commission in the case of land owned by the Conservation Commission. Such permit must be worn in a visible manner and must be shown on demand to any Sharon police officer or to the Town's Conservation Officer.

ARTICLE II
Animal Control
[Adopted 11-17-2014 STM by Art. 8 (Art. 17 of the Town Bylaws)]

§ 116-2. Purpose.

The purpose of this bylaw is to achieve the objectives of the animal control enabling legislation, as amended, contained in MGL c. 140, §§ 136A through 174E, which includes the regulation of domesticated animals within the borders of the Town of Sharon, Massachusetts, the licensing of dogs, and the establishment of fines for violation of this bylaw.

§ 116-3. Applicability.

This bylaw shall apply to all dogs owned by or kept by residents of the Town of Sharon, all dogs harbored or kept in the Town of Sharon, and all dogs physically within the Town of Sharon, whether on public or private property and regardless of whether ownership can be determined. This bylaw also shall apply to all residents of the Town of Sharon who bring or harbor one or more dogs within the Town of Sharon.

§ 116-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANIMAL CONTROL OFFICER — An appointed officer authorized to enforce MGL c. 140, §§ 136A to 174E, inclusive.

AT LARGE — A dog off the premises of its owner or keeper and not under the control of a person capable of preventing the dog from being a threat to public safety, biting other domestic animals or being a public nuisance.

ATTACK — Aggressive physical contact initiated by an animal.

COMMERCIAL BOARDING OR TRAINING KENNEL — An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under MGL c. 129, § 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

DANGEROUS DOG — A dog that either:

A. Without justification, attacks a person or domestic animal causing physical injury or death; or

B. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

HEARING AUTHORITY — The Select Board of the Town of Sharon.

KEEPER — A person, business, corporation, entity or society, other than the owner, having possession of a dog.

KENNEL — A pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

LICENSING AUTHORITY — The clerk of any municipality.

LIVESTOCK OR FOWL — A fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under a permit from, the Department in proper houses or suitable enclosed yards; provided, however, that "livestock or fowl" shall not include a dog, cat or other pet.

NUISANCE DOG — A dog that:

A. By excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity; or

B. By excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or

C. Has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

PERSONAL KENNEL — A pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided, further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally owned dogs; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.

§ 116-5. Licensing; fees.

A. Licenses shall be required for any dog over six months of age in accordance with MGL c. 140, § 137, and are valid for a one-year period commencing on January 1 and expiring on December 31 of each year. The annual fee for every dog license, except as otherwise provided by law, shall be $20 for a male or female dog; unless a certificate of a registered veterinarian who performed the operation that such dog has been spayed or neutered and has thereby been deprived of the power of propagation has been shown to the Town Clerk, in which case the fee shall be $15. A copy of such certificate of spaying or neutering on file in the office of any city or town clerk within the commonwealth may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certificate of the veterinarian cannot be obtained, he/she may accept in lieu thereof a statement

signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that he/she has examined such dog and that it appears to have been and in his/her opinion has been spayed or neutered and thereby deprived of the power of propagation.

B. A licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated for rabies, certification that such dog is exempt from the rabies vaccination requirement under MGL c. 140, § 145B, or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

C. The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl.

D. No license fee shall be charged for a license for a service animal as defined by the Americans with Disabilities Act.

E. No dog license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog.

F. Should any owner or keeper of a dog fail to license his/her dog before May 31, the owner shall pay a late fee of $50, in addition to the license fee. In accordance with Chapter 1, Article I, of the General Bylaws of the Town of Sharon, a noncriminal disposition penalty will be imposed in the amount of $25 for any owner of a dog who fails to comply with the licensing of his/her dog on or before June 30 of any year; said fee is to be paid in addition to the late fee and license fee.

(1) The owner of any dog impounded because of failure to license according to this bylaw may claim such dog upon the reimbursement to the Animal Control Officer of the expense incurred for maintaining such dog according to the following fee schedule:

(a) Payment of any kennel charges incurred for the period of the dog's impoundment.

(b) For initial handling and pick-up of the dog: $25.

(2) Prior to its release, the owner of said dog shall obtain a license from the Town Clerk.

G. The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town, and the fee for the substitute shall, if received by a city or town clerk, be retained by the clerk unless otherwise provided by law.

H. Every person maintaining a kennel shall obtain a kennel license in accordance with MGL c. 140, § 137A.

I. The fee for every kennel license shall, except as otherwise provided, be $35 for no more than four dogs over the age of three months; $60 if more than four but no more than 10 dogs over the age of three months; $125 if more than 10 dogs over the age of three months are kept therein. An owner or keeper of a personal kennel may elect to secure a kennel license in lieu of licensing each individual dog.

J. In the case of an applicant for initial licensure, a licensing authority shall not issue a kennel license until a kennel has passed inspection by the Animal Control Officer.

K. Whoever violates MGL c. 140, § 137, 137A, 137B or 138, shall be assessed a penalty of $50.

L. Any funds collected pursuant to the provisions of this bylaw shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.

§ 116-6. Public nuisance.

No person shall own or keep in the Town any dog which by biting, excessive barking, howling, or being at large or in any other manner becomes a public nuisance. Any unspayed female dog in season shall be deemed a public nuisance when not confined indoors by the owner thereof, or housed in a veterinarian hospital or registered clinic.

§ 116-7. Violations and penalties.

Any owner or keeper of a dog who shall fail to comply with any order of the Animal Control Officer or Select Board members issued pursuant to this bylaw shall be punished by a fine of $100, with a right to appeal to the District Court pursuant to MGL c. 140, § 157.

§ 116-8. Complaint of nuisance.

A. If any person shall make a complaint, pursuant to MGL c. 140, § 157, in writing to the Animal Control Officer or Select Board that any dog owned or harbored within the Town is a nuisance dog or is a dangerous dog, the Animal Control Officer shall investigate such complaint and submit a written report to the Select Board, acting as the hearing authority, of his findings and recommendations, together with the written complaint.

B. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to allow the Select Board to issue its order following receipt of the report of the Animal Control Officer.

C. Restraint or muzzling.

(1) Any dog may be restrained or muzzled pursuant to an interim order of the Animal Control Officer for any of the following reasons:

(a) For having bitten any person.

(b) If found at large or unmuzzled, as the case may be, while an order for restraint of such dog is in effect.

(c) If found in a school, schoolyard or public recreation area.

(d) For having killed or maimed or otherwise damaged any other domesticated animal.

(e) For chasing any vehicle upon a public way or way open to public travel in the Town.

(f) For any violation of this section relating to dogs.

(2) Upon restraining or muzzling, or issuing any order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Select Board a report of his action and the reasons therefor. If the Select Board fails to act during the period of the interim order, upon expiration of the period the interim order shall be automatically vacated.

D. Such investigation shall include notice to the owner and a hearing with an examination under oath of the complainant to determine whether the dog is a nuisance or is a dangerous dog.

(1) Based on the credible evidence and testimony presented at the public hearing, the Select Board shall, if the dog is complained of as a nuisance dog, either:

(a) Dismiss the complaint; or

(b) Deem such dog a nuisance dog; or

(2) If the dog is complained of as being a dangerous dog, either:

(a) Dismiss the complaint;

(b) Deem the dog is a nuisance dog; or

(c) Deem such dog a dangerous dog.

(3) If the Select Board deem a dog as a nuisance dog or a dangerous dog, the Select Board may order remedial action in accordance with MGL c. 140, § 157.

E. The owner or keeper of any dog that has been issued an order under this section may file an appeal in accordance with MGL c. 140, § 157(d).

§ 116-9. Tethering.

In accordance with the requirements of MGL c. 140, § 174E, no person owning or keeping a dog shall chain or tether a dog to a stationary object, including, but not limited to, a structure, dog house, pole or tree, for longer than 24 consecutive hours.

§ 116-10. Mandatory leash law; impoundment fees.

No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash or is under the control of its owner or keeper or agent of either. As used in this section, the term "control" shall include but not be limited to oral or visual commands to which the dog is obedient. Dogs

running at large and not under restraint will be caught and confined for a period of up to seven days, and the known owner or keeper will be forthwith notified. Said dog shall not be released to that known owner or keeper until a pick-up charge of $20 per dog shall have been paid to the Town of Sharon for services rendered in addition to a per-day boarding fee which is determined by the shelter for the care and keep of each dog impounded.

§ 116-11. Emergency treatment.

See MGL c. 140, § 151B. A veterinarian registered under MGL c. 112, § 55 or 56A, who renders emergency care or treatment to, or who euthanizes, a dog or cat that is injured on any way shall receive payment from the owner of such dog or cat, if known, or, if not known, from the city or town in which the injury occurred in an amount not to exceed $250 for such care, treatment or euthanization; provided, however, such emergency care, treatment or euthanization shall be rendered for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or keeper of the dog or cat is identified or for 24 hours, whichever is sooner. A veterinarian who renders such emergency care or treatment to a dog or cat or euthanizes a dog or cat shall notify the municipal Animal Control Officer and the Animal Control Officer shall assume control of the dog or cat or the remains of the dog or cat.

§ 116-12. Noncriminal disposition of violations; additional remedies.

A. In addition to the remedies set forth herein, other than as provided in §§ 116-5 and 116-7, this bylaw may be enforced by noncriminal disposition as provided in MGL c. 40, § 21D. For the purposes of this bylaw, the Animal Control Officer and all Sharon police officers shall be designated enforcing persons. Each day on which any violation of this bylaw occurs shall be deemed to be a separate offense subject to the following penalties:

   (1) First offense: $25.

   (2) Second offense: $50.

   (3) Each subsequent offense: $100.

B. The issuance of a penalty or noncriminal disposition shall not preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this bylaw.

§ 116-13. Severability.

Should any portion, section or provision of this bylaw be found invalid for any reason, that finding shall not affect the validity and force of any other section, portion or provision of this bylaw.

Chapter 120

BOATS AND WATERCRAFT

GENERAL REFERENCES

Parks and recreation areas — See Ch. 204.

ARTICLE I
Boating on Lake Massapoag
[Adopted as Art. 16 of the Town Bylaws]

§ 120-1. Speed limits.

No person shall operate any motorboat on Lake Massapoag at a speed in excess of 15 miles per hour, except that a maximum speed of 25 miles per hour shall be permitted only during such times and in such areas as shall be designated for water skiing by the Select Board; provided that when within 150 feet of the shore or any pier or float, the speed shall not exceed six miles per hour.

§ 120-2. Operation near bathing beaches.

No person shall operate any motorboat within 150 feet of the shore of any public or private bathing beach on Lake Massapoag except in case of an emergency or when within the public launching area.

§ 120-3. Launching.

Except in case of an emergency, every person, other than the owner or tenant of beach frontage on Lake Massapoag or a guest of either one, shall launch or land his motorboat at the public boat slip and from or on no other place. An owner or tenant of beach frontage or a guest of either may launch and land his boat from and on such beach.

§ 120-4. Horsepower restrictions.

After April 1, 1973, no person shall operate a boat on Lake Massapoag powered by internal combustion engines whose total horsepower rating at time of original manufacture exceeds 60 horsepower, except as approved by the Select Board for safety or rescue purposes.

§ 120-5. Boat launching permits.

No person shall launch a boat powered by an internal combustion engine or a sailboat at a public launching area on Lake Massapoag unless there is permanently attached thereto a boat launching permit sticker. Such sticker shall be available to residents and nonresidents at reasonable rates to be established by the Select Board.

§ 120-6. Violations and penalties.

Whoever violates any of the provisions of this bylaw shall be punished by a fine of $20 for each violation.

ARTICLE II
Personal Watercraft
[Adopted as Art. 16A of the Town Bylaws]

§ 120-7. Operating restrictions.

A. No person shall operate a jet ski, surf jet, wet bike or other so-called "personal watercraft":

(1) Unless the person is 16 years of age or older;

(2) Within 150 feet of a swimmer, shore or moored vessel, except at headway speed;

(3) Without wearing an approved personal flotation device; or

(4) Between sunset and sunrise.

B. For purposes of this section, the term "headway speed" shall mean the slowest speed at which personal watercraft, jet ski, surf jet or wet bike can be operated and maintain steerage way.

§ 120-8. Minimum age for operation.

No person shall operate a personal watercraft if such person is:

A. Under the age of 16;

B. Sixteen or 17 years of age without first having received a safety certificate evidencing satisfactory completion of a training course in safe operation conducted by the United States Coast Guard Auxiliary, the United States Power Squadron, the Division of Law Enforcement, or such other entity approved in writing by the Director.

§ 120-9. Personal flotation devices.

Any person aboard a personal watercraft shall wear at all times a Coast Guard approved personal flotation device.

§ 120-10. Towing.

No person shall tow a water-skier or any person in any other manner from a personal watercraft.

§ 120-11. Evening operation.

No person shall operate a personal watercraft between the hours of sunset and sunrise or when vision is unduly restricted by weather or in violation of the Rules for Town Beaches as established by the Select Board.

§ 120-12. Safe operation.

No person shall operate a personal watercraft except in a safe and prudent manner,

having due regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances, so as not to endanger the life, limb or property of any person.

§ 120-13. Negligent operation.

No person shall operate a personal watercraft in a negligent manner. The following are prohibited as examples of negligent operations:

A. Unreasonably jumping, or attempting to jump, the wake of another vessel;

B. Following within 150 feet of a water-skier;

C. Weaving through congested vessel traffic;

D. Speeding in restricted areas;

E. Crossing unreasonably close to another vessel;

F. Operating a personal watercraft in such a manner that it endangers the life, limb or property of any persons;

G. Towing a water-skier or any person in any manner from a personal watercraft.

§ 120-14. Proximity restrictions.

No person shall operate a personal watercraft:

A. Within 150 feet of shore or a moored vessel except at headway speed;

B. Within 150 feet of a public bathing area;

C. Between 150 feet and 300 feet of a public bathing area except at headway speed; or

D. Within 150 feet of a swimmer in the water.

§ 120-15. Mufflers and exhaust systems.

No person shall:

A. Remove or modify the exhaust or muffler system of a personal watercraft; or

B. Operate a personal watercraft so modified.

§ 120-16. Severability.

If any portion of this bylaw is invalid, unenforceable, changed by law or regulation, or declared invalid by order, decree or judgment of a court of competent jurisdiction for any reason, that decision shall not affect any other action of this bylaw which shall remain in full force and effect and the bylaw shall be construed as if such invalid provisions had not been inserted or as if the new law or regulation had been incorporated herein.

§ 120-17. Enforcement.

Enforcing persons for this article are the Chief of Police, the Select Board, or their

designees.

§ 120-18. Violations and penalties.

The penalty for violation of this bylaw shall be $20 for each offense.

Chapter 125

BUILDING CONSTRUCTION

GENERAL REFERENCES

Alarms — See Ch. 109.

Zoning — See Ch. 275.

ARTICLE I
Numbering of Buildings
[Adopted as Art. 10, § 26, of the Town Bylaws]

§ 125-1. Numbers required; specifications.

Street numbers shall be provided for each dwelling and each business, industrial, and other building in the Town of Sharon by the owner of such structures in accordance with the following:

A. The numbers shall conform to the requirements of the State Building Code and MGL c. 148, § 59.

B. The numbers shall be placed on each structure, or on a suitable support, near the main entrance to the structure.

C. The numbers shall be those assigned to each structure in accordance with the street numbering used by the Board of Assessors, on file at the office of that board.

D. The owner of each affected structure in the Town shall install the assigned number in accordance with the provisions of this bylaw within three months of the effective date of this bylaw.

ARTICLE II
Public Safety In-Building Radio Communications
[Adopted as Art. 40 of the Town Bylaws]

§ 125-2. Systems required.

New buildings or structures or portions of existing buildings or structures undergoing renovations or rehabilitation in accordance with the State Building Code (780 CMR Chapter 34, Existing Structures) shall be equipped with in-building radio systems as an integral component of the life safety equipment of the building or structure. The primary function of this requirement is to provide reliable public safety communications within 95% of a building's or structure's floor area, including any stairwells.

§ 125-3. Exceptions; compliance with state law.

A. Section 125-2 does not apply to:

   (1) One- and two-family dwellings as defined in the Massachusetts Building Code;

   (2) Buildings constructed of wood frame with no metal construction and no underground storage or parking areas and portions of buildings or structures where the Fire/Police Departments have performed radio tests for signal reception and determined radio coverage is adequate.

B. Nothing in this bylaw shall be construed to be, nor in practice or implementation shall be, inconsistent with the State Building Code (780 CMR).

§ 125-4. Determination of coverage.

For the purpose of this bylaw, adequate radio coverage shall include a minimum signal level of DAQ 4 [Delivered Audio Quality 4 (speech easily understood, with occasional noise/distortion)]. This shall be determined utilizing hand-held portable radios used by the Sharon Fire and Police Departments.

§ 125-5. Signal strength.

The in-building radio system shall provide signal strength as follows:

A. A minimum of -95 dBm available in 95% of the floor area of each floor of the building, including any stairwells, when transmitted from the Sharon Fire or Police Department or Norfolk County Fire Dispatch centers.

B. A minimum of -95 dBm received at the Sharon Fire or Police Department or Norfolk County Fire Dispatch centers from 95% of the floor area of each floor of the building, including stairwells.

§ 125-6. Applicable standards.

Buildings and structures shall be FCC-certified Class B bi-directional UHF amplifier(s) (BDA) as needed. The system as installed must comply with all applicable sections of FCC Rules Part 90.

§ 125-7. Amplification system.

Assembly and installation of the bi-directional amplification system shall be in accordance with the Massachusetts Electrical Code as applicable and shall meet NFPA 72, Section 6.9.10.4.3, 2007 Edition.

§ 125-8. System options.

The radio system may utilize a radiating cable system or an internal multiple-antenna system.

§ 125-9. Cable installation.

Radiating coaxial cables shall be run without conduit. Where installed in a plenum-type ceiling, the cable insulation shall be a fire-resistant, low-smoke-producing type, with a minimum rating of CATVR.

§ 125-10. Frequencies.

The Sharon Fire and Police Departments and Norfolk County Fire ground frequencies are established and the BDA shall be designed for uplink and downlink for the appropriate public safety department's frequencies designated by the Sharon Fire and Police Chiefs.

§ 125-11. Connectivity between systems.

There shall be no connectivity between the in-building radio system and the fire alarm system.

§ 125-12. Battery backup.

The system shall be capable of operating on an independent battery system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of external power input.

§ 125-13. Monitoring.

Each amplifier shall be monitored for operation, primary and low battery voltage. Failure of the amplifier, loss of primary power or low battery voltage shall cause an audible alarm or other indication as approved by the Fire Chief or his designee. The audible alarm or other indication shall not be silenced or disabled until the fault has been corrected.

§ 125-14. Amplifier installation.

Amplifiers shall be installed and secured in a two-hour protected space in watertight NEMA 4 metallic cabinets. The words "Sharon Fire/Police Department Radio" shall be marked on the cabinet as well as the maintenance vendor and vendor phone number.

§ 125-15. Compliance required for certificate of occupancy.

No certificate of occupancy will be issued for any structure covered by this bylaw unless

and until the building owner demonstrates full compliance with this bylaw.

§ 125-16. Modifying, updating and testing system.

The building owner shall be responsible for modifications, updating the system as required and testing all active components of the system, including but not limited to amplifier, power supplies and back-up batteries, a minimum of once every 12 months. Documentation of the test shall be maintained on site and a copy forwarded to the Sharon Fire and/or Police Department. All tests shall be conducted, documented and signed by a person with a current FCC General Radiophone Operator License or equivalent.

§ 125-17. Access for field testing.

The building owner shall provide reasonable access to Fire Department and/or Police Department personnel to conduct field testing of the radio systems to determine if the radio coverage is adequate.

§ 125-18. Liability for costs.

All cost and upkeep of the system will be the responsibility of the building owner. Upon resale or transfer of the building, the new owner shall assume all conditions of this occupancy requirement. Upon failure of the system, the owner or his designee shall notify the Sharon Fire and Police Departments and all repairs shall be mitigated within 24 hours of the failure.

§ 125-19. Adoption of regulations.

The Chief of the Fire Department is hereby authorized to adopt regulations consistent with this bylaw for the implementation hereof.

§ 125-20. Violations and penalties.

Whoever violates any of the provisions of this bylaw may be subject to a fine for each violation as set forth in Chapter 1, Article I, of the General Bylaws.

ARTICLE III
Stretch Energy Code
[Adopted 5-1-2017 ATM by Art. 25 (Art. 41 of the Town Bylaws)]

§ 125-21. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

INTERNAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.[5]

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 9th Edition Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§ 125-22. Purpose.

The purpose of 780 CMR 115.AA is to provide a more energy-efficient alternative to the Base Energy Code applicable to the relevant sections of the Building Code for new buildings.

§ 125-23. Applicability.

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

§ 125-24. Adoption of Stretch Code; enforcement.

A. The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Sharon General Bylaws, Chapter 125, Article III.

B. The Stretch Code is enforceable by the Building Inspector.

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5. Editor's Note: So in original; should read as follows: INTERNATIONAL ENERGY CONSERVATION CODE – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Chapter 141

EARTH REMOVAL

GENERAL REFERENCES

Zoning — See Ch. 275. **Subdivision regulations — See Ch. 340.**

§ 141-1. Purpose and authority.

In order to protect the welfare of the inhabitants of the Town, the following Earth Removal Bylaw is adopted pursuant to the provisions of MGL c. 40, § 21, Paragraph 17.

§ 141-2. Residence district restrictions.

The following provision shall be applicable in the Single Residence, Suburban, Rural, Housing Authority and General Residence Zoning Districts: The stripping or removal from any land of soil, loam, gravel, sand or any other earth material is permitted within these zoning districts, provided that such stripping or removal is actually necessary for the construction of a building, structure, well, tank, pool, driveway, parking area, path, other building appurtenance, sidewalk or road, in which case the amount of earth materials to be stripped and removed shall be limited to the volume of the foundation and basement of the building, structure, well, tank, pool or other building appurtenance or to the volume of the bed of the driveway, parking area, path, sidewalk or road and such other amount as shall be required for grading and sloping in connection with any of the foregoing; or is actually necessary as part of a bona fide farm, garden, nursery, lawn making, planting, recreational or cemetery activity or takes place on land in public use; and provided further that except (1) when taking place on land in public use, or (2) where the earth material to be stripped or removed from any parcel of land in any calendar year shall not exceed in the aggregate 25 cubic yards, a special use permit authorizing each such stripping or removal shall have been obtained in advance from the Select Board members, who may impose such conditions as shall safeguard the Town and the neighborhood. Each such special use permit shall require the preservation of the natural contour of the land wherever feasible, and no such special use permit shall authorize the removal of loam beyond the geographical limits of the Town. It is intended by this clause that the stripping or removal of any earth material from any parcel of land, for which a preliminary or definitive subdivision plan had been prepared, shall be allowed only in the same manner as the stripping or removal from any other land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the stripping or removal of any material, even though in connection with the construction of streets shown on the plan. For the purpose of this clause, the term "parcel of land" shall be construed to mean all adjoining lots or tracts in common ownership.

§ 141-3. Industrial district restrictions.

The following provision shall be applicable in the Industrial Zoning District: The

moving of sod, loam, gravel and other earth materials from place to place within the Light Industrial Zoning Districts and the removal of soil materials other than sod and loam from the Light Industrial Districts are permitted within industrial districts, provided such moving or removal is authorized by a special use permit from the Select Board. Such permit shall be made subject to appropriate conditions, limitations and safeguards designed to protect area property owners from noise, dust or prolonged scars on the landscape, to safeguard lives and property, and to prevent unnecessary destruction of natural vegetation and original contours, and to protect the Town against costs or expenses occasioned upon the Town by such removal. Excavation and grading authorized by this section shall not exceed in depth and slope the contours as approved by the Select Board.

§ 141-4. Application for permit; hearing and procedure; fees.

A. All applications for such special use permits shall be accompanied by exhibits and documentation deemed necessary by the Board for the proper issuance of a permit, which may include the following:

(1) Name and address of the legal owner of the land in question.

(2) Name and address of petitioner, if different.

(3) Names and addresses of all owners of property within 100 feet of the land.

(4) Plans of the land prepared by a registered engineer or land surveyor and indicating: tract boundaries, adjacent streets and roads, the limits of the proposed excavation, the location of all structures within 200 feet of said limits, original topography by five-foot contours, proposed final contours at five-foot intervals, and the location and proposed use of all structures and buildings to be used in connection with the removal operation. All such plans shall indicate a division of the land into acres.

(5) A plan of the site indicating the depth of loam before excavation of intervals of 100 feet by means of a surveyed grid.

(6) Statement of plans for the disposal of rock, tree stumps, and other waste materials, and for the drainage of the site and excavation during and after the removal operation.

(7) A plan and specification, prepared by a registered engineer or land surveyor, for the final grading and restoration of the site.

B. Upon receipt of an application for a permit for earth removal:

(1) The Board shall appoint a time and place for a public hearing, notice of which shall be given to the applicant and shall be published at least 14 days before such hearing in a newspaper having a circulation in the Town.

(2) The Board shall inspect the site covered by the application.

(3) The Conservation Commission shall be given a copy of the plans and application for review and comment at least 14 days before a public hearing.

C. A fee as determined by the Board shall be charged for making an application and shall reflect the cost of the Town to review such application.

D. A reasonable fee shall be charged for each permit issued, in accordance with a schedule published by the Board, based on the volume of gravel removal authorized by the permit. In addition, the Board has the authority to retain a qualified professional engineer or other qualified experts for the purpose of insuring that the provisions of this bylaw and the permit are complied with. Such engineers or experts may be retained at any time either before or during the term of the permit. As a condition of the issuance of an earth removal permit, the petitioner shall agree to reimburse the Town of Sharon for all such engineering and other fees and expenses or damages caused to the Town, including, without limitation, damages caused to public ways associated with the permit.

§ 141-5. Violations and penalties.

Any person, firm, or corporation willfully violating, disobeying, or refusing to comply with any of the provisions of this bylaw shall be prosecuted under the terms of MGL c. 40, § 21, Paragraph 17, and shall be subject to a fine of $50 for the first offense, $100 for the second offense, and $200 for any subsequent offense. Each day of noncompliance shall constitute a separate offense. The Board may revoke or suspend the permit of any person, firm or corporation holding a permit under this bylaw if such person, etc. violates, disobeys, or fails to comply with any of the provisions of this bylaw.

Chapter 148

FEES

Chapter 160

GROUNDWATER PROTECTION

GENERAL REFERENCES

Earth removal — See Ch. 141.

Hazardous materials — See Ch. 170.

Stormwater management — See Ch. 230.

Wetlands protection — See Ch. 262.

Zoning — See Ch. 275.

§ 160-1. Purpose.

Whereas siting of land uses that have the potential to release hazardous waste, petroleum products or other contaminants significantly increases the risk of contamination; and poor management practices, accidental discharges, and improper maintenance of these facilities may lead to the release of pollutants; and discharges of hazardous wastes, leachate, pathogens, and other pollutants have repeatedly threatened surface and groundwater quality throughout Massachusetts; and surface and groundwater resources in the Town of Sharon contribute to the Towns' drinking water supplies; therefore, the Town of Sharon adopts the following regulation, under its authority as specified in § 160-2, as a preventative measure for the purpose of preserving and protecting the Town's drinking water resources from discharges of pollutants and minimizing the risk to public health and the environment of the Town due to such discharge.

§ 160-2. Scope of authority.

The Town of Sharon adopts the following regulation pursuant to authorization granted by MGL c. 40. The regulation shall apply, as specified herein, to all applicable facilities within the Zone IIs and/or the Interim Wellhead Protection Areas (IWPA), whichever is the accepted area of protection around the drinking water resources of the Town. This regulation is in addition to the provisions of Section 4500 (Water Resource Protection District) of the Town of Sharon Zoning Bylaws, Chapter 141 of the General Bylaws (stripping or removal of earth materials) and any other bylaw, regulation, rule, or ordinance of the Town of Sharon or its boards or commissions.

§ 160-3. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

COMMERCIAL FERTILIZERS — Any substance containing one or more recognized plant nutrients which is used for plant nutrient content and which is designed for use or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

DEPARTMENT — The Massachusetts Department of Environmental Protection.

DISCHARGE — The accidental or intentional disposal, deposit, injection, dumping,

spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

HAZARDOUS MATERIAL — A product, waste or combination of substances which, because of its quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics, may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as "toxic" or "hazardous" under Massachusetts General Laws (MGL) Chapters 21C and 21E using the Massachusetts Oil and Hazardous Substances List (310 CMR 40.0000). The definition may also include acids and alkalis, solvents, thinners, and pesticides.

HISTORICAL HIGH GROUNDWATER TABLE ELEVATION — A groundwater elevation which is determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

INTERIM WELLHEAD PROTECTION AREAS (IWPA) — For public supply wells or wellfields that lack a Department-approved Zone II, the Department will apply an interim wellhead protection area. This interim wellhead protection area shall be a one-half mile radius measured from the well or wellfield for sources whose approved pumping rate is 100,000 gpd or greater. For wells that pump less than 100,000 gpd, the IWPA radius is proportional to the well's approved daily volume following the IWPA Chart as referenced in Division Water Supply Policy 92-01.

LANDFILL — A facility established (in accordance with a valid site assignment) for the purposes of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

NONSANITARY WASTEWATER — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

OPEN DUMP — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.C. § 4004 (a)(b)], or the regulations and criteria for solid waste disposal.

SEPTAGE — The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

SLUDGE — The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening or grease and oil which are removed at the headworks of a facility.

TREATMENT WORKS — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

USE OF TOXIC OR HAZARDOUS MATERIAL — The handling, generation, treatment, storage, or management of toxic or hazardous materials.

VERY SMALL QUANTITY GENERATOR — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

WASTE OIL RETENTION FACILITY — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c. 21, § 52A.

§ 160-4. Prohibited activities and facilities.

A. Notwithstanding any land uses which are otherwise permitted by local, state and/or other federal laws, the siting of any of the following is prohibited in the Zone II or IWPA:

(1) Landfills;

(2) Open dumps;

(3) Sludge and septage monofils; and

(4) Stockpiles (disposal) of chemically treated snow and ice that have been removed from highways and roadways outside the Zone II.

B. Facilities for the treatment or disposal of nonsanitary wastewater are prohibited, with the following exceptions:

(1) Replacement or repair of an existing system is exempt if the existing design capacity is not exceeded.

(2) Treatment works approved and in compliance with MGL c. 21E and 310 CMR 40.000 designed for the treatment of contaminated ground or surface waters.

C. Facilities that generate, treat, store or dispose of hazardous waste are prohibited, with the following exceptions:

(1) Very small quantity generators;

(2) Household hazardous waste collection centers or collection events;

(3) Waste oil retention facilities; and

(4) Treatment works for the restoration of contaminated ground or surface waters in compliance with MGL c. 21E and 310 CMR 40.000.

D. Removal of soil, loam, sand, gravel, or any other mineral substances within four feet of the historical high groundwater table elevation is prohibited, with the following exceptions:

(1) Substances which are removed and redeposited within 45 days of removal on site to achieve a final grade greater than four feet above the historical high

water mark; and

(2) Excavations for the construction of building foundations or the installation of utilities.

E. Land uses that result in impervious cover of more than 15% or 2,500 feet of any lot, whichever is greater, are prohibited, unless a system of artificial recharge or precipitation is provided that will not result in the degradation of groundwater quality.

§ 160-5. Restrictions on storage of waste materials, chemicals and petroleum products. [Amended 10-12-2020 ATM by Art. 26]

The storage of certain waste materials, chemicals and the storage and dispensing of liquid petroleum products is prohibited except in accordance with the following requirements:

A. Storage of sludge and septage is prohibited unless storage is in compliance with 310 CMR 32.00.

B. Storage of roadway deicing chemicals (sodium chloride, chemically treated abrasives, or other chemicals) and the storage of chemical fertilizers are both prohibited, unless the storage is in a structure that prevents the generation and release of contaminants or contaminated runoff.

C. Storage of animal manure is prohibited unless covered or contained in accordance with the standards and guidelines of the United States Natural Resources Conservation Service.

D. Storage of liquid hazardous materials is prohibited unless the materials are either in a freestanding container within a building, in a freestanding covered container outdoors above ground level with spill containment capacity of 100% of the volume, stored, or unless the materials are either gasoline or diesel fuel and are stored within Business District D either below grade in a double wall non-metal tank with both USEPA compliant interstitial leak detection or above grade in tanks with leak detection and said tanks are installed within a concrete vault or a concrete containment structure with spill containment capacity of 100% of the volume stored, and with an internal coating inert to petroleum products. Further, gasoline and diesel fuel storage shall have systems to monitor for vapor in soil or to monitor for contamination in groundwater.

E. Storage of any type of liquid petroleum products is prohibited, unless any of the following applies:

(1) The products are incidental to normal household use, including outdoor maintenance, or for the heating of a structure;

(2) Waste oil retention facilities;

(3) Emergency generators;

(4) Treatment works in compliance with MGL c. 21E and 310 CMR 40.000 designed for the restoration of contaminated ground or surface waters; and

(5) Gasoline and diesel fuel for retail sale within Business District D; so long as the dispensing systems for gasoline and diesel fuel are comprised of double wall piping with both USEPA compliant interstitial leak detection and monitoring for vapor in soil or monitoring for contamination in groundwater.

F. Storage of the exempted liquid petroleum products [Subsection E(1) through (4)] must be either in a freestanding container within a building, outdoors, or in a freestanding covered container above ground level with spill containment capacity of 100% of the volume stored.

G. Compliance with all provisions of this regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire Code requirements.

§ 160-6. When effective; time frame for compliance.

The effective date of this regulation is the date of adoption of the regulation.

A. As of the effective date of the regulation, all new construction and/or applicable change of use within the Town of Sharon shall comply with the provisions of this regulation.

B. Certification of conformance with the provisions of this regulation by the Town Engineer acting as agent for the Select Board shall be required prior to issuance of construction and occupancy permits.

§ 160-7. Violations and penalties.

Failure to comply with provisions of this regulation will result in the levy of fines of not less than $200 but no more than $1,000. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

§ 160-8. Severability.

Each provision of this regulation shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Chapter 166

HAWKERS AND PEDDLERS

GENERAL REFERENCES

Advertising materials — See Ch. 105.

Licenses — See Ch. 189.

Noise — See Ch. 195.

Streets, sidewalks and public places — See Ch. 235.

§ 166-1. Registration required.

No hawker or peddler shall sell any of the articles enumerated in MGL c. 101, § 17, and the laws in amendment thereof, or in addition thereto, until he has recorded his name and residence with the Chief of Police, or such other officer as is designated by the Select Board, and has been assigned a number.

§ 166-2. Prohibited conduct.

No hawker or peddler shall carry or convey any article enumerated in MGL c. 101, § 17, and the laws in amendment thereof, or in addition thereto, in any manner that will tend to injure or disturb the public health or comfort, or otherwise than in vehicles or receptacles which are neat and clean and do not leak.

§ 166-3. Vehicle and receptacle requirements.

Every vehicle or receptacle in which any hawker or peddler shall carry or convey any of the articles enumerated in said MGL c. 101, § 17, and the laws in amendment thereof, or in addition thereto, shall have painted on it in letters and figures, at least two inches in height, the name of the person selling and the number assigned to him, and every such vehicle or receptacle shall be submitted to the inspection of the Chief of Police, or any of the police officers or constables, at such time and at such place as he may direct for inspection.

§ 166-4. Noise restrictions.

No person hawking, peddling, selling, or exposing for sale any articles enumerated in MGL c. 101, § 17, and the laws in amendment thereof or in addition thereto, shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the Town.

§ 166-5. License required for fruit and vegetable sales; fee.

A. No person except one engaged in the pursuit of agriculture shall go about from place to place within this Town carrying or exposing for sale or selling fruit or vegetables in or from any cart, wagon or other vehicle or in any other manner, without a license therefor from the Select Board.

B. The Select Board shall have authority to grant such license to any person of good repute for morals or integrity who is or has declared his intention to become a

citizen of the United States. Said licenses, unless sooner revoked by the Select Board, shall expire on the 30th day of April next after the granting thereof, and each person so licensed shall pay therefor a fee of $8.

§ 166-6. Sale on or near school property restricted.

A. No hawkers or peddlers shall be permitted inside school grounds during school hours.

B. No hawkers or peddlers shall be permitted to conduct business within 200 feet of school property.

§ 166-7. Criminal history background checks.

Applicants for licenses under this chapter may be subject to the provisions of Chapter 189, Article II, of the General Bylaws.

Chapter 170

HAZARDOUS MATERIALS

GENERAL REFERENCES

Groundwater protection — See Ch. 160.

Zoning — See Ch. 275.

Board of Health regulations for underground storage of hazardous materials — See Ch. 300, Art. 15.

§ 170-1. Purpose.

The purposes of this bylaw are, through regulation of the design, construction, installation, testing and maintenance of underground hazardous materials or regulated substances storage facilities, to protect public health from the contamination of public and private water supplies due to leakage from such facilities, to protect the public safety from the dangers of fire and explosion associated with such leakage, and to protect the general welfare by preserving limited water supplies for present and future use.

§ 170-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ABANDONED — Being out of service for a continuous period in excess of six months, in the case of a storage facility for which a license from the local licensing authority is required under the provisions of MGL c. 148, § 13, as amended, and for a period in excess of 24 months, in the case of any other storage facility.

CATHODIC PROTECTION — A system that inhibits the corrosion of a tank or components through either the sacrificial anode or the impressed current method of creating a corrosion-inhibiting electrical current.

COMPONENTS — Piping, pumps and other related storage, conveyancing and dispensing elements that, together with one or more tanks and any cathodic protection or monitoring system, constitute a storage facility.

DISCHARGE — The disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.

EFFECTIVE DATE — The date on which the bylaw is approved by a Town Meeting, provided the bylaw thereafter becomes effective under the provisions of MGL c. 40, § 32, as amended.

HAZARDOUS MATERIAL — A product or waste or combination of substances which, because of quantity, concentration, or physical, chemical or infectious characteristics, poses, in the Board of Health's judgment, a substantial present or potential hazard to the human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in MGL c. 21C shall also be deemed a hazardous material for the

purposes of this bylaw.

LEAKAGE or LEAK — Any uncontrolled movement, measurable by a final or precision test that can accurately detect a leak of 0.05 gallon per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, of hazardous materials or regulated substances out of a tank or its components; or any uncontrolled movement of water into a tank or its components.

MONITORING SYSTEM — A system installed between the walls of double-walled tanks, inside a tank, or in the vicinity of a tank for the purpose of early detection of leaks.

MONITORING WELL — A small-diameter nonpumping well used to measure the existing groundwater level and/or to obtain samples (water or other liquids) for appropriate chemical analysis.

NONRESIDENTIAL — All those locations where storage facilities are located and which locations which are not houses, domiciles, dwellings, or abodes. Such locations include without limitation commercial, office, industrial, lodging house, motel, hotel, and public uses such as schools and/or houses of worship.

OPERATOR — The lessee of a storage facility or other person or persons responsible for the daily operation of a storage facility.

OUT OF SERVICE — Not in use, in that no filling or withdrawal is occurring.

OWNER — The person or persons or government entity having legal ownership of a storage facility.

QUALIFIED PERSON — One who has a thorough working knowledge of underground storage facilities and at least two years of related experience.

REGULATED SUBSTANCE — Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the Solid Waste Disposal Act); and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60° F. and 14.7 pounds per square inch absolute).

RESIDENTIAL — All those locations which are houses, domiciles, dwellings or abodes, where a person or persons live or reside on a temporary or permanent basis.

STORAGE FACILITY — One or more underground storage tanks, at a particular site, together with its or their components, used, or designed to be used, for the underground storage of hazardous materials or a regulated substance, and shall include any cathodic protection or monitoring system used, or designed to be used, for inhibiting or detecting leaks of hazardous materials or a regulated substance from any element of the facility.

TANK and/or UNDERGROUND STORAGE TANK — Any structure or any part thereof which is used, or designed to be used, for the underground storage of any hazardous material or regulated substance of any kind, and/or any one or combination of tanks, including underground pipes connected thereto, which is used to contain an accumulation of petroleum products, hazardous or regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10% or more beneath the surface of the ground. This definition excludes the following types of underground storage systems:

A. Septic tanks;

B. Surface impoundments, pits, ponds, or lagoons;

C. Stormwater or wastewater collected systems;

D. Flow-through process tanks;

E. Liquid traps or associated gathered lines directly related to oil or gas production and gathering operations;

F. Storage tanks situated in an underground area (such as a basement, cellar, mineworking, shaft, or tunnel) if the tank is situated upon or above the surface of the floor;

G. Pipe line facilities (including gathering lines):

(1) Regulated under the Natural Gas Pipeline Safety Act of 1968;

(2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979; or

(3) Which is an intrastate pipeline facility regulated under state laws.

UL-LISTED — Included in a current list or report of approved equipment, materials or methods published by Underwriters Laboratories, Inc.

WATER SUPPLY — Any existing or potential source of potable water, including both groundwater and surface water.

§ 170-3. Water Resource Protection District.

A. The purpose of this section is to promote the health of Sharon residents by protecting and preserving the public drinking water resources, specifically the water supply groundwater aquifer, from leaking underground oil, fuel, and chemical storage tanks. Leaking oil, fuel, and other chemicals can contaminate large amounts of groundwater and pose serious health hazards to the community.

B. In addition to other Town-wide health regulations, the following regulations shall apply within the Water Resource Protection District as such overlay district is delineated on the Sharon Zoning Map.

C. The installation of new tanks for residential purposes or nonresidential purposes for the underground storage of oil, gasoline, other petroleum products, and other chemicals, excluding liquefied petroleum gases, is prohibited within the Water Resource Protection District.

D. Every owner of an existing tank located within the Water Resource Protection District shall file with the Board of Health a statement identifying the size, type, age, and location of each tank, and the type of material stored, on or before August 30, 1991. Evidence of date of purchase and installation, including Fire Department permit, shall be included. A tag number shall be issued for each tank. After August 30, 1991, no tank shall be filled with oil, gasoline, other petroleum products or chemicals or allowed to hold those products if it has not been registered with the Board of Health and assigned a tag number. Underground water and septic tanks

are specifically exempt from these regulations.

(1) All residential tanks within the Water Resource Protection District which were installed prior to January 1, 1976, and such tanks for which evidence of installation date is not available, along with accompanying pipes and appurtenances, shall be removed within one year of the effective date of these revised regulations by the owner at the owner's expense. However, the Town will offer a one-time payment to assist in this effort as provided in Subsection E of this section.

(2) All residential tanks within the Water Resource Protection District which were installed after January 1, 1976, shall be removed within two years of the effective date of these regulations by the owner at the owner's expense. However, the Town will offer a one-time payment to assist in this effort as provided in Subsection E of this section. All removals provided for within this Subsection D shall include all in-ground pipes and appurtenances thereto.

E. The Town of Sharon will provide payment to contractors to help owners comply with removal of existing tanks as provided in Subsection D of this section. Commencing on the effective date of this section:

(1) The Town will pay 50% of the cost of removal, the Town's share not to exceed $1,000 per tank, provided such tank is removed within the first year of the effective date of this section.

(2) The Town will pay 50% of the cost of removal, the Town's share not to exceed $500 per tank, provided such tank is removed within the second year of the effective date of this section.

(3) Payments will only be made for work done by the contractor(s) authorized tank removal firm(s) approved by the Board of Health to remove all applicable tanks under this program. Such approval shall only be by writing issued prior to such removal. The Fire Department must issue a tank removal permit.

(4) The payment program will only pay that portion of the charges which is for removal of the tank pipes and appurtenances. Any additional charges associated with leaks or other factors are the sole responsibility of the tank owner. Payments will be made directly to such contractors upon completion of the work in a manner satisfactory to the Board of Health, and upon submission of verified invoices acceptable to the Board of Health.

(5) This section shall be enforced by the Sharon Board of Health or its agents, which board may adopt rules and regulations to implement the purposes of this section.

F. Nothing contained within this § 170-3 shall be deemed to limit or diminish the requirements of § 170-6 of this chapter.

G. All nonresidential tanks within the Water Resource Protection District which do not meet the design and construction standards of § 170-6 of this chapter, and were installed more than 10 years before the effective date of this bylaw, and thereafter all such tanks which reach the 10th annual anniversary of their installation, shall be

replaced. Such replacement shall be at the owner's expense, shall conform to the requirements of this bylaw, and shall occur within six months of such 10th anniversary, or six months from the effective date of this bylaw, whichever is later.

§ 170-4. Proximity to water resources.

A. The installation of new underground storage tanks containing hazardous or regulated substances within 1,000 feet or the seven-day cone of influence, whichever is more, of a public or private water supply well, unless a special permit is obtained from the Zoning Board of Appeals granting an exemption from the requirements of Section 4500 of the Zoning Bylaw,[6] is prohibited. Nothing contained within this Subsection A shall limit or diminish the requirements of § 170-3.

B. Six months from the effective date of this bylaw, the Board of Health will require the installation of one or more groundwater observation wells at any site where existing storage of hazardous or regulated substances underground is within 1,000 feet or the seven-day cone of influence, whichever is more, of a public or private water supply well.

C. All new tank installations within four feet of seasonal high groundwater table or within 100 feet of a surface water body or delineated woodlands shall be of double-walled fiberglass construction, and if so determined by the Board of Health, be vaulted or anchored.

§ 170-5. Permits; fees.

A. New storage facilities.

(1) Subsequent to the effective date of this bylaw, no new storage facility shall be installed in the Water Resource Protection District and no new residential storage facility shall be installed anywhere in the Town of Sharon. Subsequent to the effective date of this bylaw, no new nonresidential storage facility shall be installed outside of the Water Resource Protection District unless the owner shall have first obtained a permit from the Board of Health. This permit shall be in addition to any license or permit required by MGL c. 148, as amended, or any regulations issued thereunder. The fee for this initial permit, payable to the Town of Sharon, shall be $50.

(2) The application for a permit shall be on a form obtained from the Board of Health and shall include the following information and any other information that the Board may require:

(a) Name, address and telephone numbers (day and night) of the owner;

(b) Name, address and telephone numbers (day and night) of the operator;

(c) The number of tanks in the proposed facility and the capacity and contents of each proposed tank;

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6. **Editor's Note: See Ch. 275, Zoning.**

(d) The proposed type of construction for each tank and its piping, together with the tank's UL serial number, if any, and a description of any provisions made for cathodic protection, electrical isolation, and early detection of leaks through a monitoring system; and

(e) The depth below ground level of the lowest and highest points of each proposed tank.

(3) In a storage facility with more than one proposed tank, the applicant shall furnish a certificate, signed by a certified registered professional engineer, that the proposed facility meets all the design and construction requirements of this bylaw.

(4) The applicant shall also furnish a plot plan of the site and the area surrounding it, showing the location of each proposed tank and its components and of any building on the site, and showing the approximate location of any public or private well and of any body of surface water within 1,000 feet of the proposed storage facility.

(5) If the Board of Health determines that the proposed storage facility constitutes a danger to a public or private water supply, whether by reason of its proximity to a public or private well, aquifer, recharge area, or body of surface water, or for any other reason, the Board may deny the permit or may grant it subject to conditions which the Board determines are necessary to protect such water supply. The conditions may include, but are not limited to, such requirements as, for example, a double-walled tank or other secondary containment system, a monitoring system, testing at more frequent intervals than would otherwise be required under § 170-9, or continuing independent leak detection statistical analysis of daily inventory records.

B. Existing residential and nonresidential storage facilities outside the Water Resource Protection District.

(1) The owner of every residential and nonresidential storage facility outside the Water Resource Protection District that has been installed prior to the effective date of this bylaw shall apply to the Board of Health by August 30, 1991, for a permit to maintain the storage facility. Application shall be made on a form obtained from the Board of Health and shall include, to the extent available to the owner, the following information:

(a) Name, address and telephone numbers (day and night) of the owner;

(b) Name, address and telephone numbers (day and night) of the operator;

(c) The number of tanks in the facility and the capacity and contents of each tank;

(d) The type of construction for each tank and its piping, together with a description of any provisions made for cathodic protection, electrical isolation, and early detection of leaks through a monitoring system;

(e) The depth below ground level of the lowest and highest points of each tank;

(f) The date of installation of each tank; and

(g) A description of any previous leaks, including approximate dates, causes, estimated amounts, any cleanup measures taken, and any measures taken to prevent future leaks.

(2) The owner shall also furnish evidence of the date of installation. Such evidence may include, but is not limited to, a copy of any license issued by the local licensing authority or of any permit issued by the head of the local Fire Department (hereinafter, the Fire Chief). If no substantial evidence of the date of installation is supplied, the tank shall be presumed to have been installed 20 years prior to the effective date of this bylaw.

(3) The applicant shall also furnish a plot plan of the site and of the area surrounding it, showing the approximate location of each tank and its components and of any building on the site, and showing the location of any public or private well and of any body of surface water within 1,000 feet of the storage facility.

C. The following Subsection C(1) through (6), inclusive, apply to replacement and substantial modification of existing residential and nonresidential storage facilities outside the Water Resource Protection District:

(1) The term "substantial modification" shall mean the installation of any addition to, or change in, a storage facility that alters its on-site storage capacity, significantly alters its physical configuration, or alters its capacity to inhibit or detect leaks through the use of cathodic protection or a monitoring system or any similar device.

(2) There shall be no replacement of a tank or of its components or substantial modification of any storage facility unless the owner has first applied for and obtained approval in writing from the Board of Health. The Board shall keep a copy of its approval with the records for that storage facility.

(3) Any application for approval under Subsection C(2) shall be in writing and shall clearly describe the type of construction of any replacement tank or component or the modification that is proposed.

(4) Any application to add cathodic protection to an existing storage facility using one or more steel tanks shall be accompanied by a design plan prepared by an engineer licensed by the National Association of Corrosion Engineers or by another qualified professional engineer as approved by the Board of Health, the plan to include provisions for a test box to allow measurement of electrical potential and current flow.

(5) If the Board of Health determines that the proposed replacement or modification constitutes a potential danger to a public or private water supply, whether by reason of its proximity to any public or private well, aquifer, recharge area or body of surface water, or for any other reason, the Board of Health may deny the application or approve it subject to conditions that the Board determines are necessary to protect such public or private water supply.

(6) No replacement or substantial modification shall be made except by a contractor who has either been licensed by state authorities for work on underground storage facilities or has been certified by the Department of Environmental Protection as qualified for that purpose.

D. Renewal of permits and changes of ownership.

(1) The owner of any new or existing storage facility for which a permit has been issued under this section must apply to the Board of Health for renewal of the permit at five-year intervals from the date on which the original permit was granted. The fee for renewal of such permit payable to the Town of Sharon shall be $50. The application for renewal must include any changes in the information required under Subsections A(2) and B(1). No application for renewal may be denied except for violations of this bylaw and in accordance with the procedural requirements of § 170-12B, so long as the applicant is the holder of a special permit granted by the Board of Appeals exempting the site from the requirements of Section 4500 of the Zoning Bylaw.[7]

(2) The owner of any storage facility shall, within 10 calendar days, notify the Board of Health of any change in the name, address, or telephone numbers of the owner or operator. In the case of any transfer of ownership, the new owner shall be responsible for notification.

§ 170-6. Design and construction of new and replacement storage facilities.

A. All permitted new and replacement tanks shall be designed and constructed to minimize the risk of corrosion and leakage. Only the following tank construction systems shall be approved:

(1) UL-listed double-walled fiberglass reinforced plastic (FRP) tanks, using materials compatible with the product to be stored therein;

(2) UL-listed double-walled steel tanks provided with cathodic protection, a coal-tar epoxy or urethane coating and electrical isolation, and equipped with a test box to allow measurement of electrical potential and current flow;

(3) UL-listed double-walled steel tanks with cathodic protection or bonded fiberglass coating, and with electrical isolation, a vacuum of air pressure in the interstitial space and provision for continuous monitoring of the vacuum or air pressure; and

(4) Any other "state of the art" type of tank construction providing equal or better protection against leakage than the above-mentioned tanks and approved by the State Fire Marshal.

B. New and replacement tanks must be equipped with a metallic or nonmetallic striker plate, at least 12 inches by 12 inches in area, at least 1/4 inch thick, and attached to the bottom of the tank, under each opening.

C. New and replacement piping of a storage facility shall:

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7. Editor's Note: See Ch. 275, Zoning.

(1) Be protected against corrosion by use of noncorrodible materials or by use of cathodic protection and electrical isolation and be compatible with a product to be stored in the facility; and

(2) Be designed, constructed and installed so as to allow testing for tightness or replacement without the need for disturbing elements of the storage facility other than the elements that are to be tested or replaced.

D. The operator of a storage facility shall record, at least monthly, the negative voltage of every cathodic protection system, equipped with a test box, that is part of that facility. In addition, the owner shall have every cathodic protection system inspected and tested, by a qualified person, at least annually. If any such system does not have adequate negative voltage, or is otherwise defective, the owner shall have the system repaired promptly by a qualified person. For purposes of this subsection, the term "adequate negative voltage" shall mean a negative voltage of at least 0.85 volt, if a copper-copper sulfate reference electrode is used; and of at least 1.95 volts if a zinc reference electrode is used. Reference electrodes shall be installed in accordance with the manufacturer's directions.

E. All submersible pumping systems for new tanks used to store automotive fuel shall be equipped with emergency shut-off valves under each dispenser and with delivery line leak detectors. The shut-off valves and leak detectors shall be tested by a qualified person upon installation and at least annually thereafter. No suction pumping system shall be equipped with any check valve in the piping except at the tank end, and any such check valve shall be so installed that it may be tested or replaced without disturbing other elements of the storage facility.

F. Every new tank shall be equipped with an overfill prevention system. If a tank is filled by gravity flow, it must be equipped with a float vent valve or other device that provides equal or better protection from overfilling. If the tank is filled under pressure, it must be equipped with a combined audible and visual high level alarm. Any such system shall be tested by a qualified person upon installation and at least annually thereafter.

G. Every monitoring system shall be installed by a qualified person. Those equipped with an automatic audible or visual alarm shall be tested by a qualified person upon installation and at least annually thereafter. Those without such an automatic alarm system shall be checked by the operator for evidence of leak at least monthly and shall be inspected by a qualified person at least annually.

§ 170-7. Installation.

A. No permitted new or replacement tank or component shall be installed, whether it is part of a new or existing storage facility, unless the owner has given at least one week's notice of its installation to the Fire Chief, and no new or replacement tank or component shall be buried or concealed until it has been inspected for damage and external defects, tested for tightness under Subsection E and approved by the Fire Chief or the Chief's designee.

B. No new or replacement tank or component shall be installed except by a contractor who has been either licensed by state authorities for that purpose or certified by the

Department of Environmental Protection as qualified for the purpose. The contractor shall, prior to any installation, submit to the Fire Chief a copy of such license or certificate.

C. The installation of a new or replacement tank or component, including anchoring of the tank whenever water-saturation of any part of the excavation can reasonably be anticipated, shall be carried out in accordance with the manufacturer's recommendations, accepted engineering practices and the provisions of 527 CMR 1.00 and 310 CMR 80.00, as amended; provided that the backfill material for FRP tanks shall be pea gravel and that the backfill material under all other tanks shall be either pea gravel or clean, noncorrosive sand, free of cinders, stones and any other foreign material, the material under the tank to be compacted and contoured to the shape of the tank before the tank is installed, the balance to be thoroughly compacted.

D. Any damage to the exterior of a tank or its coating shall be repaired before the tank is covered. The Fire Chief shall notify the Board of Health of such repaired damage, and the Board shall make note of it in its records for that tank.

E. Every new or replacement tank and its piping shall be tested, separately, at the owner's expense, prior to being buried. The tank shall be tested by air pressure at not less than three, and not more than five, pounds per square inch. The piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system or tested pneumatically, after all joints and connections have been coated with a soap solution, to 100% of the maximum anticipated pressure of the system, but not less than 50 pounds per square inch at the highest point of the system. After the tank and piping have been fully buried, any paving installed and the tank filled with product, the tank and its piping shall be again tested, separately, at the owner's expense. The tank shall be tested by any final or precision test, such as the Kent-Moore Pressure Test, or any other testing system approved by the Board of Health, not involving air pressure, that can accurately detect a leak of 0.05 gallon per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, and that is approved by the State Fire Marshal. The piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system. The owner shall furnish the Board of Health with a certified copy of the results of all testing required by the subsection, which the Board of Health shall keep with the records for the storage facility.

§ 170-8. Inventory control.

A. The provisions of this section shall not apply to a tank with a capacity of less than 2,500 gallons except for tanks used to store a liquid petroleum product for retail sale or used to store waste oil or other waste petroleum products.

B. The operator of every new and existing storage facility to which § 170-8 applies shall prepare, reconcile and maintain daily inventory control records for each tank and for each combination of interconnected tanks with a common level of product (hereinafter, a combination), for the purposes of prevention and early detection of leaks. The preparation, reconciliation and maintenance of such records shall be done in accordance with the provisions of 527 CMR 1.00 and 310 CMR 80.00, as amended, with the following additions and modifications:

(1) At the close of each calendar month, the operator shall determine, for that month and for each tank or combination, the number of days in which any amount of product was dispensed and the number of days in which a loss of product was recorded.

(2) An "abnormal loss of product" shall mean a loss recorded on 70% or more of the days, during any calendar month, in which any amount of product was dispensed from a tank or combination. In the event of any abnormal loss of product, the following steps shall be taken:

(a) The operator shall, immediately via telephone, notify the owner, the Fire Chief and the Board of Health, and follow up with a confirming letter within 24 hours;

(b) The owner shall, within three calendar days, have the steps taken, for that tank or combination and its components, that are outlined in § 170-9A; or

(c) The owner shall, within three calendar days, submit the daily inventory records of that tank or combination, for that month, for a leak detection statistical analysis by any professionally qualified person who has been approved by the Board of Health; and the person performing such analysis shall promptly submit certified copies of the results to the Board of Health, or its designated agent, and to the owner; and if the Board of Health, on the basis of such results, determines that there is a probability of a leak in that tank or combination, or in its components, the Board shall so notify the owner and the owner shall, within three calendar days, have the steps taken that are outlined in § 170-9A with respect to that tank or combination and its components.

(3) An "abnormal gain of water" shall mean a gain in the water level inside any tank of more than one inch in a twenty-four-hour period during which no product has been added. In the event of any abnormal gain of water, the owner shall, at the owner's expense, have the water removed from the tank and disposed of in a manner approved by the Department of Environmental Protection (DEP) and have the water level checked 24 hours later, during which time no product shall be added. If there is again an abnormal gain of water, the owner shall promptly have the steps taken that are outlined in § 170-9A.

(4) Apart from abnormal gains of water, the owner of any tank in which water has accumulated to a depth of three inches or more shall, at the owner's expense, have the water removed and disposed of in a manner approved by the DEP.

(5) For every storage facility covered by the inventory control requirements of this section, the owner shall, at least annually and at the owner's expense, submit the daily inventory records for the most recent calendar month for a leak detection statistical analysis by any professionally qualified person who has been approved by the Board of Health for that purpose. The person performing such an analysis shall promptly submit certified copies of the results of that analysis to the owner and to the Board of Health. The Board shall keep its copy with the records of that facility. If the Board determines, on the basis of that analysis, that there is a probability of a leak from any tank or its components

in that facility, the owner shall, within three working days, take the steps outlined in § 170-9A with respect to that tank and its components; or, in the case of a combination, with respect to each tank and its components.

(6) The Board of Health, in addition to the Fire Chief and state public safety officials, shall have access to all inventory records required by this section.

§ 170-9. Testing for tightness.

A. Testing requirements.

(1) If the probability of leak is indicated by inventory control procedures under § 170-8 or by the procedures set out in § 170-5C(1), or by a monitoring system or by a line leak detector or by the malfunctioning of a suction pump or by the presence of product or product fumes in the surrounding area, or otherwise, the owner shall, within seven calendar days, have the following steps taken, at the owner's expense:

(a) Have the readily accessible physical facilities on the premises carefully inspected for evidence of leakage.

(b) If the inspection does not confirm a leak, and if the piping can be tested without the need for excavation, have the piping tested in accordance with the provisions of Subsections I and J.

(c) If that testing fails to confirm a leak or if the piping cannot be tested without excavation, have the tank tested in accordance with the provisions of Subsections I and J.

(d) If that testing fails to confirm a leak, excavate and have the piping tested, in accordance with the provision of Subsections I and J.

(2) If the inspections and testing outlined above fail to confirm a leak, and if there is continuing evidence of a probable leak, the Board of Health may order the owner and operator to take the steps outlined in § 170-10.

(3) In the case of a combination of interconnected tanks, each tank and its components shall be tested separately.

B. If any of the testing specified in Subsection A discloses a leak, the operator and owner shall comply immediately with the requirements of § 170-10, and the Board of Health may direct the owner, at the owner's expense, to have all other tanks on the premises and their components tested in the same manner.

C. The provisions of Subsections D, E and F, inclusive, shall not be applicable to any storage facility to which the inventory control provisions of § 170-8 are applicable and shall not be applicable to any other storage facility consisting exclusively of one or more double-walled tanks, each equipped with a monitoring system, together with an automatic audible or visual alarm, between the two walls.

D. The owner of every existing storage facility that does not satisfy the design requirements of § 170-6 shall have each tank and its piping tested, at the owner's expense, during the fifth, 10th, 13th, 16th, 18th, and 20th years after installation and

annually thereafter.

E. If the owner of any existing storage facility, pursuant to the provisions of § 170-5C(1) through (6), provides cathodic protection and electrical isolation for each tank in the facility, subsequent testing requirements shall be in accordance with the provisions of Subsection F.

F. The owner of every kind of new tank permitted under § 170-6A and the owner of every existing tank that satisfies all of the design requirements of § 170-6 shall have the tank and its piping tested, at the owner's expense, every seven years following the date of installation during the first 14 years of existence and at two-year intervals thereafter.

G. With respect to any tank to which the inventory control requirements of § 170-8 are applicable, the Board of Health shall require the owner to have it and its piping tested promptly, at the owner's expense, whenever the operator fails to maintain the daily inventory records properly or fails to perform the required monthly calculations of abnormal loss, or whenever the owner fails to comply with the annual leak detection statistical analysis requirement under § 170-8B(7).

H. The Board of Health may require the owner of any existing tank to have it and its piping tested, at the owner's expense, in any case in which the owner has failed to make timely application for a permit as required under § 170-5.

I. Except for testing performed on a tank and its piping prior to their being covered, a tank shall be tested by any final or precision test, such as the Kent-Moore Pressure Test or equivalent, not involving air pressure, that can accurately detect a leak of 0.05 gallon per hour or less, after adjustment for relevant variables such as temperature change and tank end deflection, and that is approved by the State Fire Marshal. Piping shall be tested hydrostatically to 150% of the maximum anticipated pressure of the system.

J. All tests shall be administered by qualified persons approved by the Board of Health, and any such person shall notify the Board of Health and Fire Chief prior to administering a test.

K. The person performing any test under this section shall promptly supply the owner, the Board of Health and the Fire Chief with certified copies of all test results for a tank and its piping. The Board shall keep its copy with the records of that storage facility.

§ 170-10. Response to leaks.

A. In the event of a leak, whether determined by testing or otherwise, the following steps shall be taken:

(1) The operator shall immediately notify the owner, the Fire Chief and the Office of Incident Response of the Department of Environmental Protection (OIR-DEP).

(2) The owner shall promptly verify that the Fire Chief and OIR-DEP have been notified and shall notify the Board of Health.

(3) If testing has confirmed that the source of the leak is the piping for a particular tank, the operator shall take that tank out of service immediately.

(4) If testing has confirmed that the source of the leak is a particular tank, the operator shall within 24 hours cause the entire storage facility to be emptied of its product.

(5) If testing has failed to determine the source of the leak within a storage facility, the operator shall within 24 hours cause the entire storage facility to be emptied of its product.

B. Until the arrival of a representative of OIR-DEP, the Fire Chief shall take charge of all emergency containment procedures and shall verify that all steps required under Subsection A have been taken.

C. The owner, the Fire Chief and the Board of Health shall cooperate with OIR-DEP in all efforts to identify the source of the leak, to contain it, and to restore the environment, including any groundwater or surface water that may have been contaminated by the leak, to a condition and quality acceptable to DEP.

D. The Board of Health shall determine whether any tank or its components that have been identified as the source of a leak shall be removed and replaced with a double-walled tank, and shall notify the owner and the Fire Chief of its decision.

E. If the Board permits the repair of any leaking tank, the Board shall require that the tank and its piping be tested, at the owner's expense and in accordance with the provisions of § 170-9I and J, prior to being restored to service, at two-year intervals for 10 years and annually thereafter.

F. Any repair of a tank or replacement or repair of components shall be performed by qualified technicians, following the manufacturer's directions, and, in the case of relining of a steel tank, following the recommendations of American Petroleum Institute Publication #1631, First Edition, 1983, or any subsequent edition as it may appear.

G. If the Board of Health determines that a tank and its components shall be removed, the owner shall first obtain a permit from the Fire Chief, pursuant to MGL c. 21O, § 1, as amended. Any removal shall be completed within 14 calendar days after the Board of Health has notified the owner of its decision.

H. The owner shall be responsible for all costs of reclaiming, recovering and properly disposing of any product that has leaked and for all costs of restoring the environment, including any groundwater or surface water that has been contaminated, to a condition and quality acceptable to DEP.

§ 170-11. Tanks abandoned or temporarily out of service.

A. If the owner of a tank which either is located under a building and cannot be removed from the ground without first removing the building or is so located that it cannot be removed from the ground without endangering the structural integrity of another tank decides to abandon it, the owner shall promptly notify the Fire Chief and the Board of Health of this decision and, subject to the directions of the Fire

Chief, have all the product removed from the tank, by hand pump if necessary, and the tank cleaned and purged and filled with slurry concrete only.

B. Except as provided in Subsection A, no tank may be abandoned in place. Any owner of a tank who has decided to abandon it and any owner of a tank that has in fact been out of service for a period of time constituting abandonment, as defined in § 170-2, shall immediately obtain a permit from the Fire Chief pursuant to MGL c. 21O, § 1, as amended, and, subject to the directions of the Fire Chief, have any product removed from the tank, all tank openings properly secured and the tank removed from the ground. The product and tank shall be disposed of, at the owner's expense, as directed by the Fire Chief.

C. The owner of a tank which is licensed under MGL Chapter 21O, as amended, and which the owner has decided to take out of service for a period of less than six months, shall promptly notify the Fire Chief and the Board of Health of the decision and, subject to the directions of the Fire Chief, have all the product removed from the tank and disposed of as directed by the Fire Chief, all tank openings properly secured, and the tank filled with water. Before any such tank may be restored to service, the owner shall notify the Fire Chief and the Board of Health, and have the water removed and disposed of in a manner approved by DEP. The Board of Health may require that the owner have the tank and its piping tested, at the owner's expense, in accordance with the provisions of § 170-9I and J.

§ 170-12. Enforcement.

A. Each day during which such violation continues shall constitute a separate offense. This bylaw may be enforced pursuant to MGL c. 40, § 21D, as amended, by a local police officer or any other officer having police powers. Upon request of the Board of Health, the Select Board, Town Counsel shall take such legal action as may be necessary to enforce this bylaw.

B. In the event of any violation of this bylaw by the owner or operator of a storage facility, the Board of Health, instead of or in addition to requesting enforcement under Subsection A, may revoke or suspend the owner's permit or may require more frequent testing than would otherwise be required under § 170-9; and if a permit is revoked or if a storage facility has been installed or maintained without a permit, the Board may order that the storage facility be removed from the ground. Before revoking or suspending an owner's permit, or requiring removal of a storage facility from the ground, the Board shall hold a public hearing on the proposed action; shall give the owner at least 14 calendar days' notice of the hearing by certified mail and shall make its decision in writing with a brief statement of the reasons for its decision.

§ 170-13. Variances.

The Board of Health may, after a public hearing, vary the application of any provision of this bylaw, unless otherwise required by law, when, in its opinion, the applicant has demonstrated that an equivalent degree of protection will still be provided to public and private water supplies. Notice of the hearing shall be given by the Board, at the applicant's expense, at least 14 calendar days prior thereto, by certified mail to all abutters to the property at which the owner's storage facility is located and by publication

in a newspaper of general circulation in the Town or city. The notice shall include a statement of the variance sought and the reasons therefor. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for the grant or denial.

§ 170-14. Severability.

The invalidity of any provision of this bylaw shall not affect the validity of the remainder.

Chapter 174

HISTORIC PRESERVATION

GENERAL REFERENCES

Zoning — See Ch. 275.

ARTICLE I
Historic District Commission; Historic Districts
[Adopted as Art. 18 of the Town Bylaws]

§ 174-1. Historic District Commission.

There is hereby established an Historic District Commission under the provisions of the Historic Districts Act, MGL c. 40C, consisting of five members, and three alternate members, appointed by the Select Board members, including one member, where possible, from two nominees submitted by the Society for the Preservation of New England Antiquities, one member, where possible, from two nominees, one of whom shall be submitted by the Massachusetts State Chapter of the American Institute of Architects, and one of whom shall be submitted by the Boston Society of Landscape Architects, and one member, where possible, from two nominees of the Board of Realtors covering Sharon. One or more of the foregoing shall be, where possible, a resident of an Historic District established in Sharon pursuant to the Historic Districts Act. When the Commission is first established, one member shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed in like manner for terms of three years. When the Commission is first established, one alternate member shall be appointed in like manner for a term of one year, one alternate member shall be appointed for a term of two years, one alternate member shall be appointed for a term of three years, and their successors shall be appointed in like manner for terms of three years.

§ 174-2. Historic District.

There is hereby established an Historic District under the provisions of the Historic Districts Act, MGL c. 40C, bounded and described as follows:

A. Historic District No. 1: The land shown on a plan entitled "Proposed Sharon Historic District" by John A. Newell A.I.A. & Associates, dated September 27, 1969, filed in the office of the Town Clerk, and comprising the parcels labeled on said plan "Unitarian Church," "Mr. and Mrs. Wilbur T. Morse," "First Congregational Church Parsonage," "Dr. Walter A. Griffin Office," "Dennett House," "First Congregational Church" and "Sharon Public Library," together with that part of North Main Street and that part of High Street enclosed by the heavy line drawn around the above premises on said plan.

B. Historic District No 2: Buildings and property situated at 41 Bay Road, Sharon, commonly known as "Cobb's Tavern." Said property is described and bounded as follows: Beginning at a point marked by an iron pipe next to a stone wall paralleling Bay Road and at the northeasterly junction of the lot with Bay Road extending 212 feet southerly along Bay Road to another iron pipe; thence westerly at an angle of 90 degrees, 09 minutes to Bay Road 168.04 feet to the property of the then John Lavezzo and another iron pipe; thence northerly at an angle of 100 degrees, 20 minutes for a distance of 142.00 feet to another iron pipe; thence easterly at an angle of 100 degrees, 07 minutes at a distance of 206.38 feet to the starting point on Bay Road. The property containing in all 32,430 square feet, about 0.737 acre, shown on a Plan of Land in Sharon, Mass. belonging to Clifford C. Best, dated September 30, 1947, and recorded at Norfolk County Registry of Deeds, Book 54-1948, which

conveyed the land to Frederic S. Tobey et ux attested January 22, 1948, by L. Thomas Shine, Register. The recorded conveyance from Frederic S. Tobey to Chandler W. Jones is February 6, 1959, Book 3703, Page 373.

C. Historic District Number 3: The land shown on a plan entitled "Proposed Sharon Historic District Three" by the Town of Sharon Department of Public Works Engineering Division dated March 19, 2004, filed in the office of the Town Clerk, and comprising the parcels labeled on said plan "75 South Main Street (Charles R. Wilber School) and 21 South Pleasant Street (Pleasant Street School and Kate Morrell Park)."

§ 174-3. Commission duties.

The Historic District Commission shall have all the powers and duties of historic district commissions as provided by the Historic Districts Act, MGL c. 40C.

§ 174-4. Commission rules and regulations; staff and finances.

The Historic District Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act, MGL c. 40C, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purposes.

§ 174-5. Time frame for Commission decisions.

When taking action under the provisions of the second paragraph of MGL c. 40C, § 7, the Historic District Commission shall make a determination within 50 days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.

§ 174-6. Severability.

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

ARTICLE II
Demolition Delay
[Adopted as Art. 34 of the Town Bylaws]

§ 174-7. Intent and purpose.

This bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town which are outside local historic districts and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them. To achieve these purposes, the Sharon Historical Commission (the "Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this bylaw.

§ 174-8. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

BUILDINGS — Any combination of materials forming a shelter for persons, animals, or property.

COMMISSION — The Sharon Historical Commission.

DEMOLITION — Any act of pulling down, destroying, removing, or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

SIGNIFICANT BUILDING — Any building or portion thereof which:

A. In whole or in part was built 100 or more years prior to the date of the application for the demolition permit or is of unknown age; or

B. Is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or

C. Is included in the Cultural Resources Inventory prepared by the Commission, including those buildings listed for which complete surveys may be pending; or

D. Has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder, provided that the owner of such a building and the Building Inspector have been notified, in hand or by certified mail, within 10 days of such vote.

§ 174-9. Procedure.

A. Upon receipt of an application for a demolition permit for a significant building, the Building Inspector shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.

B. Within 14 days, the Commission shall make an initial determination as to the historic significance of the building. The initial determination shall be positive if

the structure is historically inventoried or to be inventoried by the Historical Commission. Otherwise the determination is negative.

C. If the initial determination is negative, the Building Inspector may issue the permit. If the determination is positive, the Commission shall fix a reasonable time for a public hearing on the application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing in a local newspaper at least 14 days before said hearing and also within seven days of said hearing, mailing a copy of said notice to the applicant, to the owners of all property deemed by the Commission to be affected thereby as they appear on the most recent local tax list, and to such other persons as the Commission shall deem entitled to notice.

D. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector within 10 days of such determination. Upon receipt of such notification, or after the expiration of 15 days from the date of the conduct of the hearing if he/she has not received notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules, and regulations, issue the demolition permit.

E. If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably preserved significant building. The Commission shall notify the Massachusetts Historic Commission and other interested parties requesting assistance in preservation funding and adaptive reuses.

F. Upon a determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably preserved significant building, the Commission shall so advise the applicant and the Building Inspector, and no demolition permit may be issued until at least 12 months after the date of such determination by the Commission.

G. Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect that either:

(1) The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such buildings; or

(2) The Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate, and restore the subject building, and that such efforts have been unsuccessful.

§ 174-10. Enforcement and remedies.

A. The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.

B. Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than $300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

C. If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

§ 174-11. Severability.

If any section, paragraph, or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Chapter 182

JUNK

GENERAL REFERENCES

Hawkers and peddlers — See Ch. 166.

Licenses — See Ch. 189.

Secondhand dealers — See Ch. 217.

Solid waste — See Ch. 226.

Zoning — See Ch. 275.

§ 182-1. Open storage prohibited.

Subject to the provisions of the Town's Zoning Bylaw,[8] no person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of Sharon any junk or other waste material, including, but not limited to, any junk automobile, wagon, truck, bus, cycle, or trailer as define in § 182-2 of this bylaw.

§ 182-2. Definitions.

For the purposes of this bylaw, "junk" is defined as:

A. Waste material; and/or

B. Worn out, cast off or discarded articles, worn out, cast off or discarded appliances, parts stripped from vehicles, entire vehicle bodies or parts of vehicle bodies that are in disrepair, or materials that are ready for destruction or have been stored or collected for salvage or conversion into some other use.

§ 182-3. Storage of vehicles.

Subject to the provisions of §§ 182-1 and 182-2 above, no person or entity, corporate or otherwise, including, but not limited to, an individual or entity who repairs or remodels vehicles as a hobby, shall have more than one unregistered vehicle, car, truck or trailer ungaraged on his or her premises at any one time unless authorized by the Select Board.

§ 182-4. Exemptions.

This bylaw shall not apply to land used for the primary purpose of agriculture, horticulture, floriculture, or viticulture; land owned by the Town of Sharon and used for municipal purposes; and land designated by the Select Board for public dumping purposes.

§ 182-5. Violations and penalties.

A. Once a written violation notice is issued, the owner and/or person or entity in

8. **Editor's Note: See Ch. 275, Zoning.**

control of the property shall have 30 days to correct the violation without penalty. If the violation is not corrected within said 30 days, a fine of $100 per violation shall be imposed upon the owner and/or person or entity in control of the property. Such fines may be imposed as criminal fines, pursuant to MGL c. 40, § 21, or civil fines pursuant to MGL c. 40, § 21D, and Chapter 1, Article I, of the General Bylaws.

B. The provisions of this bylaw shall be enforced by the Building Inspector, Police Department and/or a prosecuting officer of the Town of Sharon Police Department. The Building Inspector shall be responsible for maintenance of records pertaining to violations and penalties imposed hereunder.

C. For purpose of this bylaw, the existence of a violation shall be deemed a separate offense for each day that such violation continues.

D. If the owner or person or entity in control of the property fails to pay fines issued for violations of this bylaw, the Town may impose a lien upon the property pursuant to MGL c. 40, § 58.

Chapter 189

LICENSES

GENERAL REFERENCES

Hawkers and peddlers — See Ch. 166.

Secondhand dealers — See Ch. 217.

Street openings — See Ch. 235, Art. III.

ARTICLE I
Granting or Renewal
[Adopted as Art. 29 of the Town Bylaws]

§ 189-1. List of delinquent taxpayers. [Amended 5-6-2019 ATM by Art. 16]

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterment and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterment or other municipal charges and that such party has not filed in good faith a pending application of an abatement of such tax or a pending petition before the appellate tax board.

§ 189-2. Authority to deny, revoke or suspend licenses and permits.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterment or other municipal charges, payable to the municipality as the date of issuance of said certificate.

§ 189-3. Payment agreements.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

§ 189-4. Waiver.

The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 189-5. Exceptions.

This bylaw shall not apply to the following licenses and permits:

MGL c. 48, § 13	Open burning
MGL c. 101, § 33	Sales of articles for charitable purposes
MGL c. 149, § 69	Children work permits
MGL c. 140, § 21E	Clubs, associations dispensing food or beverage licenses
MGL c. 140, § 137	Dog licenses
MGL c. 131, § 12	Fishing, hunting, trapping licenses
MGL c. 207, § 28	Marriage licenses
MGL c. 140, § 181	Theatrical events, public exhibition permits

ARTICLE II
Criminal History Background Checks
[Adopted as Art. 10, § 35, of the Town Bylaws]

§ 189-6. Licenses for which background check is required.

The Sharon Police Department shall establish, by rule or regulation, a civilian fingerprint system for the purpose of conducting state and national criminal history records checks of persons applying for certain licensures within the Town of Sharon. Any person applying for a license for the following activities within the Town of Sharon is required to submit with the application a full set of fingerprints taken by the Town of Sharon Police Department within six months prior to the date of application:

A. Hawking and peddling and other door-to-door salespeople;

B. Pawn dealers; and

C. Hackney drivers.

§ 189-7. Submission of fingerprints; fee.

An applicant seeking to engage in the above employment shall submit, if required by the licensing authority, fingerprints taken by the Sharon Police Department along with a fee of $100 for each application. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Sharon Police Department for costs associated with the administration of the fingerprinting system.

§ 189-8. Submission of fingerprints to state.

Upon receipt of the fingerprints and appropriate fee, the Sharon Police Department will transmit the fingerprints to the Massachusetts State Police Identification Unit through the Department of Criminal Justice Information Service (DCJIS), formerly the Criminal History System Board (CHSB).

§ 189-9. Determination of status.

In rendering a fitness determination, the Sharon Police Department will decide whether the record subject has been convicted of (or is under pending indictment for) a crime which bears upon his/her ability or fitness to serve in that capacity, any felony or a misdemeanor which involved force or threat of force, controlled substances or was a sex-related offense.

§ 189-10. Copy of information; corrections.

A person applying for a license and who is required to submit a full set of fingerprints to the licensing authority, pursuant to this bylaw, may request and receive a copy of his/her criminal history record from the Sharon Police Department. Should the record subject seek to amend or correct his/her record, he/she must contact CHSB for a state record or the FBI for records from other jurisdictions maintained in its file.

§ 189-11. Authority to deny, revoke or suspend license or permit.

The Town of Sharon or any of its officers, departments, boards or committees, or other licensing authorities, is hereby authorized to deny any application for, or to revoke or suspend any license or permit, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this bylaw.

§ 189-12. When effective.

This bylaw shall become effective only as provided in Chapter 256 of the Acts of 2010, as the same may be amended.

ARTICLE III
Public Works Construction Licenses
[Adopted as Art. 35B of the Town Bylaws]

§ 189-13. Purpose and authority.

From time to time, it is necessary to excavate a public way in order to install, repair, or remove utilities or install or realign a driveway with the possibility of removing curbing and/or fencing. It is desirable that persons working in or under a public way have the necessary skills to perform this work in a competent manner so that public ways are maintained to protect the health and safety of all persons traveling on them. This bylaw is adopted under authority granted by MGL c. 40, § 21.

§ 189-14. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

AWARDING AUTHORITY — The Select Board of the Town of Sharon has authority to exercise the powers granted by this bylaw.

AWARDING AUTHORITY REPRESENTATIVE — That municipal officer or employee to whom the awarding authority in a writing has delegated some of its powers hereunder so that the process of license granting and administration will proceed expeditiously.

HIGHWAY DEPARTMENT — The municipal agency generally responsible for the repair and maintenance of public ways within the municipality.

LICENSE APPLICANT — Any person or entity in the general contracting business, qualified to do business in the Commonwealth of Massachusetts, who wishes to perform street opening work in a public way either as a permit holder or as agent for one or more permit holders.

LICENSE APPLICATION FEE — An annual nonrefundable fee of $50 payable in cash or by check made payable to the awarding authority each time a license application or renewal is filed.

LICENSED CONTRACTOR — A contractor who holds a current and valid public works construction license issued by the awarding authority.

PERMIT HOLDER — An "applicant" as defined in the Street Opening Bylaw[9] to whom a street opening permit has been granted.

PUBLIC WAY — Any road, including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper layout to which the public has access and the Town is responsible for maintaining. Also referred to as a "street."

PUBLIC WORKS CONSTRUCTION LICENSE — That license required of certain persons or entities who wish to perform street opening work in public ways.

STREET OPENING PERMIT — A permit granted pursuant to the Street Opening Bylaw[10] conferring permission to do street opening work in a public way.

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9. Editor's Note: See Ch. 235, Streets and Sidewalks, Art. III.

STREET OPENING WORK — Any cutting, excavating, compacting, construction, repair or other disturbance in or under a public way, together with restoration of the public way in accordance with the Street Opening Bylaw[11] following such disturbance, but excluding the location or relocation of utility poles for which a grant of location has been obtained pursuant to MGL c. 166, § 27.

VIOLATION — The failure of the licensed contractor, its employees, agents and subcontractors to:

A. Comply fully with any or all provisions of this bylaw, the Street Opening Bylaw,[12] and any street opening permits or supplemental instructions, the Town's General Bylaws or other applicable law; or

B. To keep its certificate of insurance in full force and effect.

§ 189-15. Qualifications; term of license.

A. No person or entity may become a licensed contractor unless it shall:

   (1) Be in the general contracting business; and

   (2) Be qualified to do business in the commonwealth; and

   (3) Be qualified, in the reasonable judgment of the awarding authority, by experience, training of personnel, financial resources, and previously demonstrated, satisfactory performance of the entity, and/or those individuals who control it, to perform street opening work in public ways in the municipality; and

   (4) Have completed the licensing process described below.

B. A license applicant may demonstrate its compliance with Subsection A(3) above by presenting to the awarding authority evidence that it holds a current "Pre-Qualification Rating" issued by the Massachusetts Highway Department pursuant to 720 CMR 5.00 which, in the reasonable judgment of the awarding authority, is sufficient in terms of class of work, maximum capacity rating and single capacity rating (all as defined in 720 CMR 5.00) to demonstrate sufficient capacity to perform anticipated street opening work. A license applicant whose public works construction license has been suspended or revoked in the three-year period preceding the date of the current application may not demonstrate compliance with Subsection A(3) above using this method.

C. Public works construction licenses are valid from the date issued until December 31 of the year in which issued unless sooner suspended or revoked. A public works construction license must be renewed each year.

§ 189-16. Application procedure.

A. The license applicant shall file, on forms designated by the awarding authority, a

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10. Editor's Note: See Ch. 235, Streets and Sidewalks, Art. III.

11. Editor's Note: See Ch. 235, Streets and Sidewalks, Art. III.

12. Editor's Note: See Ch. 235, Streets and Sidewalks, Art. III.

completed and signed application at the offices of the awarding authority (with a copy delivered to the Highway Department). The license application shall be accompanied by any and all certificates, certificates of insurance demonstrating compliance with § 189-17 hereafter, and other items specified in the application or reasonably requested by the awarding authority. It shall also be accompanied either by evidence that the license applicant is currently and appropriately "pre-qualified" pursuant to 720 CMR 5.00 or by such evidence of the license applicant's compliance with the provisions of § 189-15A(3) above as the awarding authority reasonably may require. The license application shall also be accompanied by the license application fee.

B. The Highway Department shall promptly review the application and make written recommendations thereon.

C. The awarding authority shall make a prompt determination on the license application in accordance with the standards set out in § 189-15 above.

D. If the license application is favorably considered, a public works construction license shall promptly issue. If the license application is not favorably considered, the awarding authority shall communicate in writing to the license applicant the reasons its application was not favorably considered. The awarding authority may establish streamlined procedures for renewal applications.

§ 189-17. Insurance.

A. Each licensed contractor shall acquire and continually maintain while licensed hereunder liability insurance coverage on all personnel and equipment to be used in the street opening work, which insurance is to be with insurance companies licensed to do business in the Commonwealth of Massachusetts and shall contain the following coverages and be in the following minimum amounts:

(1) Commercial general liability insurance, including operators, independent contractors, complete operations, XCU hazards, broad-form property damage and personal injury.

(a) General aggregate: $2,000,000.

(b) Products and complete operations:

[1] Aggregate: $2,000,000.

[2] Each occurrence: $1,000,000.

(c) Personal and advertising injury: $1,000,000.

(2) Automobile liability insurance; covers owned, nonowned and hired vehicles.

Combined single limit	$1,000,000
OR	
Bodily injury liability	
Each person	$500,000

Each accident	$1,000,000
Property damage liability	$250,000

(3) Worker's compensation and employer's liability.

(a) Bodily injury by accident: $100,000 each accident.

(b) Bodily injury by disease: $500,000 policy limit.

(c) Bodily injury by disease: $100,000 each employee.

B. The licensee agrees to maintain at the licensee's expense all insurance required by law for its employees, including disability, worker's compensation and unemployment compensation.

C. Certificates of insurance shall provide for at least 30 days' notice to the awarding authority of cancellation or material change. The name of the awarding authority shall be listed as an additional insured on the certificate of insurance to be provided by the applicant. The awarding authority is not responsible for any loss or damage whatsoever to the property of the licensee.

§ 189-18. Suspension and revocation.

A. The awarding authority or representative, if it believes a violation has occurred, can suspend immediately for up to 21 days a public works construction license by communicating such suspension to the licensed contractor or any of its representatives at the job site.

B. The awarding authority may revoke a public works construction license granted hereunder after notice and hearing if it shall reasonably determine that a violation of this bylaw has occurred. The licensed contractor shall be given not less than five days' prior written notice of the time and place of the hearing and shall have the opportunity at the hearing to present evidence. No license applicant may reapply for a public works construction license during the twelve-month period following a revocation. Any person aggrieved by the decision of the awarding authority may appeal such decision to the appropriate court of competent jurisdiction.

Chapter 195

NOISE

GENERAL REFERENCES

Alarms — See Ch. 109.

Animal control — See Ch. 116, Art. II.

Hawkers and peddlers — See Ch. 166.

Peace and good order — See Ch. 208.

§ 195-1. Disturbing noise prohibited.

Except as otherwise provided, the creation of any unreasonably loud, disturbing and unnecessary noise in the Town is prohibited. Noise of such character, intensity and duration as to be detrimental to the life, health, comfort or property of any individual is prohibited. The unreasonable or unnecessary use of any horn or signal device on any motor vehicle, the playing or use of any radio, phonograph, musical instrument, loud speaker or other device, for any purpose, so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling or other place of residence, and the creation of any excessive noise on any street adjacent to any school, hospital, institution or place of public assembly which unreasonably interferes with the working thereof, shall constitute acts which, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section.

§ 195-2. Commercial vehicle restrictions.

It shall be unlawful for any person to operate a commercial vehicle in a residential area of the Town of Sharon between the hours of 9:00 p.m. and 6:30 a.m. in a manner which creates unnecessary, objectionable and unreasonable noise. Vehicles equipped with audible warning systems shall be operated in a manner which limits the objectionable noise within these hours to the maximum extent feasible while complying with any applicable laws. For purposes of this section, noise which is plainly audible at a distance of 100 feet from the vehicle shall be prima facie evidence of unnecessary, objectionable and unreasonable noise. Activities necessitated by exigent emergency circumstances impacting on life, safety or protection of property shall be exempt from this section.

Chapter 200

PARADES AND PROCESSIONS

GENERAL REFERENCES

Streets, sidewalks and public places — See Ch. 235.

§ 200-1. Conduct restrictions; permit required.

No parade, procession, show, exhibition, or amusement shall take place on any public way or place if there is a reasonable likelihood that the free flow of pedestrian or vehicular traffic may be impeded or that the public peace may be disturbed or that any public way or place may be littered, unless the sponsor or sponsors of the parade, procession, show, exhibition, or amusement shall first obtain a written permit from the Chief of the Police Department or from his designee.

§ 200-2. Exception.

This bylaw shall not apply to a funeral procession.

§ 200-3. Authority of Police Chief.

Nothing herein shall be construed to authorize the Chief or his designee to censor any show, exhibition, amusement, pamphlet, or literature.

§ 200-4. Violations and penalties.

The penalty for violation of this bylaw shall be as follows: for the first offense, $50; for the second offense, $100; and for each subsequent offense, $300.

Chapter 204

PARKS AND RECREATION AREAS

GENERAL REFERENCES

Alcoholic beverages — See Ch. 113.

Boats and watercraft — See Ch. 120.

ARTICLE I
Smoking Prohibitions
[Adopted as Art. 10, § 34, of the Town Bylaws]

§ 204-1. Findings.

The U.S. Environmental Protection Agency has determined that secondhand tobacco smoke is a Class A carcinogen, and more than two dozen international studies have determined that secondhand smoke is a health hazard to nonsmokers. Respiratory illnesses, most notably asthma, have risen dramatically among the general population, and most sharply among small children. The Town of Sharon has existing ordinances to protect public health and safety in outdoor public areas, i.e., prohibitions on alcoholic beverages and glass containers on the beaches at Lake Massapoag. The Town of Sharon has recognized its role in protecting the health of the general public from the hazards of secondhand smoke by passage of 1994 Board of Health regulations restricting tobacco use in indoor areas.

§ 204-2. Prohibition.

The smoking of tobacco products at public playgrounds and the public beaches at Lake Massapoag is banned.

§ 204-3. Enforcement; when effective.

This article shall be enforced by the Board of Health and shall become effective 15 days after adoption hereof by Town Meeting.

ARTICLE II
Alcohol on Lake Massapoag
[Adopted as Art. 16B of the Town Bylaws]

§ 204-4. Possession, consumption and transportation prohibited.

No person or persons on any vessel, personal watercraft, raft, tube or other means of transportation upon Lake Massapoag shall be in possession of, consume or transport any alcoholic beverage.

§ 204-5. Violations and penalties.

Whoever violates any of the provisions of this bylaw shall be punished by a fine of $50 for the first violation; $100 for the second violation; and $300 for any violation thereafter.

Chapter 208

PEACE AND GOOD ORDER

GENERAL REFERENCES

Parks and recreation areas — See Ch. 204. **Streets, sidewalks and public places — See Ch. 235.**

§ 208-1. Obedience to police officers.

No person having the charge of a vehicle in any street shall neglect or refuse to stop the same, when so directed by a police officer.

§ 208-2. Disturbing the peace.

No person shall behave in a rude, indecent, or disorderly manner, or use any indecent, profane, or insulting language in any public place, or on any street or sidewalk in the Town, or near any dwelling house or other building therein, or upon any doorstep, portico, or other projection from any such house or other building, to the annoyance or disturbance of any person.

§ 208-3. Loitering.

Three or more persons shall not stand in a group or near each other, in any way, public way or sidewalk, in such a manner as to obstruct a free passage for pedestrians, after a request to move on, made by any constable or police officer.

§ 208-4. Injury to Town buildings.

No person shall spit upon the floor or walls of any Town building, or injure, deface, destroy or mar in any way or manner any part of a Town building, or any of the furniture therein.

§ 208-5. Peeping.

No person shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon in any manner any person or persons therein.

Chapter 217

SECONDHAND DEALERS

GENERAL REFERENCES

Hawkers and peddlers — See Ch. 166. **Criminal history background checks — See Ch. 189, Art. II.**

§ 217-1. License required.

No person shall keep a shop for the purchase, sale or barter of junk, gold, silver, platinum, jewelry, old metals, secondhand articles, electronics and no person shall collect, by purchase or otherwise, junk, old metals, or secondhand articles from place to place in this Town without a license issued by the Select Board and signed by the Town Clerk, in accordance with the provisions of MGL c. 140, §§ 54, 55, 202 and 205, relating to the licensing of dealers in and keepers of shops for the purchase, sale or barter of junk, old metals, secondhand articles, or electronics.

§ 217-2. Transaction records.

Every dealer licensed under this bylaw shall prepare a record (hereinafter, "transaction record") of the acquisition of any article, good, or item subject to licensing hereunder, regardless of the manner of acquisition. Transaction records shall be submitted to the Chief of Police or his designee on a weekly basis with a record of all transactions, including the date and time of sale, amount, seller's name and address, date of birth, driver's license number and an itemized list and detailed description of each article, including names or "etchings" or serial numbers. Each licensee shall also take a color photograph of each item purchased and a color photograph of each person selling said items. Each transaction record shall be legible and written in English. The required reports and photographs may be stored and transmitted electronically in a format which is approved by the Chief of Police.

§ 217-3. Holding period.

No dealer licensed under this bylaw shall sell, barter, exchange, encumber, remove from the premises, or otherwise dispose of any article received under this bylaw, or disguise, secrete, or alter the appearance of any such article until 30 days have elapsed since receipt of the article and until the transaction record detailing the article's receipt has been transmitted to the Chief of Police.

§ 217-4. Age restrictions.

No dealer licensed under this bylaw shall purchase, barter for, or otherwise acquire, directly or indirectly, any article from anyone under the age of 18.

§ 217-5. Stolen items.

Any dealer licensed under this bylaw receiving any article under circumstances that

would cause a reasonable person in the position of the licensed dealer to question whether the article might be stolen shall immediately report receipt of the article to the Chief of Police and shall immediately make the article available to the Police Department for inspection and identification.

§ 217-6. Violations and penalties.

A. The following penalties shall apply to violations of this bylaw and shall be enforceable through criminal indictment or complaint under MGL c. 40, § 21, or by noncriminal disposition under MGL c. 40, § 21D:

   (1) First offense in calendar year: $100.

   (2) Second offense in calendar year: $200.

   (3) Third and subsequent offenses in calendar year: $300.

B. In addition, for one or more violations of this bylaw over any period of time, the Select Board may revoke any license in accordance with MGL c. 140, § 54, or may impose any other sanction up to revocation, including but not limited to written warning, probation, imposition of conditions, or suspension.

§ 217-7. Criminal history background checks.

Applicants for licenses under this bylaw may be subject to the provisions of Chapter 189, Article II, Criminal History Background Checks, of the General Bylaws.

Chapter 221

SIGNS

GENERAL REFERENCES

Advertising materials — See Ch. 105.

Zoning — See Ch. 275.

ARTICLE I
Purpose and Definitions

§ 221-1. Authority and objectives.

A. This bylaw shall be known as the "Sharon Sign Bylaw," and is adopted under the authority of Chapters 93 and 43B of the General Laws of Massachusetts.

B. This bylaw is intended to serve these objectives:

(1) Facilitate efficient communications to ensure that people receive the messages they need or want; and

(2) Promote good relationships between signs and the buildings and environment to which they relate; and

(3) Maintain visual diversity by avoiding requirement of uniformity; and

(4) Support business vitality within business and industrial zones by avoiding burdensome procedures and restrictions.

§ 221-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

BILLBOARD — A sign which directs attention to a business, product, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

COMMERCIAL MESSAGE — Any wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

ELECTRONIC MESSAGE CENTER — A sign on which the characters, letters or illustrations can be changed automatically or through electronic or mechanical means. Electronic message centers exclude time and temperature signs.

FLAG — Any fabric or bunting containing colors, patterns or symbols used as a symbol of a government or other noncommercial entity or organization.

SIGN — Any device designed to inform or attract the attention of persons who are not on the premises on which the device is located. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs. The following, however, shall not be considered signs within the context of this bylaw:

A. Flags, except when displayed in connection with a commercial message.

B. Legal notices or informational devices erected or required by public agencies.

C. Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.

D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other

lights.

E. On-premises devices guiding and directing traffic and parking not exceeding two square feet in area, and bearing no commercial message.

SIGN AREA — The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, and together with any decorative framing or other elements whose judged intent is to extend the effective sign area, exclusive of minimal supporting framework, but without deduction for open space or other irregularities. Only one side of flat, back-to-back signs need be included in calculating sign area.

ARTICLE II
Administration

§ 221-3. Sign Committee.

A. A Sign Committee of five members may be appointed by the Select Board members for three-year terms (so arranged initially that no more than two terms expire each year). Members shall include at least one retail merchant operating in Sharon, one registered architect or landscape architect, and one other person having professional training in visual design. In addition to the five members, two associate members shall be appointed by the Select Board members for one-year terms, to act in cases where members are unable to do so.

B. The Committee shall elect a Chairman and a Clerk. All decisions shall be made by majority vote of the five members or members and alternates.

C. If no such Sign Committee has been appointed by the Select Board, the Board of Appeals shall act as Sign Committee.

D. Action on applications.

(1) The Sign Committee shall act on applications and appeals for all signs except as set forth in Subsection D(2) and (3) below.

(2) The Planning Board shall act as the Sign Committee for all signs for a facility within Business Districts A and C and for off-premises signs pertaining to a facility in Business Districts A and C in lieu of the Sign Committee created under this § 221-3 and references to the Sign Committee are deemed to reference the Planning Board. All applications for sign approvals for a facility within and for off-premises signs pertaining to a facility in Business Districts A and C shall be submitted to the Sign Committee created under this § 221-3 in addition to the Planning Board, and the Sign Committee shall be given an opportunity by the Planning Board to provide its comments on each such application.

(3) The Board of Appeals shall act as the Sign Committee for all signs for a facility within Business District D and for off-premises signs pertaining to a facility in Business District D in lieu of the Sign Committee created under this § 221-3 and references to the Sign Committee are deemed to reference the Board of Appeals. All applications for sign approvals for a facility within and for off-premises signs pertaining to a facility in Business District D shall be submitted to the Sign Committee created under this § 221-3 in addition to the Board of Appeals, and the Sign Committee shall be given an opportunity by the Board of Appeals to provide its comments on each such application.

§ 221-4. Permits.

A. No sign shall be erected, enlarged, reworded, redesigned or structurally altered without a sign permit issued by the Building Inspector, unless specifically exempted from this requirement in Article IV. Permits shall only be authorized for signs in conformance with this bylaw. Permit applications shall be accompanied by two prints of scale drawings of the sign, supporting structure and location.

B. Permits shall expire 10 years from the date of issue, but may be renewed for additional ten-year periods subject to the same standards and procedures as for new signs at that time.

C. For signs subject to design review and hearing, a public hearing shall be held by the Sign Committee, with at least seven days' notice given by advertisement in a newspaper of general circulation in Sharon. Prior to the hearing, the applicant shall submit photographs of his premises and those abutting on either side. Permit approval or disapproval shall be determined following the hearing and reported to the Building Inspector within 30 days of application or appeal unless the applicant requests an extension to facilitate submittal of additional materials or revised design.

§ 221-5. Variances.

The Sign Committee may, upon appeal and after design review and hearing, grant a variance from the terms of this bylaw upon its finding that owing to physical peculiarities of the specific location, literal enforcement of those terms would result in substantial hardship to the applicant or detriment to the vicinity, and that results of granting the variance will be consistent with the stated objectives of this bylaw.

§ 221-6. Fees.

Application and hearing fees shall be established and revised from time to time by the Sign Committee.

§ 221-7. Violations and penalties.

Any person violating any provision of this bylaw shall be subject to a penalty under the noncriminal processes authorized at MGL c. 40, § 21D, as set forth in Chapter 1, Article I, of the Town Code. Each day that the violation continues shall be considered a separate offense.

ARTICLE III
General Regulations

§ 221-8. Maintenance.

All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector, and in accordance with requirements of the State Building Code. Structural damage, missing letters, or other deterioration obscuring content shall be remedied or the sign removed within 60 days.

§ 221-9. Illumination, location and type.

A. Illumination.

(1) Signs shall be lighted only by a steady, stationary light shielded and directed solely at or internal to the sign.

(2) No illumination shall be permitted which casts glare onto any residentially used premises or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60 foot-lamberts in a Business or Light Industrial District as established in the Zoning Bylaw,[13] or 20 foot-lamberts elsewhere.

B. Location.

(1) Corner visibility shall not be obstructed within the limits established at Section 2414 of the Zoning Bylaw.

(2) No signs shall be attached to motor vehicles, trailers, or other movable objects regularly or recurrently located for fixed display.

(3) No sign shall be attached to a radio, television, or water tower, or any other type of tower or smoke stack.

C. Type.

(1) Pennants, streamers, flags used for commercial messages, spinners, or similar devices shall not be permitted.

(2) No animated or revolving sign shall be permitted, and only time and temperature indicators shall be allowed to flash.

§ 221-10. Off-premises signs.

A. Only signs pertaining exclusively to the premises on which they are located or to products, accommodations, services, or activities on the premises shall be allowed, except as provided in Subsections B and C of this section and § 221-17D.

B. Permanent off-premises directional signs, designating the route to an establishment not on the street to which the sign is oriented, may be erected and maintained within the public right-of-way at any intersection if authorized by the Select Board

13. **Editor's Note: See Ch. 275, Zoning.**

members, or on private property if authorized following design review and hearing by the Sign Committee, subject to the following:

(1) Such signs shall be permitted only upon the authorizing agency's determination that the sign will promote the public interest, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood.

(2) At locations where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single structure.

(3) All such directional signs shall be unlighted and the maximum sign area shall be limited to four square feet, except that the maximum sign area shall be limited to nine square feet for directional signs that serve a facility in Business District D and are located at the intersection of South Main Street and Old Post Road, at the intersection of South Main Street and the I-95 ramps, and on the segment of Old Post Road between South Main Street and a point 3,600 feet north thereof.

C. Permanent off-premises freestanding signs pertaining to facilities located in Business District D and to the businesses, products, accommodations, and services provided in said facilities are allowed within Residential Districts 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 center lines of South Main Street and Old Post Road, if authorized following design review and hearing by the Sign Committee, subject to the following:

(1) Each lot in Business District D is limited to one off-premises entrance sign and one off-premises pylon sign.

(2) Off-premises entrance signs shall be monument signs having a maximum height of 10 feet above the adjoining ground plane and a maximum sign area of 150 square feet. Off-premises pylon signs shall have a maximum height of 30 feet above the adjoining ground plane and a maximum sign area of 350 square feet.

(3) The provisions of § 221-9A shall not apply to off-premises monument entrance signs. Off-premises monument entrance signs shall be externally illuminated by a steady, stationary light shielded and directed solely at the sign face. No illumination shall be permitted which casts glare onto any residential structure or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60 foot-lamberts.

(4) The provisions of § 221-9A shall not apply to off-premises pylon signs. Off-premises pylon signs shall only be illuminated by one of the following lighting methods: (i) external illumination that is shielded and directed solely at the sign face; (ii) halo illumination; and (iii) push-through illuminated letters on an opaque sign panel. All such illumination shall use a steady, stationary light. No illumination shall be permitted which casts glare onto any residential structure or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60 foot-lamberts. Between the

hours of 12:00 midnight and 6:00 a.m., illumination shall be directed at, around or through only the names of the stores that are open for business during that time, and if any store is open, the name of the lifestyle shopping center.

(5) Off-premises signs shall not be located within five feet of any property line, within 100 feet of any residence, or within the minimum sight distance triangle required to provide intersection sight distance at intersections in accordance with American Association of State Highway and Transportation Officials (AASHTO) requirements.

§ 221-11. Temporary signs.

Temporary signs shall be allowed as specified in Article IV, and provided that they comply with the following:

A. Unless otherwise specified in this bylaw, temporary signs must comply with all applicable requirements for permanent signs, including issuance of a sign permit.

B. Temporary signs not meeting requirements for permanent signs may, if allowed below, advertise sales, special events, or changes in the nature of an operation, but shall not otherwise be used to advertise a continuing or regularly recurring business operation, and shall be removed promptly when the information they display is out of date or no longer relevant. The Building Inspector may require a forfeitable deposit sufficient to defray costs of assuring compliance.

§ 221-12. Signs in Business A or Business C Districts.

Any sign in the Business A or Business C District shall otherwise be subject to all of the provisions of this Chapter 221, Signs, and shall, in addition, be subject to the applicable provisions of the Design Guidelines for the Town Center Business District which are referenced in Section 6335 of the Town's Zoning Bylaw and as the same may be from time to time amended.[14] To the extent, if any, that the applicable Design Guidelines for the Town Center Business District exceed or differ from the provisions of this Chapter 221, the provisions of the Design Guidelines for the Town Center Business District shall apply.

§ 221-13. Conflicts with other sign regulations.

In the event of a conflict between the provisions of this chapter and Chapter 275, Zoning, the provisions of Chapter 275 shall prevail.

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14. Editor's Note: See Ch. 275, Zoning.

ARTICLE IV
Permitted Signs

§ 221-14. All districts.

The following signs are allowed in all zoning districts:

A. One sign, either attached or freestanding, indicating only the name of the owner or occupant, the street number, and uses or occupations engaged in thereon. Sign area shall not exceed two square feet. Requires no sign permit.

B. An off-premises directional sign, as provided in § 221-10.

C. Unlighted, temporary signs of no more than six square feet pertaining to a specific noncommercial event, cause or expression of political, religious, or ideological views, require no sign permit, except as otherwise provided in this bylaw.

D. One temporary unlighted real estate sign not larger than six square feet in area, advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Requires no sign permit if the erecting agent has obtained a one-year permit and paid an annual fee for erecting such signs.

E. One temporary unlighted sign indicating the name and address of the parties involved in construction on the premises, not larger than 10 square feet on premises of 40,000 square feet or smaller, and not larger than 25 square feet in other cases, unless a larger size is required by a state or federal funding agency. Requires no sign permit.

§ 221-15. Residence, Suburban, Rural and Housing Authority Districts.

The following additional signs are permitted in Residence, Suburban, Rural and Housing Authority Districts:

A. A single sign, either attached or freestanding, oriented to each street on which the premises abut, each such sign not to exceed 10 square feet in area, indicating the nonresidential principal use or uses of the premises.

B. For nonconforming uses, if authorized by the Sign Committee following design review and hearing, a sign replacing and not larger than an existing sign or, if more restrictive, not larger than allowed under the following sections.

§ 221-16. Business A Districts.

The following additional signs are permitted in Business A Districts:

A. Permanent wall signs. Signs (other than temporary signs) attached flat against a building or visible through its windows are permitted as follows:

   (1) Number: one per occupant per street that the premises abuts. If the building abuts a parking lot, the applicant may request a special permit from the Planning Board for a smaller secondary sign on the side of the building facing the parking lot. The area of a sign facing a parking lot shall not exceed 50% of the area of the primary sign, or an area deemed appropriate by the Planning

Board. The content of a secondary sign shall be limited to the name of the business. When there are two or more secondary signs on the building facing a parking lot, they shall conform to a master signage plan for the building, as prepared and submitted by the occupant/applicant and approved by the Planning Board.

(2) Area: total area of all wall signs shall be not more than 10% of the projected area of the elevation they are attached to, except that no sign shall exceed 30 square feet.

(3) Location: not extending above or beyond the end of the wall or roof to which they are attached, nor overhanging a street or sidewalk by more than the thickness (up to six inches) of a flat wall sign.

B. Permanent projecting or freestanding signs. Signs (other than temporary signs) either not attached to a building, or attached to and projecting at right angles from a building wall, are permitted as follows:

(1) Number: one for each street the premises abuts.

(2) Area: not more than six square feet each.

(3) Height: not extending more than 10 feet above adjoining ground level.

C. Temporary signs. Temporary signs, in addition to signs allowed under Subsection A, are permitted only if unlighted inside of windows, occupying not more than 30% of the area of each window. Requires no sign permit.

§ 221-17. Business B, Professional, and Light Industrial Districts.

The following additional signs are permitted in Business B, Professional and Light Industrial Districts:

A. Permanent wall signs. Signs (other than temporary signs) attached flat against a building or visible through its windows are permitted as follows:

(1) Number: one per occupant per street that the premises abuts.

(2) Area: total area of all wall signs shall be not more than 20% of the projected area of the elevation they are attached to, except that no sign shall exceed 100 square feet in area if oriented for visibility from Route 1 or Route I-95 and not more than 50 square feet in other cases.

(3) Location: not extending above or beyond the end of the wall or roof to which they are attached, nor overhanging a street or sidewalk by more than the thickness (up to six inches) of a flat wall sign.

B. Permanent projecting or freestanding on-premises signs. Signs (other than temporary signs) either not attached to a building or attached to and projecting at right angles from a building wall are permitted as follows:

(1) Number: one for each street that the premises abuts.

(2) Area: not more than 80 square feet if identifying a retailing complex

comprising three or more enterprises and 50,000 or more square feet of floor area on a single lot, or not more than 150 square feet each for other signs if oriented for visibility from Route 1 or Route I-95, and not more than 25 square feet in other cases.

(3) Location: not within five feet of any street or property line.

(4) The maximum height of each sign shall be 20 feet, measured by the distance above the adjoining ground plane.

(5) Electronic message centers that change messages or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control may be permitted under this section. Electronic message centers shall not exceed 35% of the total allowed square footage of the sign.

C. Temporary signs. Temporary signs, in addition to signs allowed under Subsection A, are permitted only if unlighted inside of windows, occupying not more than 30% of the area of each window. Requires no sign permit.

D. Billboards. In the Light Industrial District, Business District D and the Residential and Recreational Overlay District, billboards are permitted by sign permit, subject to design review and hearing, as provided in Article II herein, as follows: **[Amended 11-4-2019 STM by Art. 4]**

(1) Number: one freestanding pylon sign per lot meeting the minimum area requirements when lot is located west of Route I-95 and is in the Light Industrial District, and when the lot is located within 350 feet east of Route I-95 in the Residential and Recreational Overlay District and 350 feet east of Route I-95 in the Business District D.

(2) Sign area: freestanding pylon sign limited to a maximum area of 720 square feet.

(3) Height: freestanding pylon sign limited to a maximum of 60 feet above the adjoining ground plane.

(4) The Board of Appeals shall act as the Sign Committee for all sign applications submitted under this section.

(5) Electronic or digital billboards that change their messages or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control may be permitted under this section, provided they comply with and are permitted under applicable state and federal requirements for electronic signs.

§ 221-18. Business D District.

The following signs are permitted in Business District D, provided that all such signs shall comply with the objectives and design standards for Business District D under the Zoning Bylaw, including Sections 2327 and 2328 thereof:[15]

15. **Editor's Note: See Ch. 275, Zoning.**

A. Permanent wall signs. Signs (other than temporary signs) attached flat against a building or visible through its windows are permitted as follows:

(1) Primary wall signs: One primary wall sign containing a business name is permitted per occupant per facade where wall signs are permitted; provided, however, that the largest anchor store shall be permitted to have multiple primary wall signs on a single facade, but only in the event that the Board of Appeals, acting as the Sign Committee, determines that the signage is consistent with the design standards for Business District D after taking into account the total amount of signage for the store.

(2) Accessory wall signs: Accessory wall signs are permitted where wall signs are permitted for stores with a floor area of 10,000 square feet or greater that identify types of products and services, but not brand names or businesses, associated with the particular occupant using such accessory wall signs.

(3) Facades: Primary and accessory wall signs are limited to a maximum of three facades for each building; provided, however, that the largest anchor store shall be permitted to have a wall sign on the fourth facade, but only in the event that the Board of Appeals, acting as the Sign Committee, determines that the signage is consistent with the design standards for Business District D after taking into account the total amount of signage for the store.

(4) Location: Wall signs may not extend above or beyond the end of the wall or roof to which they are attached and may not project perpendicularly for more than six inches.

(5) Cumulative area: Maximum area encompassed by all wall signs shall be determined in accordance with the provisions of Subsection G.

(6) Sign area: The primary wall sign for each occupant shall be limited to a sign area of 40 square feet, except as set forth in Subsection A(7) below. Accessory wall signs may be no more than 40 square feet in sign area, except that stores greater than 40,000 square feet may have accessory wall signs up to 60 square feet in sign area.

(7) Other sign areas.

(a) The primary wall sign for the occupant of a premises whose floor area exceeds 100,000 square feet shall be limited to a sign area of 1,000 square feet if mounted on a building facade facing and set back less than 150 feet from the sideline of Route I-95 and shall be limited to a sign area of 400 square feet if mounted on any other building facade;

(b) The primary wall sign for the occupant of a premises whose floor area exceeds 40,000 square feet but does not exceed 100,000 square feet shall be limited to a sign area of 300 square feet; and

(c) The primary wall sign for the occupant of a premises whose floor area exceeds 10,000 square feet but does not exceed 40,000 square feet shall be limited to a sign area of 150 square feet.

B. Permanent freestanding signs. Signs are permitted as follows:

(1) Number: one freestanding pylon sign per lot and one freestanding monument sign at each driveway on abutting streets.

(2) Sign area: freestanding pylon sign limited to a maximum of 720 square feet, and each freestanding monument sign limited to a maximum of 150 square feet.

(3) Height: freestanding pylon sign limited to a maximum height of 60 feet above the adjoining ground plane, and freestanding monument signs limited to a maximum height of 14 feet above the adjoining ground plane.

C. Permanent projecting signs. Projecting blade signs are permitted as follows:

(1) Number: one per occupant.

(2) Location: perpendicular to and not projecting above the facade to which it is attached.

(3) Sign area: The individual sign for each occupant shall be limited to 15 square feet.

D. Permanent directional signs. Way-finding or directional signs are permitted as follows:

(1) Number: one per two acres of lot area.

(2) Sign area: limited to 12 square feet.

E. Temporary signs. Temporary signs, in addition to signs allowed under Subsection A, are permitted as of right if such sign is unlighted, located on the inside of a window and occupies no more than 30% of the area of each window. Requires no sign permit.

F. Awning signs. All stores may place the store name on awnings, provided that the store name on any awning shall not exceed 20 square feet.

G. Sign area. The total signage permitted for all permanent signs, including all primary wall signs, accessory wall signs and awning signs, on any facade shall not exceed 15% of that overall facade area.

H. Signs facing South Walpole Street. Wall signs on building facades facing and set back less than 200 feet from South Walpole Street are prohibited.

§ 221-19. Sign area bonuses.

The Sign Committee may authorize an increase of as much as 50% above the sign area limits of §§ 221-16, 221-17 and 221-20 upon its determination, following design review and hearing, that at least five of the eight guidelines of § 221-21 are met, as are the bylaw objectives of § 221-1.

§ 221-20. Senior Living Overlay District.

In the Senior Living Overlay District (Senior Living District), the following additional signs shall be permitted:

A. Permanent wall signs. Signs (other than temporary signs) attached flat against a building or visible through its windows are permitted as follows:

(1) Number: two per building, but not more than one per side of building.

(2) Area: total area of wall signs shall be not more than 20% of the projected area of the facade of the side of the building to which they are attached, except that no individual sign shall exceed 100 square feet.

(3) Location: not extending above or beyond the end of the wall or roof to which they are attached, nor overhanging a street or sidewalk by more than six inches.

B. Permanent projecting or freestanding signs. Signs (other than temporary signs) not attached to a building are permitted as follows:

(1) Number: one for each street that the premises abuts.

(2) Area: not more than 50 square feet per side of each sign.

(3) Location: not within five feet of any street or property line, and not extending more than 10 feet above adjoining ground level.

C. Internal way-finding signs. Internal directional traffic control signs shall be permitted.

D. Additional freestanding signs: in addition to the foregoing, two signs per building identifying the buildings not larger than 20 square feet in area per side and not extending more than eight feet above adjoining ground level.

E. Temporary signs: two temporary signs not larger than 100 square feet in area, advertising the sale, rental, lease or availability of a unit or bed in a nursing home facility. Such sign requires no sign permit if the erecting agent has obtained a one-year permit and paid an annual fee for erecting such signs.

ARTICLE V
Design

§ 221-21. Design guidelines.

Five of the following eight design guidelines must be determined by the Sign Committee to have been met to qualify for sign area bonuses of § 221-19. In addition, compliance with them is suggested but not required for other signs, and will be considered by the Sign Committee in acting on other cases before it.

A. Sign scale is appropriate in relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures.

B. Sign size, shape, and placement serves to define or enhance such architectural elements of the building as columns, sill lines, cornices, and roof edges, and not to interrupt, obscure or hide them.

C. Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials, or other important qualities.

D. Sign materials, colors, lettering style, and form are compatible with building design and use.

E. Sign content does not overcrowd background (normally not exceeding 40% of background area).

F. Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors, or other distracting elements.

G. Signs do not display brand names, symbols, or slogans of nationally distributed products except in cases where the majority of the floor or lot area on the premises is devoted to manufacture, sale, or other processing of that specific product.

H. Signs do not contain selling slogans, product descriptions, "help wanted" notices, or other commercial messages which are not an integral part of the name or other identification of the location or the enterprise.

ARTICLE VI
Nonconforming Signs

§ 221-22. Time frame for compliance.

Existing signs shall be removed or brought into conformity with this bylaw within 30 days of notification of violation by the Building Inspector unless he authorizes a longer period necessitated by unavailability of parts. Signs shall be subject to notification as follows:

A. Illegally erected signs: immediately.

B. Temporary signs: immediately.

C. Illumination violation (§ 221-9A): immediately.

D. Pennants, streamers, etc. [§ 221-9C(1)]: immediately.

E. Off-premises signs (§ 221-10): upon expiration of current permit from Outdoor Advertising Board, or, if no such permit is held, immediately.

F. Visibility violation [§ 221-9B(1)]: following July 1, 1983, or when sign is 10 years old, whichever is later. Signs will be assumed to be 10 years old unless owner documents to the contrary.

G. Other violations: following abandonment of the sign, or following change or termination of activities on the premises which render the sign nonconforming, or following damage such that repair or restoration would exceed 1/3 of the replacement value as of the date of the damage, or following July 1, 1991, if later.

Chapter 226

SOLID WASTE

GENERAL REFERENCES

Hazardous materials — See Ch. 170.

Board of Health regulations for dumpsters and solid waste — See Ch. 300, Art. 3 and Art. 4.

§ 226-1. Dumping on private property prohibited.

No person shall dump or deposit any refuse or waste material upon any privately owned property in the Town without permission of the owner of said property.

§ 226-2. Purpose.

Having voted to close the Town's landfill effective May 1, 1985, and having authorized the Select Board members (Board of Health) to enter into a long-term contract with SEMASS for the delivery to and disposal of solid waste, including garbage, at a solid waste disposal facility to be constructed, operated and owned by SEMASS in Rochester, Massachusetts; and recognizing that solid waste, particularly garbage, "is widely regarded as an actual and potential source of disease or detriment to the public good" and that, therefore, a "municipality, acting for the common good of all, (may)... either take over itself or confine to a single person (firm) or corporation the collection, transportation...and final disposition of a commodity which so easily may become a nuisance (with the result that) private interests must yield to that which is established for the general benefit of all," it is the purpose of this bylaw to:

A. Define the public's responsibility.

B. Authorize the Select Board members to publicly let a contract to a single contractor for the collection and delivery of solid waste to an approved sanitary landfill outside the geographical limits of Sharon until SEMASS's solid waste disposal facility is constructed and in operation (presently estimated sometime between March 1, 1986, and September 1, 1989) and thereafter to a solid waste disposal facility or transfer station for retransfer to such a facility, operated and owned by SEMASS.

C. Ensure the service provided the public is safe, economical and comprehensive.

D. Ensure that the charges to the public are just, fair, reasonable and adequate to provide necessary public service.

§ 226-3. Definition.

A. For the purposes hereof, "solid waste":

(1) Shall mean mixed household and municipal solid waste, including garbage, which is normally produced by residences, schools, and offices within municipal buildings and which is picked up from the solid waste stream by

standard packer-type refuse trucks from within the community (but which need not be obtained from the community), including leaves, twigs, grass, plant cuttings, branches and tree trunks of less than two feet in diameter.

(2) Shall not include mining or agricultural waste, hazardous wastes (except any insignificant quantities of such waste as are customarily found in household and municipal office waste and which, separately or when aggregated with all of the waste delivered by the community, do not satisfy the definition of "hazardous waste" contained in the Resource Conservation and Recovery Act of 1976 and the regulations thereunder) as defined by any federal, state or local law, as each may from time to time be amended, sewage sludge, other sludge (including septage) or slurry, liquid chemical wastes, nonputrescible construction or demolition debris, or explosive, corrosive or radioactive materials.

B. Excluded from the definition of "solid waste" are items of a size, durability or composition that are not acceptable at the sanitary landfill, at which the contractor engaged by the Town shall, until SEMASS's solid waste disposal facility shall become operational, deliver solid waste collected in the Town or which cannot be processed by SEMASS's solid waste disposal facility when operational or which may materially impair SEMASS's structures or equipment. Examples of such items which cannot be processed by SEMASS's facility are solid blocks of rubber or plastic greater than two cubic feet in volume, rolls of carpet or furnishings over 12 inches in diameter, steel or nylon rope, chains, cables or slings more than four feet long, thick-walled or solid metal objects such as castings, forgings, gas cylinders or large motors, tied or unbroken bales of paper, cardboard or cloth, and tree stumps.

§ 226-4. Exclusive contract or license; public bids.

A. The Select Board members are authorized to engage a single contractor to collect, transport and dispose of solid waste.

B. No contract or license for the collection, transportation or disposal of solid waste, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless such proposals for the same have been invited by advertisement in at least one newspaper published in the Town, such publication to be at least one week before the time specified for the opening of said proposals. Said advertisement shall state the time and place for opening the proposals in answer to said advertisement, and shall reserve to the Town the right to reject any or all such proposals. All such proposals shall be opened in public. Such a contract shall be for a period not exceeding five years unless the disposal is in a sanitary landfill or in any other sanitary manner approved by the Department of Environmental Quality Engineering, in which case the contract may be for a period not exceeding 20 years, provided that such contract has been authorized by a majority vote of a Town Meeting and the terms thereof have been approved as reasonable by the Emergency Finance Board.

§ 226-5. Contract to collect and dispose of solid waste.

A. Every contractor, engaged by the Town to pick up solid waste within the Town and deliver the same directly to a sanitary landfill outside the geographical limits of the

Town until SEMASS's solid waste disposal facility is constructed and operational, and thereafter to SEMASS's solid waste disposal facility, or, at the Town's option, to SEMASS's transfer station for retransfer to SEMASS's solid waste disposal facility, shall agree to charge fees approved in advance by the Select Board members.

B. The contract, which the contractor shall sign, shall provide that such fees shall, in the aggregate, be sufficient (but no more than enough) to cover:

(1) All fees paid by the contractor either to the operator of the sanitary landfill or to SEMASS for the solid waste accepted for disposal in the landfill or in the solid waste disposal facility, as the case may be.

(2) The contractor's direct costs for collecting, transferring and disposing of the solid waste.

(3) A reasonable amount for the contractor's indirect costs and overhead.

(4) A reasonable profit.

(5) The cost of a hazardous waste collection program.

C. The contract shall also provide that once SEMASS's solid waste facility becomes operational, the contractor shall provide the Town with a surety company performance bond, in a form and in an amount satisfactory to Town Counsel, securing the performance of all of the contractor's obligations to the Town.

§ 226-6. Container specifications and placement; modification of fees by Select Board members.

A. No solid waste can or container, other than a stationary dumpster, shall exceed either 60 pounds gross loaded weight or 45 gallons in size.

B. Each can, container or stationary dumpster shall be made of a rigid material and shall have a cover capable of being securely attached.

C. Each cover shall always be securely attached, except when solid waste is being deposited in the can, container, or dumpster.

D. Plastic bags shall be securely tied and contain no garbage unless the bags containing garbage are placed in an appropriate can, container or dumpster.

E. Each can, container or bag shall be left at the front of the lot, adjacent to but not on the sidewalk, if any, or if there is no sidewalk in front of the building, adjacent to but not on the pavement of the street, not before 12:00 noon on the day before the scheduled collection and by no later than 7:00 a.m. of the day on which collections for the building on the lot are scheduled.

F. No stationary dumpster shall exceed the safe loading design limit or operational limit of the vehicle provided by the contractor for serving the building. Each stationary dumpster shall be situated on the lot in a place easily accessible to the contractor's vehicles.

G. The Select Board members may waive any fee whenever, in their opinion, it is, in a

particular instance, in the public interest so to do.

§ 226-7. Building owner liability for fees.

The owner of each building from which solid waste is collected shall be responsible for the prompt payment of all fees charged by the contractor for the collection of solid waste from that building.

§ 226-8. Violations and penalties.

The penalty for violation of this bylaw shall be as follows:

A. For the first offense: $50;

B. For the second offense: $100; and

C. For each subsequent offense: $200.

§ 226-9. Severability.

The invalidity, unconstitutionality or unenforceability of any section, subsection or provision of this bylaw shall not affect or impair any other section, subsection or provision.

§ 226-10. Tipping fee escrow fund.

The Select Board members are authorized to establish a fund to be known as the "Tipping Fee Escrow Fund." The contractor shall be directed to regularly deposit into this fund, on at least a monthly basis or as otherwise specified by the Town, the amounts due under the contract for defraying the cost of SEMASS tipping fees and household hazardous waste collection. The Town, through the Department of Public Works, shall use the monies in this fund to pay tipping fees due to SEMASS and to pay for the cost of household hazardous waste collections. In the event that Town-sponsored recycling programs reduce the amounts of solid waste disposed of at SEMASS, the Select Board members may authorize the expenditure of amounts not needed for tipping fees or household hazardous waste collection to defray the costs of Town-sponsored recycling efforts or Town beautification projects. In no case shall the amount expended for these purposes exceed the tipping fee times the number of tons of solid waste that has been certified as recycled according to the SEMASS master agreement.

§ 226-11. Plastic waste reduction. [Added 5-6-2019 ATM by Art. 23]

A. Purpose. The purpose of this bylaw is to protect the Town of Sharon's natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed and used in the Town of Sharon, and by promoting the use of reusable bags.

B. Definitions.

CHECK-OUT BAG — Shall mean a bag provided by a store to a customer at the point of sale. Check-out bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the

point of sale or check out area of the store.

RECYCLABLE PAPER BAG — Shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag (1) the word "recyclable" or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.

RETAIL ESTABLISHMENT — Shall mean any business facility that sells goods directly to the consumer, whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

REUSABLE CHECK-OUT BAG — Shall mean a sewn bag with stitched handles that is specifically designed for multiple reuse and that:

(1) Can carry 25 pounds over a distance of 300 feet;

(2) Can be washed or disinfected; and

(3) Is made of either:

(a) Natural fibers such as cotton; or

(b) Durable, nontoxic plastic, that is generally considered a food-grade material (i.e., not polyethylene or polyvinyl chloride), and is more than four mils thick.

THIN-FILM, SINGLE-USE PLASTIC CHECK-OUT BAGS — Shall mean those bags that are less than 4.0 mils thick, constructed of high-density polyethylene (HDPE), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and nonwoven polypropylene fabric), and typically with handles.

TOWN OFFICIAL — Shall mean an official within the Sharon Board of Health or Health Department.

C. Regulated conduct.

(1) No retail establishment in the Town of Sharon shall provide thin-film, single-use plastic check-out bags to customers.

(2) If a retail establishment provides or sells check-out bags to customers, the bags must be one of the following:

(a) Recyclable paper bag; or

(b) Reusable check-out bag.

(3) Retail establishments that make available exempt thin-film plastic bags, as described in Subsection D below, are required to provide for in-store collection and proper recycling of returned thin-film plastic bags (with the exception of bags used to wrap and transport meat). In-store collection

locations must be prominently displayed and easily accessible. Retail establishments with a floor area less than 3,500 square feet that make available exempt thin-film plastic bags are not required to provide for in-store collection/recycling of these bags if another drop off location or no-fee option is available in the Town of Sharon.

D. Exemptions. Thin-film plastic bags, typically without handles, which are used to contain newspapers, produce, meat, bulk foods, wet items, dry cleaning, and other similar merchandise are not prohibited under this bylaw.

E. Enforcement.

(1) The Town official shall have the authority to administer and enforce this bylaw.

(2) The enforcing authority, upon a determination that a violation of the bylaw has occurred, shall issue a written notice to the establishment specifying the violation, in the form of either a warning or fine according to the following schedule:

(a) For the first violation, a written warning.

(b) For the second violation, a fine of $50.

(c) For the third and subsequent violations, a fine of $100.

(3) No more than one penalty shall be imposed upon a retail establishment within a seven-calendar-day period.

F. Effective dates. This bylaw shall take effect six months after approval of the bylaw by the Attorney General[16] or on November 6, 2019, whichever is later, for retail establishments with a floor area equal to or exceeding 3,500 square feet or with at least two locations under the same name within the Town of Sharon that total 3,500 square feet or more. This bylaw shall take effect one year after approval by the Attorney General for retail establishments less than 3,500 square feet. The Town Official may exempt a retail establishment from the requirements of this section for a period of up to six months upon a finding by the Town Official that (1) the requirements of this section would cause undue hardship; or (2) a retail establishment requires additional time in order to draw down an existing inventory of thin-film, single-use check-out plastic bags.

G. Regulations. The Town Official may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

H. Severability. If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

16. Editor's Note: This bylaw was approved by the Attorney General 7-22-2019.

Chapter 230

STORMWATER MANAGEMENT

GENERAL REFERENCES

Earth removal — See Ch. 141.

Groundwater protection — See Ch. 160.

Wetlands protection — See Ch. 262.

Zoning — See Ch. 275.

Subdivision regulations — See Ch. 340.

ARTICLE I
Illicit Discharges to Storm Sewers
[Adopted as Art. 37 of the Town Bylaws]

§ 230-1. Statutory authority; enforcement.

This bylaw is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and MGL c. 43B, § 13. The Select Board is delegated hereby the responsibility and authority to enforce and administer this bylaw. The Select Board may appoint the Town Engineer or Assistant Town Engineer or such other Town employee as the Select Board may from time to time determine and designate in a writing to aid the Select Board in the enforcement and/or administration of this bylaw.

§ 230-2. Intent.

In partial fulfillment of the obligations of the Town under the Clean Water Act (33 U.S.C. § 1251 et seq.) (the "Act") and under the Town's National Pollutant Discharge Elimination System Stormwater Permit, the Town hereby establishes a comprehensive and fair system of regulation of discharges to the Town's municipal separate storm sewer system (sometimes referred to herein as the "MS4").

§ 230-3. Purpose.

The purpose and intent of this bylaw is to:

A. Protect the waters of the U.S., as defined in the Act and its implementing regulations, from uncontrolled discharges of stormwater or discharges of contaminated water which have a negative impact on the receiving waters by changing the physical, biological and chemical composition of those waters, resulting in an unhealthy environment for aquatic organisms, wildlife and people; and

B. Reduce discharges of contaminated water into the MS4 and resultant discharges from the MS4 into waters of the U.S. and improve surface water quality; and

C. Permit and manage reasonable access to the MS4 to facilitate proper drainage; and

D. Assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

§ 230-4. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

BOARD — The Select Board and, to the extent delegated and designated, the Town Engineer or Assistant Town Engineer or such other Town employee as delegated and designated by the Select Board.

CONTAMINATED WATER — Water that contains higher levels of pollutants, including, without limitation implied, heavy metals, toxins, oil and grease, solvents, nutrients, viruses and bacteria, than permitted in waters of the U.S. by the Act and its

implementing regulations.

DIRECT CONNECTION — Any discernible, confined and discrete conveyance, including but not limited to any pipe, drain, channel, conduit, tunnel, or swale, whether above ground or below ground, which directs water into the MS4.

DIRECT CONNECTION LICENSE — A license granted by the Town for the continued maintenance by an owner of a direct connection to the MS4.

DISCHARGE — Any non-naturally occurring addition of water or of stormwater to the MS4.

DUMPING — An act or omission of any person or entity, the proximate result of which is the introduction of a pollutant into the MS4.

EXEMPTED DISCHARGES — Discharges from the following sources unless in any instance such discharge would result in exceeding the requirements of 314 CMR 4.00, Massachusetts Surface Water Quality Standards:

A. Water line flushing.

B. Landscape irrigation.

C. Diverted stream flows.

D. Rising groundwater.

E. Pumped groundwater.

F. Discharges from potable water sources.

G. Foundation drains.

H. Air conditioning condensation.

I. Irrigation water.

J. Springs.

K. Water from crawl space pumps.

L. Footing drains.

M. Lawn watering.

N. Individual residential car washing.

O. Flows from riparian habitats and wetlands.

P. Dechlorinated swimming pool discharges (e.g., where the discharge contains less than one ppm of chlorine).

Q. Street wash water.

R. Rain run-off from roofs.

EXISTING SOURCE — Any building, structure, facility or installation from which there is a flow of stormwater or exempted discharge, the construction of which building,

structure, facility or installation occurred prior to the promulgation of this bylaw.

ILLICIT CONNECTION — Any drain, conduit, or other conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4.

ILLICIT DISCHARGE — Any discharge into the MS4 of contaminated water, any discharge of stormwater from a direct connection for which a direct connection license is not in force and effect, any discharge which is not an exempted discharge, or any discharge from an indirect connection not in compliance with this bylaw.

INDIRECT CONNECTION — The natural drainage of stormwater over or under the surface of the ground (whether instigated by human endeavor or not) via gravity into the MS4.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4 — The stormwater collection system which is made up of open watercourses, swales, ditches, culverts, canals, streams, catch basins and pipes through which the stormwater flows and the Town public ways over which it flows which are owned and operated by the Town for the purpose of collecting or conveying stormwater to a discharge point.

NEW SOURCE — Any building, structure, facility or installation from which there is or may be a discharge of stormwater, the construction of which building, structure, facility or installation commenced after adoption of this bylaw.

NPDES PERMIT — The National Pollution Discharge Elimination System Permit issued by the federal Environmental Protection Agency to the Town.

OWNER — The owner of a parcel of land recorded in the Assessor's Office of the Town.

POLLUTANT — Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

PUBLIC WAYS — Any road (including such appurtenances as berms, curbs, drains, catch basins, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper layout) to which the public has access and that the Town is responsible for maintaining.

STORMWATER — Rainfall that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

§ 230-5. Prohibitions.

A. No person or entity shall do or suffer to be done any dumping into the MS4, including, without limitation implied, the placing or emptying into any catch basin or other portal to the MS4 of any pollutant.

B. No owner shall cause an illicit discharge to be made to the MS4 whether from a direct or indirect connection.

C. No direct connections, whether from a new or existing source, shall be installed after the effective date of this bylaw.

D. Direct connections from an existing source shall be allowed to continue after the effective date, provided that:

(1) The owner must disclose the direct connection and must, within 30 days of the effective date of this bylaw, apply for and thereafter be granted a direct connection license; and

(2) The owner must discharge only stormwater which is not contaminated water via the direct connection.

E. Indirect connections from existing sources shall be allowed, provided that:

(1) Only stormwater which is not contaminated water is discharged, or a discharge constituting an exempted discharge occurs; and

(2) The discharge does not cause safety problems due to icing or flooding of the public ways or cause damage to the Town's property.

F. Indirect connections from new sources shall be allowed, provided that:

(1) Subsurface infiltration shall comply with criteria established in the Town's Subdivision Rules and Regulations;[17] and

(2) Only stormwater which is not contaminated water is discharged, or a discharge constituting an exempted discharge occurs.

§ 230-6. Violations and penalties.

A. Any person or entity who or which causes or suffers to occur a dumping shall be subject to a fine of $100.

B. Any owner who causes or suffers to occur an illicit discharge to emanate from his property shall be subject to a fine of $100 per day for each day that the illicit discharge continues after notice thereof is given by or at the direction of the Select Board. This fine may be waived by the Select Board members to allow time for compliance.

C. Any owner who allows a direct connection to be maintained on his property (whether or not it results in an illicit discharge) without applying for and receiving a direct connection license from the Town shall be subject to a fine of $100 per day for each day that the unlicensed direct connection continues after the deadline set for abatement by the Select Board.

D. The penalties set out herein may be assessed by the Select Board and are in addition to and not in substitution for any remedial action the Select Board may order under § 230-7, Enforcement, of this bylaw.

§ 230-7. Enforcement.

A. Violations of § 230-5 of this bylaw may, without limitation, be disposed of through the noncriminal procedure specified in MGL c. 40, § 21D.

B. If an illicit discharge or a dumping occurs or an illicit connection is maintained, the Board shall give or cause to be given written notice directed to the owner of the

17. **Editor's Note: See Ch. 340, Subdivision Regulations.**

parcel from which the illicit discharge is emanating, or on which the illicit connection is maintained, ordering an immediate cessation of any act or condition in violation of this bylaw.

C. The Board, either with such notice or at any reasonable time thereafter, may order the owner or any other person or entity responsible for violating this bylaw to begin and thereafter diligently prosecute to completion such remediation efforts as the Board in its reasonable discretion may deem appropriate.

D. If the Board determines that the illicit discharge resulted from a direct connection to the MS4, the Board shall revoke the owner's direct connection license forthwith. After the owner has fully completed all remediation ordered by the Board, the owner may thereafter apply to the Board on the form included herein as Exhibit A, and utilizing the procedures from time to time prescribed by the Board, for a new direct connection license, which the Board shall consider in the same manner as any other new application. A direct connection license form is included herein as Exhibit B. The forms set forth in Exhibits A and B are intended to serve as examples and may be changed from time to time at the discretion of the Board.[18]

§ 230-8. Appeals.

A. Any person or owner aggrieved by an action of the Board which was neither (i) the assessment of a penalty for which the provisions of MGL c. 40, § 21D apply, nor (ii) an action taken by the Board at a meeting of which the aggrieved person or owner was given notice and was afforded the opportunity to present evidence and argument with a view to causing the Board to modify its earlier action (such action being a "final action") shall, within 30 days of such Board action, request a hearing before the Board at which the aggrieved person or owner may present evidence and argument concerning final action by the Board. The Board shall hold such hearing within 30 days following said request and within 30 days thereafter shall either confirm the Board's previous action or order such other final action as it may determine.

B. A person or owner aggrieved by a decision of the Select Board under this bylaw may appeal such decision to the appropriate court of competent jurisdiction.

§ 230-9. Severability.

If any clause, section, or other part of this bylaw shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall not be affected thereby but shall remain in full force and effect.

§ 230-10. When effective.

This bylaw shall take effect upon approval by the Office of the Attorney General and as otherwise required by MGL c. 40, § 32.

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18. Editor's Note: Exhibits A and B are on file in the Town offices.

ARTICLE II
Construction Activity Discharges
[Adopted as Art. 38 of the Town Bylaws]

§ 230-11. Statutory authority; enforcement.

This bylaw is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and MGL c. 43B, § 13. The Select Board is delegated hereby the responsibility and authority to enforce and administer this bylaw. The Select Board may appoint the Stormwater Manager or such other municipal employees as the Select Board may from time to time determine and designate, in a writing, to aid the Select Board in the enforcement and administration of this bylaw.

§ 230-12. Intent.

In partial fulfillment of the obligations of the Town under the Clean Water Act (33 U.S.C. § 1251 et seq.) (the "CWA") and under the Town's National Pollutant Discharge Elimination System General Permit, the Town hereby establishes a comprehensive and fair system of regulation of stormwater discharges generated as a result of construction activity.

§ 230-13. Purpose.

The purpose and intent of this bylaw is to:

A. Prevent pollutants caused by stormwater discharges from a construction site from entering waters of the U.S.

B. Minimize erosion and sedimentation generated by construction activity with the goal of removing 80% of the average annual load of total suspended solids in stormwater discharged from a construction site.

C. Minimize the volume of stormwater discharged from a construction site with the goal that the post-development peak discharge rate of stormwater does not exceed the pre-development peak discharge rate.

D. Ensure that stormwater management measures are built as outlined in the stormwater pollution prevention plan.

E. Ensure that stormwater management measures are continually maintained as outlined in the stormwater pollution prevention plan.

§ 230-14. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protect Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00).

APPLICANT — That person who owns the land at the time of the application for a stormwater permit and his successors and assigns. An operator may apply on behalf of

the owner if such authorization is in writing and is submitted with the application.

AWARDING AUTHORITY — The Select Board of the Town of Sharon has authority to exercise the powers granted by this bylaw.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater discharges.

CERTIFICATE OF COMPLETION — A certificate issued by the awarding authority indicating that final site stabilization has occurred, been inspected and approved by a representative of the awarding authority, and as-built plans have been filed with the awarding authority.

CONSTRUCTION ACTIVITY — Any activity that causes a change in the position or location of soil, sand, rock, gravel or similar earth material for the purpose of building roads, parking lots, residences, commercial buildings, office buildings, industrial buildings or demolitions.

CONSTRUCTION SITE — The plot of land located within the Town on which the construction activity will occur.

DISTURB — Any activity such as clearing, grading and excavating that exposes soil, sand, rock, gravel or similar earth material.

EROSION — The wearing of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicular traffic and the subsequent detachment and transportation of soil particles from their origin to another location.

FINAL SITE STABILIZATION — That all construction activity at the site has been completed and a uniform perennial vegetative cover percentage as required by zoning regulations[19] and native background vegetative cover for the area have been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE — A contiguous land area under one ownership on which multiple separate and distinct construction activities are occurring under one development plan.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) owned or operated by the Town designed and used for collecting or conveying stormwater to an outfall.

NPDES PERMIT — National Pollution Discharge Elimination System Construction General Permit issued by the Environmental Protection Agency to the applicant.

OPERATOR — The party associated with the construction activity that meets either of the following two criteria:

A. The party who has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

B. The party who has day-to-day operational control of those activities at a project

19. **Editor's Note: See Ch. 275, Zoning.**

which are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions.

OUTFALL — A point source at which a municipal separate storm sewer system discharges to waters of the U.S.

PERMITTEE — The owner of the land on which construction activity is proposed who has applied for and received a stormwater permit from the awarding authority.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANTS — Includes without limitation the following: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

SEDIMENTATION — The process or act of depositing mineral or organic soil material in stormwater as a result of erosion.

STORMWATER — Rainfall and snow melt that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

STORMWATER DISCHARGES — Stormwater that runs off from the construction site into the MS4 or otherwise into waters of the U.S.

STORMWATER MANAGEMENT MEASURES — Infrastructure improvements that are constructed or installed during construction activity to prevent pollutants from entering stormwater discharges or to reduce the quantity of stormwater discharges that will occur after construction activity has been completed. Examples include, but are not limited to: on-site filtration, flow attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures and artificial wetlands, and water quality detention structures.

STORMWATER MANAGER — The Town Engineer or Assistant Town Engineer will serve in this capacity.

STORMWATER PERMIT — The permit issued by the awarding authority to the applicant which allows construction activity to occur as outlined by the applicant in its application and stormwater pollution prevention plan.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — That plan required of all applicants in which they outline the erosion and sedimentation BMPs they will use, the BMPs they will use to control wastes generated on the construction site, the stormwater management measures they will construct and their plan for long-term maintenance of these measures.

WATERS OF THE U.S. — These include:

A. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

B. All interstate waters, including interstate wetlands;

C. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) That are used or could be used for industrial purposes by industries in interstate commerce;

D. All impoundments of waters otherwise defined as waters of the United States under this definition;

E. Tributaries of waters identified in Subsections A through D of this definition;

F. The territorial sea; and

G. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in Subsections A through F of this definition.

§ 230-15. Prohibitions.

A. No construction activity which disturbs one acre or more of total land area, including smaller areas that are part of a larger common plan of development or sale, shall take place until a stormwater permit has been obtained from the awarding authority. Normal maintenance and improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations are exempt from this prohibition. The stormwater permit does not exclude the requirement of filing a construction general permit with the Environmental Protection Agency.

B. No stormwater discharges containing pollutants are permitted.

C. Sources of nonstormwater may be combined with stormwater discharges as long as they do not contain pollutants.

§ 230-16. Application for stormwater permit.

Applicant must sign and file an application for a stormwater permit on the form provided by the Town. The application should be submitted to the stormwater manager and to be deemed complete must be accompanied by:

A. An application fee of $500 for an individual residential housing lot application. An application fee of $1,000 is required for any stormwater permit application for a commercial project, residential subdivision or any development exceeding one acre of disturbance and not a single residence on an individual lot.

B. Identification of the construction site by book, page, and plot number in the records

of the Assessor's Office.

C. A narrative description of the construction activity intended, the proposed use of any improvements to be constructed and the construction timetable.

D. A site plan.

E. A list of abutters certified by the Assessor's Office, including addresses.

F. A stormwater pollution prevention plan.

§ 230-17. Site plan requirements for Planning Board and Zoning Board applications for lots over one acre in area.

The site plan that is submitted must contain at least the following information. Planning Board plan regulations must also be met for subdivision applications and Zoning Board regulations must also be met for site plan reviews.[20]

A. Names, addresses and telephone numbers of the person(s) or firm(s) preparing the plan.

B. Title, date, North arrow, scale, legend and locus map.

C. Location and description of natural features, including watercourses and water bodies, wetland resource areas and all floodplain information, including the one-hundred-year flood elevation based upon the most recent Flood Insurance Rate Map (or as calculated by a professional engineer for areas not assessed on those maps) located on or adjacent to the construction site.

D. A description and delineation of existing stormwater conveyances and impoundments located on the construction site, with their point of discharge noted.

E. Location and description of existing soils and vegetation, including tree lines, shrub layer, ground cover and herbaceous vegetation and trees with a caliper 12 inches or larger, with run-off coefficient for each.

F. Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as "endangered," "threatened" or "of special concern," estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species located on or adjacent to the construction site.

G. Lines of existing abutting streets showing drainage and driveway locations and curb cuts.

H. Surveyed property lines of the construction site showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire construction site and the delineation and number of square feet of the land area that is to be disturbed.

I. Proposed improvements, including location of buildings or other structures and impervious surfaces (such as parking lots).

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20. Editor's Note: See Ch. 275, Zoning; and Ch. 340, Subdivision Regulations.

J. Topographical features, including existing and proposed contours at intervals of no greater than two feet with spot elevations provided when needed.

K. The existing site hydrology, including drainage patterns and approximate slopes anticipated after major grading activities.

L. Location of the MS4 with relation to the construction site.

M. Identification of outfalls which are located on the construction site.

N. Stormwater discharge calculations prepared and certified by a registered professional engineer describing the volume of stormwater that presently discharges from the construction site and the estimated volume post-development.

O. Identification of any existing stormwater discharges emanating from the construction site and discharging into the MS4 for which a NPDES permit has been issued (include permit number).

P. A list of water bodies that will receive stormwater discharges from the construction site, with the location of drains noted on the map. A brief description of known water quality impacts and whether the water bodies receiving such stormwater discharges have:

(1) Been assessed and reported in reports submitted by the Massachusetts Department of Environmental Protection to EPA pursuant to Section 305(b) of CWA; and

(2) Been listed as a Category 5 Water [waters requiring a total maximum daily load (TMDL)] by DEP under Section 303(d) of the CWA.

§ 230-18. Stormwater pollution prevention plans.

Applicant must submit a stormwater pollution prevention plan (SWPPP) with its application for a stormwater permit. The SWPPP must include all of the following:

(A) A plan to control wastes generated by the construction activity on the construction site; and

(B) An erosion and sedimentation control plan; and

(C) A plan to construct stormwater management measures; and

(D) A plan for operation and maintenance of stormwater management measures.

A. Plan to control wastes. Applicant must list the construction and waste materials expected to be generated or stored on the construction site. These wastes include, but are not limited to: discarded building materials, concrete truck washout, chemicals, litter, sanitary waste and material stockpilings. Applicant must also describe in narrative form the best management practices it will utilize to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater and spill prevention and response plans. If any structural BMPs are proposed, they must be identified and located on the site plan. At a minimum, applicant's plan should provide for the following:

(1) Areas designated and controlled for equipment storage, maintenance and

repair.

(2) Convenient locations for waste receptacles and a schedule for regular removal.

(3) Wash-down areas for vehicles selected to prevent contamination of stormwater.

(4) Covered storage areas for chemicals, paints, solvents, fertilizers and other toxic materials.

(5) Adequately maintained sanitary facilities.

B. Erosion and sedimentation control plan. Applicant must describe in narrative form its plan for properly stabilizing the site before construction begins and the BMPs that it will use during construction to minimize erosion of the soil and sedimentation of the stormwater. These BMPs should include both stabilization practices such as seeding, mulching, preserving trees and vegetative buffer strips, and contouring and structural practices such as earth dikes, silt fences, drainage swales, sediment traps, check dams, and subsurface or pipe slope drains. Applicant must locate structural BMPs on the site plan. Applicant must also provide details of construction, including the timing, scheduling and sequencing of development, including clearing, stripping, rough grading, construction, final grading and final site stabilization.

C. Plan to construct stormwater management measures. Applicant must describe its proposed drainage system and identify the stormwater management measures it plans to construct on the construction site in order to retain stormwater recharge on-site and prevent pollutants from entering stormwater discharges. These measures include, but are not limited to: on-site filtration, flow attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures and artificial wetlands and water quality detention structures. Applicant is required to show the following on its site plan:

(1) The estimated seasonal high groundwater elevation in areas to be used for stormwater management measures.

(2) Detailed plans and descriptions of all components of the proposed drainage system, including:

(a) Locations, cross-sections and profiles of all brooks, streams, drainage swales and their method of stabilization;

(b) All stormwater management measures to be used for the detention, retention or infiltration of water, their size and location on the construction site, and the volume of stormwater that each will hold;

(c) All stormwater management measures for the protection of water quality if so-called Category 5 waters are located on or adjacent to the construction site;

(d) The structural details for all components of the proposed drainage system and stormwater management measures, including cross-sections;

(e) Notes on drawings specifying materials to be used, construction specifications and typicals; and

(f) Expected hydrology with supporting calculations of post-development stormwater discharges.

D. Plan for operation and maintenance of stormwater management measures. Applicant must outline its plan for the long-term operation and maintenance of the stormwater management measures that have been built on the construction site. This plan must include the following:

(1) A description of the annual maintenance activities that will be performed and identification of the individual who will perform them; and

(2) An estimate of the annual cost of these maintenance activities and a description of the operation and maintenance fund that the applicant will establish; and

(3) The language of a covenant and restriction which applicant will record in the appropriate Registry of Deeds, binding and enforceable against the construction site and the owner from time to time thereof to maintain the stormwater management measures.

§ 230-19. Site plan review.

A. Following receipt of a complete application for a stormwater permit, the Stormwater Manager will refer it to either the Planning Board (if the proposed construction project requires subdivision approval under MGL c. 41), Zoning Board of Appeals, or the Conservation Commission for review and comment, when applicable.

B. In the event that the plan does not require the approval of the Planning Board, the Zoning Board of Appeals, or the Conservation Commission, the Stormwater Manager may forward any application to the Select Board for the purpose of a public hearing on the same, if the Stormwater Manager deems such a hearing to be necessary based on the possible impact of the requested stormwater permit on any surrounding or abutting properties and/or a Town right-of-way. The approval or denial of a stormwater permit will be forwarded to the Building Inspector when required. The applicant will be notified in writing of the stormwater permit approval or denial within 30 days of the submission of the application. The Stormwater Manager will make the application available for inspection by the public during normal business hours at the Department of Public Works.

C. After receipt of the recommendation of the Planning Board or the Zoning Board of Appeals and public comment at the public hearing held by the respective boards, the Stormwater Manager may: approve or deny the application; require changes to any part of the SWPPP; revise the amount of the required annual maintenance deposit or may impose additional conditions in the stormwater permit; or may impose additional conditions in the stormwater permit that he issues.

D. The Stormwater Manager may not issue the stormwater permit until final plans of the development approved by either the Planning Board or Zoning Board of

Appeals have been filed with the Stormwater Manager and 21 days have elapsed. If there are changes on the final plans which affect the stormwater permit, the Stormwater Manager (after written notice to the applicant) shall review these changes and may impose additional conditions in the stormwater permit.

§ 230-20. Conditions of stormwater permit.

The following standard conditions shall apply to each stormwater permit issued in accordance with this bylaw:

A. The permittee shall comply with all conditions of the stormwater permit and its stormwater pollution prevention plan.

B. The permittee shall comply with all other local permits related to the construction site.

C. The permittee shall make an annual deposit of funds in a specially segregated bank account in the amount equal to the estimated annual cost to operate and maintain the stormwater management measures. The segregated account will be opened by the stormwater permit applicant and the bank book will be held by the Town Treasurer's office. When withdrawals from the account are required, the applicant will contact the Stormwater Manager, in writing, and the Stormwater Manager will forward the request to the Town Treasurer if the request is deemed appropriate by the Stormwater Manager.

D. The permittee shall maintain on-going records of the aforesaid operation and maintenance fund which shall show:

(1) The maintenance activities performed on the stormwater management measures located on the construction site, the dates on which they were performed and the names of the individuals who performed them; and

(2) The costs of such maintenance activities shown deducted from the fund; and

(3) The current balance in the fund.

E. The permittee shall record within 10 days of receipt of the stormwater permit in the appropriate Registry of Deeds a covenant and restriction in form and substance identical to that submitted with his application and approved by the Stormwater Manager, and shall submit evidence of such recording to the Stormwater Manager.

F. The permittee shall furnish the Stormwater Manager any information which is requested to determine compliance with the stormwater permit.

G. The permittee shall allow authorized representatives of the awarding authority to:

(1) Enter upon the permittee's construction site; and

(2) Have access to and the right to copy at reasonable times any records required to be kept under the conditions of this bylaw; and

H. The permittee shall allow representatives of the awarding authority to make regular, unannounced inspections of the construction site. These typically will occur at the following times:

(1) Initial site inspection prior to construction activity starting but after a complete application has been filed.

(2) After erosion and sedimentation controls are in place.

(3) After construction site clearing has been substantially completed.

(4) After rough grading has been substantially completed.

(5) Prior to backfilling of any underground drainage and/or after stormwater management measures have been installed.

(6) After final grading has been substantially completed.

(7) At the end of the construction season if construction activity has not yet been completed.

(8) After final site stabilization.

I. The permittee shall report the release of any reportable quantity of hazardous substances oil which occurs on the construction site during construction activity. This report must be made within 14 days of knowledge of the release and must include the date and description of the release, the circumstances leading to the release, responses to be employed for such release and measures to prevent reoccurrence of such release.

J. The issuance of the stormwater permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights nor any infringement of federal, state or local laws or regulations.

K. The provisions of the stormwater permit are severable, and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected thereby.

L. The stormwater permit is not transferable.

M. The Stormwater Manager reserves the right during the permit term to modify the permit and impose additional conditions.

N. Conditions contained in permittee's NPDES Comprehensive General Permit will be incorporated by reference in the stormwater permit.

§ 230-21. Permit term.

The stormwater permit shall be effective upon the date of issuance and remain in effect until the earlier to occur of:

A. A certificate of completion is issued by the awarding authority indicating that all construction activity has ceased and final site stabilization construction, inspection and approval by a representative of the awarding authority has occurred; or

B. The date three years from the date of issuance of the stormwater permit has

occurred without applicant starting construction activity on the construction site.

§ 230-22. Default of permittee.

A. The Stormwater Manager may, during the permit term, find a permittee is in default after notice and hearing if he shall reasonably determine that:

(1) Permittee knowingly made a false material statement, representation or certification in his application or SWPPP; or

(2) Permittee is no longer the owner or operator of the construction site and thus not authorized to sign the application for a stormwater permit; or

(3) Permittee is not in compliance with the terms of its stormwater permit or SWPPP.

B. The permittee shall be given not less than 10 days' prior written notice of the time and place of the hearing and shall have the opportunity at the public hearing to present evidence.

§ 230-23. Enforcement.

The Stormwater Manager will report any permittee that he has found to be in default as described in the preceding section to the awarding authority. Upon such notification, the Stormwater Manager or the awarding authority may take any of the following actions:

A. Issue a written order requiring the permittee to cease and desist from construction activity until there is compliance with this bylaw and the stormwater permit. Any such order may be subsequently modified by the Stormwater Manager.

B. Issue a written order requiring maintenance, installation or performance of additional erosion and sedimentation control measures by a certain deadline.

C. Issue a written order requiring the repair, maintenance or replacement of stormwater management measures by a certain deadline.

D. Issue a written order requiring remediation of any pollutants that are entering stormwater discharges as a result of the construction activity by a certain deadline.

E. Suspend or revoke the stormwater permit.

F. Enforce the covenant and restriction against any or all of the following: the operation and maintenance fund, the construction site, or the owner from time to time thereof as the Town may elect in its discretion.

G. Take any other enforcement action available under applicable federal, state or local law.

§ 230-24. Appeals.

An applicant or permittee aggrieved by a decision of the Stormwater Manager under this bylaw may, within 30 days of such action, request a hearing before the Select Board at which the applicant or permittee shall be afforded the opportunity to present evidence

and argument concerning final action by the Select Board. The Select Board shall hold such hearing within 30 days following the filing of the request and within 30 days after the closing of the hearing shall either confirm the Stormwater Manager's previous action or order such other final action as it may determine. Appeals from a decision of the Select Board may be taken to a court of competent jurisdiction.

§ 230-25. Waivers.

The awarding authority may, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this bylaw, waive strict compliance with any requirement of this bylaw, provided that:

A. Applicant has submitted a written request to be granted a waiver, has explained and/or documented the facts supporting his waiver request, and has demonstrated that the strict application of this bylaw to his case will not further the purpose or objective of this bylaw; and

B. Applicant's waiver request was discussed and voted on at a public hearing following public notice and notice to abutters.

§ 230-26. Severability.

If any clause, section or part of this bylaw shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall not be affected thereby but shall remain in full force and effect.

§ 230-27. When effective.

This bylaw shall take effect upon approval by the Office of the Attorney General and as otherwise required by MGL c. 40, § 32.

Chapter 235

STREETS, SIDEWALKS AND PUBLIC PLACES

GENERAL REFERENCES

Advertising materials — See Ch. 105.

Building construction — See Ch. 125.

Earth removal — See Ch. 141.

Public works construction licenses — See Ch. 189, Art. III.

Parades and processions — See Ch. 200.

Vehicles and traffic — See Ch. 248.

Zoning — See Ch. 275.

Scenic roads — See Ch. 325.

Subdivision regulations — See Ch. 340.

ARTICLE I
Use Restrictions
[Adopted as Art. 10, §§ 7, 8A, 9, 11, 14, 15, 16, 17, 18, of the Town Bylaws]

§ 235-1. Obstructions.

No person shall leave any vehicle or material, or place any obstruction on any sidewalk, street, or public place, and suffer the same to remain there overnight, without maintaining sufficient light and suitable guards, over or near the same throughout the night, nor allow the same to remain after a notice from a police officer, constable, or the Select Board members to remove the same.

§ 235-2. Tables, chairs and benches.

A. No person shall place or maintain on any public sidewalk, public place, or public way any tables, chairs, benches, counters, or similar items unless the Select Board members first grant a permit to do so.

B. The Select Board members may issue a permit to place and maintain tables, chairs, benches, counters or similar items on a public sidewalk, public way or public place if the placement of these items (1) does not materially impair the traffic flow or other public use of the space; (2) does not pose a hazard to the public; and (3) does not materially impair the character of the public space or the immediate neighborhood. In issuing such a permit, the Select Board members may set conditions on the placement of these items so as to preserve the public character of the space or the character of the neighborhood, prevent the destruction of the space, or protect the safety of the public. Such conditions may include, but are not limited to, restrictions on the number and type of items maintained on the public space, the nature of the items so placed, or the area where the items are placed.

C. Residents may hold yard sales, tag sales, garage sales or similar private sales or used articles at their residences without obtaining a permit under this section.

D. The noncriminal penalties provided in Chapter 1, Article I, shall apply to this section.

§ 235-3. Skating and coasting.

No person shall skate or coast upon any sidewalk or street or public place, except at such times and upon such streets or places as the Select Board members may, by public notice, designate for such purpose.

§ 235-4. Excavations and openings.[21]

No person, firm, organization or corporation shall disturb, dig up, or excavate the ground or pavement in or under a public way, street, sidewalk, curb or treebelt within the Town unless a permit for such work has been issued by the Superintendent of Public Works in accordance with Street Opening Rules and Regulations adopted by the Select Board members. In adopting the Street Opening Rules and Regulations, the Select

21. Editor's Note: See also Art. III, Street Openings, of this chapter.

Board members shall consider, but shall not be limited to, provisions for bonding and insurance requirements, fees to be paid the Town, conditions under which work may be accomplished, pavement restoration, utility notification procedures, and emergency situations.

§ 235-5. Gates.

No owner or occupant of property shall permit any gate leading to premises, abutting on any public way in the Town, to swing outwardly upon any public way.

§ 235-6. Deposit of dangerous substances.

No person shall throw or deposit, in any manner, upon any public way, place, or square in the Town, any article, substance or material which may prove injurious in any respect to the hoofs of animals, the tires of bicycles, or the rubber tires of automobiles and other vehicles, or be a source of danger or annoyance to anyone lawfully passing over or using the same.

§ 235-7. Deposit of waste and noxious substances.

No person shall distribute or deposit advertising circulars, papers, or other matter on the streets of the Town, or shall team, cart, truck, or trailer manure, hay, rubbish, ashes, liquid, or other material in such a manner as to litter, pollute, or injure the streets of the Town, nor shall any person throw or deposit in any street or any sidewalk ashes, dirt, rubbish or other refuse of any kind, except in a manner provided by the Board of Health.

§ 235-8. Conveyance of waste materials.

No person shall cart or convey garbage or filth of any kind, nor any noxious or refuse liquid or solid matter of substance in any public street or place, except in such manner and at such times as the Board of Health by regulation or permit shall prescribe.

§ 235-9. Graffiti.

No person shall make any indecent figures, or write any indecent or obscene words upon any fence, building, or structure in any public place, or commit a nuisance upon any sidewalk or against any tree, building, or any of the furniture therein.

§ 235-9.1. Water discharges to the public right-of-way. [Added 5-6-2019 ATM by Art. 21]

A. No person shall pump, drain or discharge water or cause to be pumped, drained or discharged upon any public way or other public place in the Town without receiving prior written approval from the Superintendent of Public Works. Such approval may, without limitation, restrict the time and manner of said discharge. Under no circumstances shall said discharge cause a public inconvenience or interfere with the safety of the public. Discharges to public roadways are considered a public safety issue for the purposes of this bylaw.

B. It shall be the property owner's responsibility to immediately correct any discharge to a public way or public place in the Town that causes a public inconvenience or

interferes with the safety of the public, with the exception of natural groundwater flow. In the case where a property owner fails to address an issue identified by the Town, the Superintendent of Public Works, and/or the Town Engineer shall establish a plan to resolve the situation in the best interest of both parties. If the property owner fails or refuses to comply with the recommendations of the Superintendent of Public Works and/or the Town Engineer, the Town may, at its option, after providing prior written notice and a cost estimate to the property owner and the opportunity to meet with the Superintendent of Public Works and/or the Town Engineer to resolve the matter, undertake such remediation work. The work shall include, but is not limited to, costs of hiring outside services, administrative costs, material costs, labor costs, and all expenses thereof shall be charged to the property owner. The property owner will be notified in writing by certified mail of the final cost estimate by the Town, if the Town is to perform the work. If the property owner opposes the cost estimate, the property owner may file a written protest objecting to the amount or basis of such costs with the Superintendent of Public Works within 30 days of the date of the mailing of such notice to the property owner. The decision or orders of the Superintendent of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

C. If the Town completes the work and the amount due is not received within 30 days of the notice of billing, the costs shall become a special assessment against the property owner's property and shall constitute a lien for the purposes of MGL c. 40, § 58, on the property owner's property for the amount of such costs until such costs, including interest, are paid in full. **[Amended 10-12-2020 ATM by Art. 22]**

ARTICLE II
Snow and Ice Removal
[Adopted as Art. 15 of the Town Bylaws]

§ 235-10. Placement on streets and sidewalks prohibited.

No person shall place or permit, or cause to be placed, snow or ice, from any driveway, parking area or other private property, upon any public street, sidewalk or bridge such that a public safety hazard is created. Snow removed from any sidewalk may be placed on the adjoining gutter. This section shall not apply to any Town snow removal operations.

§ 235-11. Violations and penalties.

The penalty for violation of this bylaw shall be $50 for each offense.

ARTICLE III
Street Openings
[Adopted as Art. 35A of the Town Bylaws]

§ 235-12. Findings and intent; authority.

From time to time, it is necessary to excavate in a public way in order, for example, to install, repair, or remove utilities or install or realign a driveway, including the possible removal or realignment of curbing and/or fencing. Excluded from the operation of this bylaw is the general reconstruction or repair of public ways by the municipal or state agency responsible for the maintenance and repair of such public ways. This Street Opening Bylaw is necessary to protect the health and safety of all persons traveling on public ways and is adopted in accordance with the authority granted, inter alia, by Article 89, Section 6, of the Amendments to the Massachusetts Constitution, MGL c. 40, § 21, MGL c. 165, § 20, MGL c. 166, § 25, and MGL c. 166A.

§ 235-13. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ADA — The Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 through 12213), and the Accessibility Guidelines for Buildings and Facilities (Appendix to Part 1191) of the U.S. Architectural and Transportation Barriers Compliance Board, as amended.

APPLICANT — Any public utility, municipal department, person or entity who or which owns or exercises general responsibility and control over:

A. Utility or other pipes, ducts, lines or other thing buried in or under a public way; or

B. Real property abutting a public way; or

C. Real property served by the public way or by items of the type specified in Subsection A above and who wishes to perform street opening work.

APPLICATION FEE — A nonrefundable processing fee of $50 which shall accompany each application for a street opening permit.

ARCHITECTURAL ACCESS BOARD REGULATIONS — The rules and regulations of the Architectural Access Board, Mass. Executive Office of Public Safety (521 CMR), as amended.

AWARDING AUTHORITY — The Select Board of the Town of Sharon has authority to exercise the powers granted by this bylaw.

AWARDING AUTHORITY REPRESENTATIVE — That municipal officer or employee to whom the awarding authority in a writing has delegated some of its powers hereunder so that the process of permit-granting, inspection, and administration will proceed expeditiously.

COLD PATCH — A dense-graded or open-graded mix with cutback asphalt as the binder with 1% of the mix being hydrated lime based on the total weight of the aggregate. The mineral aggregates and bitumen shall be proportioned and combined to meet the limits specified in Table A, Subsection M3.11.03 and M3.11.04 of the Standard

Specifications. Bituminous material shall be either cutback asphalt, Grade MC250 or MC800, conforming to Section M3.02.0 of the Standard Specifications.

COMPACTION — Compressing of suitable material and gravel that has been used to backfill a trench by means of mechanical tamping to within 95% of maximum dry density as determined by the modified Proctor Test in accordance with ASTM 1557 Method D.

CONTRACTOR — All officers or employees of applicant performing street opening work or any person or entity engaged by or on behalf of applicant to perform street opening work. The contractor, for purposes of this bylaw and for all questions of liability in connection with any street opening work, shall be conclusively deemed agents of applicant for whom applicant is fully responsible.

CONTROLLED DENSITY FILL — Also called "flowable fill," CDF is a mixture of portland cement, fly ash, sand and water. It shall contain a minimum of 250 pounds of Class F fly ash or high air (25%) and will be self-leveling. It is hand-tool excavatable.

DEFAULT — The failure of the permit holder (including all contractors or other agents of permit holder) to:

A. Comply fully with provisions of applicable laws and regulations;

B. Comply fully with all of the applicable provisions of this bylaw and the street opening permit, including written supplemental instructions, the municipality's General Bylaws or other applicable law; and

C. Keep its certificate of insurance in full force and effect.

EMERGENCY REPAIR WORK — Street opening work which must be commenced immediately to correct:

A. A hazardous condition which could reasonably be expected to result in injury, loss of life, or property damage; or

B. A condition which has resulted in the catastrophic failure of a utility transmission trunk line.

GAS COMPANY — A public utility to which MGL c. 164, § 70 applies.

HIGHWAY DEPARTMENT — The municipal agency generally responsible for the repair and maintenance of public ways within the municipality.

INFRARED PROCESS — That restorative procedure whereby an infrared heater softens existing pavement to a depth of 1 1/2 inches, the softened area is treated with a penetrating asphalt emulsion, uniformly scarified and raked to a workable condition, and the treated surface then compacted by use of a steel-wheeled roller for the purpose of creating a smooth driving surface consistent with adjacent pavement.

LICENSED CONTRACTOR — A contractor who holds a current and valid public works construction license issued by the awarding authority.

NEWLY PAVED ROAD — A road that has been repaved (binder and top) within the past five years.

PERMANENT PATCH — A final repair of street opening work to be performed in accordance with this bylaw and intended to return permanently the opened portion of the

roadway to as good a condition as it was in prior to the performance of the street opening work.

PERMANENT PATCH WINDOW — That period of time commencing 12 months and up to 18 months from the date of installation of the temporary patch.

PERMIT HOLDER — An applicant to whom a street opening permit has been granted.

PROCESSED GRAVEL — Inert material that is hard, durable stone and coarse sand, free from loam and clay, surface coatings and deleterious materials and which meets M1.03.1 of the Standard Specifications.

PUBLIC UTILITY — Includes a gas and electric company as defined in MGL c. 164, § 1, telephone and telegraph company subject to MGL c. 159, § 12, and cable TV companies or other telecommunication providers regulated by the Department of Telecommunications and Cable.

PUBLIC WAY — Any road, including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper layout to which the public has access and the Town is responsible for maintaining. Also referred to as a "street."

PUBLIC WORKS CONSTRUCTION LICENSE — A license required of all contractors who are not officers or employees of a public utility or municipal department who wish to perform work including street opening work on public ways.

REFUNDABLE DEPOSIT — That amount of cash or money represented by a certified bank check deposited by applicant with its application to secure applicant's performance of street opening work in accordance with this bylaw.

STANDARD SPECIFICATIONS — The Massachusetts Department of Transportation's Standard Specifications for Highways and Bridges, 1995 Metric Edition.

STREET OPENING PERMIT — A permit granted by the awarding authority to an applicant for permission to do street opening work in a public way.

STREET OPENING WORK — Any cutting, excavating, compacting, construction, repair or other disturbance in or under a public way together with restoration of the public way in accordance with this bylaw following such disturbance, but excluding the location or relocation of utility poles for which a grant of location has been obtained pursuant to MGL c. 166, § 27.

TEMPORARY PATCH — The application of either cold patch or two separate gradations of bituminous concrete consisting of binder and top layers and compaction to achieve a density equal to that of the surrounding pavement following excavation and compaction.

§ 235-14. Permit required.

A. No work (except the commencement of emergency repair work in accordance with § 235-18 hereof) in or under a public way shall commence until the applicant shall have applied for, in accordance with § 235-15, and obtained from the awarding authority a street opening permit.

   (1) All work contemplated by this bylaw shall be done in a good and workmanlike manner using best engineering and construction practices and shall be done in

accordance with:

(a) All applicable laws and regulations;

(b) All of the provisions of this bylaw;

(c) Any conditions contained in the street opening permit; and

(d) Such reasonable supplemental instructions not inconsistent with the foregoing as the awarding authority or its representative may from time to time issue.

(2) A permit holder shall cause to be restored those portions of a public way disturbed by the permit holder to as good a permanent condition, in the reasonable judgment of awarding authority or its representative, as they were in when permit holder made application thereunder.

B. No person or entity may perform any work (including street opening work or emergency repair work) in or under a public way unless it is a permit holder and:

(1) Is a municipal department or public utility or their respective officers or employees;

(2) Is the holder of a current and valid public works construction license; or

(3) Has engaged such a holder and such holder performs all such street opening work or emergency repair work as agent of permit holder.

§ 235-15. Application procedure.

A. The applicant shall file, on forms designated by the awarding authority, a completed and signed application at the office of the awarding authority (with a copy delivered simultaneously to the Highway Department) each time it desires to perform street opening work. The application shall be accompanied by any and all plans, certifications, certificates of insurance and other items specified in the application or reasonably requested by the awarding authority. If the applicant does not intend to perform the street opening work itself, it must in the application designate a licensed contractor to perform the work as its agent. The application shall also be accompanied by the application fee and the refundable deposit.

B. The Highway Department shall promptly review the application and make written recommendations concerning approval to the awarding authority and, if appropriate, shall include recommendations concerning permit conditions and supplemental instructions.

C. Determination.

(1) The awarding authority shall make a prompt determination on the application, taking into account the following and such other facts as it may reasonably consider:

(a) The recommendation of the Highway Department.

(b) The reason for the street opening work.

(c) Whether the street is recently constructed or repaved.

(d) Whether there are other reasonable means adequate to accomplish the purpose for which the street opening permit is sought.

(2) If the application is considered favorably, a street opening permit containing such conditions and supplemental instructions as the awarding authority reasonably deems appropriate shall promptly issue. If the application is not favorably considered, the awarding authority shall communicate in writing to applicant the reasons its application was not favorably considered.

§ 235-16. Refundable deposit and account.

A. The amount of the refundable deposit to secure proper restoration of a public way after street opening work is determined in the reasonable judgment of the awarding authority based on the extent of the work. (A current schedule of deposits for standard work is available from the Town.)

B. Following notice given by permit holder that final permanent repairs to the public way have been completed, the awarding authority or representative will make a final inspection. Once the awarding authority or representative has concluded that permanent repair work has been satisfactorily concluded and that applicant has no other uncured defaults under street opening permits, it shall release the unexpended balance of the deposit serving as security for the street opening permit related to the inspected work.

C. All refundable deposits that an applicant submits for street opening permits shall be held by the awarding authority in one account which shall be designated as the applicant's refundable deposit account. Upon request, applicants may receive periodic reports as to the balance standing within this account. Should a deposit associated with a specific permit be insufficient to secure the proper repair of a public way following a default by the permit holder, the awarding authority, without limitation to other remedies available to it, can deduct the cost of the proper repair from applicant's refundable deposit account for the purpose of funding the proper repairs. To the extent required by Chapter 164 of the General Laws applicable to gas companies, the provisions of this section and § 235-17 hereafter shall not apply to gas companies which affirmatively claim exemption in their application for street opening permits.

§ 235-17. Fee and deposit changes; municipal exemption.

From time to time hereafter, the awarding authority, after public notice and hearing, may amend the schedule of deposits, the application fee, the hourly after-hours inspection charges or any other amounts due under this bylaw. A reasonable hourly charge for inspectional services which must be performed outside of normal working hours in accordance with a posted schedule established by the awarding authority will be billed to the permit holder and due and payable 15 days after billing. In extraordinary situations where extensive installation or renewal of utility lines overburden the normal capacity of the municipal departments to conduct inspections, the awarding authority can, after notice to the permit holder, or as a condition of the permit, elect to treat all inspections as after-hours inspections and bill the permit holder accordingly. Applicants which are

municipal departments are exempt from payment of all fees and deposits hereunder. Public utilities, to the extent exempted as provided in § 235-16 above, are exempt from payment of all fees except the application fee.

§ 235-18. Emergency repair procedure.

A. If the conditions for emergency repair work exist, then an applicant, after giving oral, faxed or electronic notice to the Police and Highway Departments, may commence street opening work. All such emergency repair work shall be done in strict compliance with this bylaw except for compliance with any notice provision inconsistent with such emergency action.

B. On the business day following the commencement of emergency repair work, the applicant shall file with the awarding authority (i) a written statement setting forth in detail the facts and circumstances constituting the conditions for emergency repair work, (ii) an application for a street opening permit covering the street opening work already commenced in accordance with § 235-15, (iii) the filing fee and required refundable deposit. If all of the materials such as plans, etc. are not then available to applicant, applicant will supply them as soon as available. The awarding authority will promptly process the application and grant the street opening permit with such conditions and supplemental instructions as it may reasonably require.

§ 235-19. Insurance.

A. The permit holder and/or each licensed contractor shall acquire and continuously maintain while it possesses any street opening permits liability insurance coverage on all personnel and equipment to be used in the street opening work, which insurance is to be with insurance companies licensed to do business in the Commonwealth of Massachusetts and shall contain the following coverages and be in the following minimum amounts:

(1) Commercial general liability insurance including operators, independent contractors, complete operations, XCU hazards, broad-form property damage and personal injury.

(a) General aggregate: $2,000,000.

(b) Products and complete operations:

[1] Aggregate: $2,000,000.

[2] Each occurrence: $1,000,000.

(c) Personal and advertising injury: $1,000,000.

(2) Automobile liability insurance, covers owned, nonowned and hired vehicles.

Combined single limit	$1,000,000
OR	
Bodily injury liability	

Each person	$500,000
Each accident	$1,000,000
Property damage liability	$250,000

(3) Worker's compensation and employer's liability.

(a) Bodily injury by accident: $100,000 each accident.

(b) Bodily injury by disease: $500,000 policy limit.

(c) Bodily injury by disease: $100,000 each employee.

B. Certificates of insurance shall provide for at least 30 days' notice to the awarding authority of cancellation or material change. The name of the municipality shall be listed as an additional insured on the certificate of insurance.

§ 235-20. Licensed contractors.

Any contractor or other person or entity that wishes to perform work on a public way and which is not either a municipality or a public utility (including their respective officers or employees) must be licensed by the awarding authority. Application for a public works construction license must be made on a yearly basis. (See appropriate sections of the General Bylaws.[22])

§ 235-21. Terms of permit.

A. Term of permit. All street opening permits shall be valid for 30 days and, upon written request to the awarding authority, renewable for an additional 30 days. Permits must be present at the work site. Permits can be revoked by the awarding authority if the applicant is in default.

B. Inspections.

(1) Inspections may take place at the following events:

(a) Prior to backfilling the trench.

(b) Following completion of temporary patch placement.

(c) During the permanent patch window.

(d) Following completion of permanent patch placement.

(2) The permit holder or contractor will notify the awarding authority representative when an inspection is desired and coordinate the timing of such inspection.

C. Working hours. Except in emergency situations, street opening work will occur during normal working hours. The permit holder must give notice of the intended street opening work 72 hours in advance to the Highway Superintendent, and, unless the requirement for a police detail is waived by the Police Chief of the

22. Editor's Note: See Ch. 189, Art. III, Public Works Construction Licenses.

municipality, must arrange for and pay for a police detail to be present throughout the period of time that street opening work is being conducted.

D. Dig-safe. The permit holder shall, in accordance with all current laws of the Commonwealth of Massachusetts, notify all public utilities 72 hours in advance of making any excavation in a street. Such notification shall be made by means of obtaining a DIG-SAFE number. Said number shall be provided on the street opening permit application. The permit shall not be issued until this information is provided.

E. Existing utilities. Before starting any excavation, the permit holder or contractor must confer with all public utilities to obtain information from each as to the horizontal and vertical locations of existing utilities and other conditions that may affect the excavation. The permit holder or contractor shall not interfere with any existing utility without the written consent of the awarding authority representative and the owner of the utility. If it becomes necessary to relocate an existing utility, this shall be done by its owner and the cost of such work shall be borne by the permit holder. The permit holder or contractor shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

F. Protection of existing lines and structures. The permit holder or contractor shall adequately support and protect by timbers, sheeting, etc. all pipes, conduits, poles, wires, cables or other appurtenances which may be in any way affected by the excavation work and shall do everything necessary to support, sustain and protect them under, over, along or across such work area. The excavation work shall be performed and conducted in such a manner that it shall not interfere with access to fire stations, fire hydrants, water gates, underground vaults, catch basins or any other public structure.

G. Adjoining property. The permit holder or contractor shall, at all times and at its own expense, preserve and protect from injury any adjoining property by providing proper foundations and shall take such other precautions as may be necessary for this purpose. The permit holder or contractor shall at all times and at its own expense shore up and protect all buildings, walls, fences, trees and other property likely to be damaged during the progress of the street opening work and shall be responsible for all damages to public or private property or streets resulting from its failure to properly protect and carry out said work. The permit holder or contractor shall not remove, even temporarily, any trees or shrubs which exist in planting strip areas without first obtaining the consent of the Highway Superintendent.

H. Damaged trees. In the event a tree is either accidentally destroyed by the permit holder or contractor or is authorized for removal by the awarding authority representative, the permit holder or contractor shall remove the tree, stump and debris from the work site, and replace the tree with an identical species with a minimum caliper of two inches in the identical location.

I. Pedestrian crossings; open trenches. The permit holder or contractor shall, where possible, maintain safe crossings for two lanes of vehicle traffic at all public intersections as well as safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across a public way, it shall be made in sections to assure maximum safe crossing for vehicles and pedestrians. An open trench may

not exceed 300 feet unless specifically permitted by the awarding authority or its representative. If the public way is not wide enough to hold the excavated material for temporary storage, the material shall be immediately removed from the location.

J. Traffic. The permit holder or contractor shall take appropriate measures to assure that during the performance of the street opening work, so far as practicable, normal traffic conditions shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the adjoining property and to the general public. The awarding authority representative may permit the closing of streets and walks to all traffic for a period of time. Unless the requirement for a police detail is waived by the Police Chief of the municipality, the permit holder shall engage a police detail to maintain traffic control and public safety at the project site while street opening work is in progress. Warning signs shall be placed a sufficient distance from the project site in order to alert all traffic coming from both directions. Cones or other approved devices shall be placed to channel traffic. Warning signs, lights and such other precautions shall conform to the Manual on Uniform Traffic Control Devices. Construction materials and equipment on the site shall be limited in quantity and in the space they occupy so that they do not unduly hinder and block traffic.

K. Gutters and basins. The permit holder or contractor shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutter line. Catch basins shall be kept clear and serviceable.

L. Excavated material. The permit holder or contractor shall remove all excess excavated material, surplus water, muck, silt, residue or other run-off pumped or removed from excavations from the site.

M. Temporary repairs. At the end of each day, all trenches must be plated if repair work is not completed and/or backfilled, compacted and temporarily patched on the day repair work is completed. No open, unplated trenches are permitted overnight, and work in plated trenches must be continually prosecuted to completion to minimize the time trenches are plated.

N. Noise. The permit holder or contractor shall perform the work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. During the hours from 10:00 p.m. to 7:00 a.m., the permit holder or contractor shall not use, unless otherwise specifically permitted by the awarding authority or awarding authority representative, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

O. Debris and litter. All debris and litter remaining from the street opening work site shall be removed by the permit holder or contractor in a timely manner.

P. Restoration of pavement markings. All permanent pavement markings (crosswalks, center lines, fog lines) which are damaged during street opening work shall be restored in kind by and at the expense of the permit holder.

Q. Lawn surfaces and plantings. All lawn surfaces which are disturbed during street opening work shall be replaced with sod or six inches of screened loam, lime,

fertilized and reseeded with good-quality lawn seed. Any areas containing plantings shall be restored to their original condition with the same or similar plantings.

R. Erosion control. The permit holder shall be responsible for all erosion control and for obtaining any necessary permits from the Conservation Commission. The permit holder or contractor shall protect drainage structures from siltation by whatever means required, including but not limited to the installation of hay bales and/or filter fabric. In the event that a drainage structure becomes damaged from siltation as a result of the street opening work, the permit holder or contractor shall clean the structure before completing the temporary patch.

§ 235-22. Construction techniques.

All street opening work and materials used therein must conform to the Massachusetts Department of Transportation's Standard Specifications for Highways and Bridges, 1995 Edition, and with the Americans with Disabilities Act and the Architectural Access Board Regulations as currently in effect. In addition, the following specific requirements also apply. Exceptions to these requirements may be made in the discretion of the awarding authority or awarding authority representative at the time that the street opening work is in progress.

A. Excavation. Existing pavement shall be cut in neat, true lines along the area of the proposed excavation. Unstable pavement shall be removed over cave-outs and breaks and the subgrade treated as the main trench. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench. Cut-outs beyond the limits of the trench lines must be normal or aligned parallel to the center line of the trench. Excavations shall be made in open cut. Trenches and excavation shall be braced and sheathed in accordance with the requirements of the Occupational Safety and Health Act (OSHA). Sections of bituminous or cement concrete sidewalks shall be removed to the nearest scoreline or approved cut edge.

B. Backfilling and compaction.

(1) Excavations shall be filled with approved backfill. Approved backfill consists of either controlled density fill, suitable excavated material or gravel meeting M1.03.0 or M1.03.1 of the Standard Specifications. The permit holder may select which of these three to use in the excavation. "Suitable excavated material" shall mean previously excavated granular material but which does not include blacktop, clay, silt, organic material, concrete, roots, boulders or stones larger than four inches in diameter. If the hole is to be filled with suitable excavated material, a backfill course shall be placed in approximately twelve-inch lifts of maximum compaction to four inches below asphalt grade (See Diagrams 1, 2, and 3.) A base course consisting of four inches of processed gravel or equivalent (i.e., suitable excavated material containing no stones larger than 1 1/2 inches in diameter) shall then be placed on top of the backfill course. The backfill and base course shall be compacted to not less than 95% of maximum dry density as determined by the modified Proctor Test in accordance with ASTM 1557 Method D. The permit holder, if directed by the awarding authority or its representative, will retain at its expense a professionally qualified geotechnical consultant to perform this test. The results of this test shall be given to the Highway Superintendent.

(2) If controlled density fill is used as backfill material, it must contain a minimum of 250 pounds of Class F fly ash or high air (25% plus) and be self-leveling. It must be Type 1E or 2E (very flowable). Flowable fill is to be batched at a ready-mix plant and is to be used at a high or very high slump one inch to 12 inches. In lieu of the slump test, a six-inch-long, three-inch-diameter tube may be filled to the top and then slowly raised. The diameter of the resulting "pancake" may be measured, and the range of the diameter shall be nine inches to 14 inches. It shall be flowable, require no vibration and, after it is placed, be excavatable by hand tools and/or small machines.

(3) The ingredients shall comply with the following:

Portland cement	AASHTO M85
Fly ash	AASHTO M295 Class F
Sand	M4.02.02 - ASTM C33 sand
Air	M4.02.05

(4) Types 1E and 2E must meet the following requirements:

	Type 1E	**Type 2E**
Compressive	28 days	90 days
Strength	30 to 80 psi	100 psi maximum
Slump		10 to 12 inches
Air		1% to 30%

(5) If controlled density fill is used as backfill material, it must fill the excavation to immediately below asphalt grade. The contractor must then plate the excavation with a heavy-duty steel plate adequate to carry heavy traffic and wait 24 hours for the CDF to cure prior to applying the permanent patch.

(6) If an excavation is backfilled with controlled density fill in accordance with this bylaw, then a temporary patch need not be installed but a permanent patch may be installed immediately. Permanent patches installed over controlled density fill shall consist of four inches of bituminous concrete applied in a 2 1/2 inch base course and a 1 1/2 inch top course of bituminous concrete, all installed in accordance with this bylaw. If an excavation in a cement concrete public way is filled with controlled density fill, then the provisions of Subsection E(1) may be omitted, but the provisions of Subsection E(2) and (3) must be complied with.

C. Temporary patches.

(1) Bituminous concrete. Following proper compaction, a temporary patch, which shall be the thickness of the existing asphalt pavement or a minimum of four inches, whichever is greater, shall be applied. It shall consist of either cold patch or bituminous concrete plant-mixed hot asphalt aggregate. (See diagrams.)

(2) Temporary patch to be maintained for one year. A temporary patch that has

been backfilled and compacted shall be maintained by the permit holder or contractor so that the patched surface and the surrounding area remain a single smooth, unbroken plane for a period of time no shorter than one year after placement of the temporary patch.

D. Permanent patches.

(1) Except when installed over controlled density fill as described in Subsection B above, permanent patches shall be installed not less than 12 months nor more than 18 months from the date of installation of the temporary patch. Upon request by the permit holder or contractor, the awarding authority representative will inspect the temporary patch and determine if final settlement of the trench has occurred. The awarding authority representative will notify the permit holder or contractor within seven days of the inspection whether the permanent patch can be installed. Public utilities or municipal departments may schedule permanent patches to replace all temporary patches then within the permanent patch window without receiving prior approval from the awarding authority but must give the awarding authority and its representative not less than 72 hours' prior notice.

(2) A permanent patch shall consist of one of the following: a) cold planing the temporary patch to a depth of 1 1/2 inches and then installing a minimum of 1 1/2 inches of top course of bituminous concrete, or b) the excavation of the temporary patch in a bituminous concrete public way and replacement of this material with any additional processed gravel needed and 2 1/2 inches of base course and 1 1/2 inches of top course of bituminous concrete (See Diagrams 1 and 2.) or (c) application of the infrared process to the temporary patch, or d) the certification by the awarding authority representative made during the permanent patch window that the temporary patch, in his reasonable judgment, meets fully the standard of a permanent patch and thus requires no further work.

(a) Cold planing. If the cold planing method is used, the area to be cold planed must extend at least 12 inches beyond all sides of the existing temporary patch. (See Diagram 2.) This area must be cold planed to a depth of 1 1/2 inches. Any broken or irregular edges of existing pavement shall be cut away in straight lines, leaving a sound vertical face at least 12 inches back from all edges of the existing pavement. The permit holder must provide a dust control system capable of complying with environmental air quality standards during cold planing and sweep the public way following completion of the cold planing work. All abutting edges of the existing pavement will be painted with an asphalt emulsion immediately prior to the placement of the permanent patch. The permanent patch will consist of the application of a top course of a minimum of 1 1/2 inches of bituminous concrete plant-mixed hot asphalt aggregate. After raking and rolling, the grade of the permanent patch shall match the existing bituminous surface of adjacent pavement. The finished permanent patch shall be level, having no depressions retaining water on any of the surfaces. All seams of the finished perimeter shall be sealed with penetrating asphalt emulsion.

(b) Excavation.

[1] Any temporary patch that has been patched with cold patch must be excavated and replaced with a bituminous concrete base in accordance with this subsection. If the excavation method is chosen and if additional cutting of the existing pavement is required, it shall be done in neat, straight lines. Any broken or irregular edges of existing pavement shall be cut away in straight lines, leaving a sound vertical face at least 12 inches back from all edges of the existing pavement. (See Diagrams 1 and 3.) All abutting edges of the existing pavement shall be painted with an asphalt emulsion immediately prior to the placement of the permanent patch. The permit holder or contractor shall remove and dispose of all excavated material and thoroughly compact the surface of the subbase.

[2] Following excavation, the permanent patch shall consist of a bituminous concrete base and top laid and rolled in two courses. The binder (base course) shall be a minimum of 2 1/2 inches in depth and the top course shall be 1 1/2 inches in depth. The minimum total thickness of both courses, measured after rolling, shall be four inches or equal to the material that was previously excavated. If, after compaction, more than four inches of permanent patch are needed in order to restore the excavated area to finish grade, additional bituminous concrete shall be used in the base course. The base course shall be placed and carefully raked and thoroughly rolled to the required thickness. The top course shall be placed to a grade that will match the existing bituminous surface after rolling. All seams of the finished perimeter shall be sealed with penetrating asphalt emulsion. The finished permanent patch shall be level, having no depressions retaining water on any of the surfaces.

(c) Infrared process.

[1] If the infrared process is utilized to install the permanent patch, the area to be repaired shall be thoroughly cleaned to eliminate all potential contaminants. An infrared heater shall be positioned over the area to be repaired for a period of time required to plasticize the existing pavement to a depth of 1 1/2 inches. Oxidation of the pavement caused by improper heating techniques must be avoided. If this condition occurs, all oxidized material must be removed and replaced with Class I bituminous concrete meeting the Standard Specifications of the Massachusetts Department of Transportation.

[2] The softened area shall be inwardly reworked from approximately one foot beyond all sides of the original temporary patch. This designated area shall be treated with a penetrating asphalt emulsion, uniformly scarified and raked to a workable condition. For street crossings and/or trenches with jogs, the reworked area will be extended beyond the outermost jog in a straight line parallel with the opposite outermost jog. Under no circumstances may the infrared heat-treatable patching mix that is used register a temperature under

200° F.

[3] After the paving mixture has been properly admixed and raked to grade, compacting shall be obtained by use of a steel-wheeled roller of sufficient weight to establish a uniform density comparable to that of the surrounding pavement surface within the work area. The finished permanent patch shall be level, having no depressions retaining water on any of the surfaces. All seams of the finished perimeter shall be sealed with penetrating asphalt emulsion.

[4] A petroleum resin sealant shall be applied consistently to the entire heated area by mechanical means or hand application at an approximate rate between 0.1 and 0.25 gallon per square yard. The actual rate will be determined on site by an approved absorption test method. A mineral filler will then be broadcast over the newly sealed area to absorb any excess liquid and prevent tracking and the area immediately opened to traffic.

(d) Certification. If a permit holder seeks to qualify a temporary patch as a permanent patch, it must make the application for inspection set out above and specify in it its request for certification. The awarding authority representative will notify the permit holder within 30 days of the request whether the temporary patch has been certified as a permanent patch. If it is not so certified, the permit holder shall forthwith cause a permanent patch utilizing one of the three remaining methods set out above to be utilized.

(e) Newly paved roads. On newly paved roads, the awarding authority representative may require, in addition to the placement of the permanent patch, that the permanent patch shall be treated by a process (infrared, microwave or equivalent) that will ensure that the permanent patch is integrated into the existing bituminous surface in a seamless manner.

(f) Final inspection of permanent patch. Following completion of the permanent patch, the permit holder or contractor shall give notice thereof to the awarding authority representative, who shall inspect the permanent patch. If the awarding authority representative is satisfied that the road has been restored to as good a condition as existed prior to the street opening work, he shall so note on the street opening permit and any refundable deposit securing that street opening work shall be refunded promptly to the applicant. If the awarding authority representative determines that the permit holder is in default, the awarding authority may proceed in accordance with § 235-24, Remedies, of this bylaw.

E. Special rules for cement concrete roadways. Any excavation in a cement concrete public way or public way with a cement concrete base with a bituminous concrete surface shall be backfilled as described in Subsection B and temporarily patched as described in Subsection C. Immediately prior to the installation of a permanent patch, the following shall be done:

(1) The temporary patch and sufficient backfilled material shall be removed.

(2) A six-inch reinforced concrete slab shall be laid over the backfilled trench extending one foot beyond all edges of the trench surface and allowing for four inches of bituminous concrete to be installed above the slab. The slab shall have steel reinforcing for tensile strength in accordance with good engineering practices. The permit holder or contractor shall install a temporary heavy-duty steel plate adequate to carry heavy traffic over the trench until the concrete slab shall have adequately cured.

(3) Once the concrete slab shall have cured, there shall be installed a four-inch layer of bituminous concrete applied in a 2 1/2 inch base course and a 1 1/2 inch top course, all in accordance with Diagram 3 and generally in accordance with this bylaw.

F. Shoulders. Suitable excavated material shall be placed in layers not to exceed six inches in depth and compacted. Shoulders shall be reconstructed to their existing condition and either loamed with six inches of loam, limed, fertilized and seeded with roadside grass mix or covered with four inches of wood chips as directed by the awarding authority representative.

G. Sidewalks. Any excavation in a concrete or bituminous concrete sidewalk shall require that the entire sidewalk area containing the trench be replaced. Any concrete sidewalk section that is excavated or damaged by the excavation must be replaced in its entirety. Suitable excavated material or gravel shall be placed in layers not to exceed six inches in depth and compacted. All sidewalk areas will be installed by the permit holder or contractor in conformance with the ADA and the Architectural Access Board Regulations currently in effect. Bituminous concrete sidewalks shall have two courses (two inches of binder and one inch of top) of bituminous concrete plant-mixed hot asphalt aggregate applied to and rolled to create a pavement surface consistent with the adjacent bituminous concrete surface. Concrete sidewalks shall have four inches of poured concrete applied to finish grade. The concrete shall be placed in alternate slabs nine meters in length except as otherwise ordered. The slabs shall be separated by transverse preformed expansion joint filler 13 millimeters in thickness. Concrete driveway openings shall have six inches of poured concrete applied to finish grade. Preformed expansion joints will be installed against buildings, walls, steps, foundations or existing concrete block.

H. Curb and berm. Any curbing or berm which is damaged or removed as part of the street opening work shall be property replaced in kind. The use of cast-in-place concrete curbing is prohibited. All salvageable granite curb that is removed from the public way and is excess is the property of the Town and shall be delivered to the Highway Department by the permit holder or contractor.

I. Wheelchair ramps. Existing wheelchair ramps which are damaged or removed under street opening work shall be reconstructed in kind and in conformance with the ADA and the Architectural Access Board Regulations that are currently in effect.

J. Curb cuts.

(1) Any curb cut within a public way cannot exceed the following dimensions unless specifically approved by the awarding authority representative:

(a) Single-family dwelling: 16 feet.

(b) Multifamily dwelling: 18 feet.

(c) Two-family dwelling: 18 feet.

(d) Commercial property: 24 feet.

(2) Driveway entrances into public ways must butt into and not overlap the edge of the existing roadway hardened surface. The driveway must be graded in such a manner that no ponding of water occurs within the public way and in accordance with the Architectural Access Board Regulations. Driveways shall not be located on small-radius curves and shall be positioned so as to provide maximum sight distance and safety.

§ 235-23. Suspension and revocation of permit.

A. The awarding authority or awarding authority representative, if it believes a default has occurred, can suspend immediately for up to 21 days a street opening permit by communicating such suspension to any of the permit holder, licensed contractor, or any of their respective representatives at the job site.

B. The awarding authority may revoke a street opening permit granted hereunder after notice and hearing if it shall reasonably determine that a default has occurred. The permit holder shall be given not less than five days' prior written notice of the time and place of the hearing and shall have the opportunity at the hearing to present evidence. Any person aggrieved by the decision of the awarding authority may appeal such decision to the appropriate court of competent jurisdiction or, to the extent applicable law provides, to the Department of Telecommunications and Cable.

§ 235-24. Remedies.

If a permit holder or licensed contractor shall be in default as defined herein, the awarding authority may:

A. Suspend or revoke the street opening permit as provided in § 235-23 above. If the street opening work has commenced but is not completed at the time of a suspension or revocation, the awarding authority can order the street opening work to be completed by another licensed contractor, the cost of which is paid for from the permit holder's refundable deposit account or by the permit holder if the refundable deposit is insufficient or does not exist.

B. Suspend or revoke the licensed contractor's public works construction license pursuant to the Public Works Construction Bylaw.[23]

C. Assert the Town's legal remedies.

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23. Editor's Note: See Ch. 189, Art. III, Public Works Construction Licenses.

Chapter 248

VEHICLES AND TRAFFIC

GENERAL REFERENCES

Parades and processions — See Ch. 200.

Streets, sidewalks and public places — See Ch. 235.

ARTICLE I
Parking for Disabled Veterans or Handicapped Persons
[Adopted as Art. 10, § 31, of the Town Bylaws]

§ 248-1. Required parking.

A. Any person or body that has lawful control of a public or private enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, is required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, or for any vehicle transporting a handicapped person and displaying the special identification plate authorized by MGL c. 90, § 2, or for any vehicle bearing the official identification of handicapped person issued by any other state, or any Canadian Province.

B. The number of handicapped spaces required in each off-street parking area shall be determined according to the requirements found in 521 CMR 23.

C. Parking spaces designated as reserved under the above provisions shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking; Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight feet wide, not including the cross-hatched access aisle as defined by the Architectural Access Board established in MGL c. 22, § 13A. The cross-hatched access aisle abutting a handicapped parking space shall be considered part of the handicapped parking space to which it abuts to provide individuals who use wheelchairs or other mobility aids with sufficient space to enter and exit their vehicles. No person shall park in the cross-hatched access aisle.

§ 248-2. Violations and penalties for failing to reserve spaces.

A penalty for failure to reserve such parking spaces in said off-street parking areas as provided above will be imposed in the amount of $300 per offense.

§ 248-3. Removal of vehicles in violation.

No vehicle shall be removed from any parking spaces designated as reserved under the above provisions unless the person who has lawful control of such property has notified the Sharon Chief of Police or his/her designee. Such notification shall be made before any such vehicle shall be removed, and shall be in writing unless otherwise specified by the Chief of Police and shall include the address from which the vehicle is to be removed, the address to which the vehicle is to be removed, the registration number of the vehicle, the name of the person in lawful control of the property from which such vehicle is being removed and the name of the person or company or other business entity removing the vehicle. Vehicles so removed shall be stored in a convenient location. Neither the Town

nor the Chief of Police shall be liable for any damages incurred during the removal or storage of any such vehicle removed under this bylaw.

§ 248-4. Unauthorized parking prohibited.

No person shall leave an unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons as authorized above or in such manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

§ 248-5. Additional parking areas.

A. The Select Board, pursuant to the authority contained in MGL c. 40, § 22A, shall further regulate the parking of vehicles on ways within the control of the Town by restricting certain areas thereon for the parking of any vehicle owned and driven by a disabled veteran or handicapped person whose vehicle bears the distinctive number plates authorized by MGL c. 90, § 2, or for any vehicle transporting a handicapped person and displaying the special parking identification plate authorized by said MGL c. 90, § 2, or for any vehicle bearing the official identification of a handicapped person issued by any other state, or any Canadian Province, or by prohibiting the parking or standing of any vehicles in such a manner as to obstruct any curb ramp designed for use by handicapped persons. Parking spaces designated as reserved under the provisions of this section shall be identified by the use of above-grade blue signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight feet wide, not including the cross-hatched access aisle as defined by the Architectural Access Board established in MGL c. 22, § 13A. The cross-hatched access aisle abutting a handicapped parking space shall be considered part of the handicapped parking space to which it abuts to provide individuals who use wheelchairs or other mobility aids with sufficient space to enter and exit their vehicles. No person shall park in the cross-hatched access aisle. The cost of acquisition, installation and maintenance and operation of any signs or other regulatory devices used to designate such restricted areas shall be considered as a necessary expense for the regulation of parking and shall be paid from appropriations authorized by this bylaw.

B. No person or owner of any vehicle shall park or leave a vehicle in a space on a public way designated as above authorized as a "Handicapped Parking Space" unless the vehicle bears the distinctive number plates, or displays the special parking identification plate authorized by MGL c. 90, § 2, or bears the official identification of handicapped persons issued by any other state, or any Canadian Province.

§ 248-6. Penalties for violating public way restrictions.

The penalty for violation of the foregoing §§ 248-4 and/or 248-5 shall be $50 for each offense. Each day shall be a separate offense; provided, however, that nothing herein

shall be construed as prohibiting the removal, in accordance with the provisions of MGL c. 266, § 120D, of any vehicle which is in violation of this bylaw, and provided, further, that nothing herein shall be construed as prohibiting the enforcement of any of the foregoing sections pursuant to Chapter 1, Article I, § 1-2, of the General Bylaws and the provisions of MGL c. 40, § 21D.

ARTICLE II
Parking Restrictions
[Adopted as Art. 10, § 32, of the Town Bylaws]

§ 248-7. Blocking emergency access prohibited.

It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus, fire equipment, ambulance service or police cruisers to any multiple-family building, stores, shopping centers, schools and places of public assembly.

§ 248-8. Public safety lanes.

It shall be unlawful to obstruct or park a vehicle in any public safety lane, such public safety lanes to be designated by the Chief of the Fire Department and the Chief of Police and posted as such. Said public safety lanes shall be a distance of 12 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and locations shall be established by the Chief of the Fire Department and the Chief of the Police Department.

§ 248-9. Removal of vehicles in violation.

Any object or vehicle obstructing or blocking any public safety lane or private way may be removed or towed by the Town under the direction of a police officer at the expense of the owner and without liability on the part of either the Town or its Chief of Police or his designee; provided that in the case of the removal of a vehicle, such removal shall take place only after there has been compliance with the provisions of MGL c. 266, § 120D, as the same may hereafter be amended.

§ 248-10. Signs and markings.

The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in § 248-8 of this article. Said signs shall be no less than 12 inches by 18 inches and shall read "Public Safety Lane - No Parking-Tow Zone."

§ 248-11. Violations and penalties.

Any person violating any of the provisions of this bylaw shall be punished by a fine, established under the provisions of MGL c. 90, § 20A 1/2, $50 if paid to the Town's Parking Clerk within 21 days, $55 if paid thereafter but before the Parking Clerk reports to the Registrar of Motor Vehicles as provided in MGL c. 90, § 20A 1/2, and $75 if paid thereafter.

Chapter 254

WATER

§ 254-1. Penalties for violating emergency water use restrictions.

Any person who violates a restriction or restraint upon the uses of water on private premises, imposed in accordance with MGL c. 40, § 41A, as amended, by the Select Board, acting as the Board of Water Commissioners, shall be punished by a fine of $25 for the first offense, $50 for the second offense, $100 for the third offense, and $200 for each subsequent offense. Each day that such violation continues shall constitute a separate offense.

Chapter 258

WEAPONS AND EXPLOSIVES

§ 258-1. Fireworks.

No person shall set fire to any materials known as "fireworks" or combustible matter, or throw any such lighted fireworks in any of the public ways or streets of the Town, except on such occasions and of such character and kind as the Select Board may by public notice permit; provided, however, that this section shall not apply to any person in the exercise of a duty required or justified by law.

§ 258-2. Firearms.

A. Except as herein provided, no person shall fire or discharge any firearms, rifles, guns, fowling pieces, pistols, or shotguns of any caliber or gauge anywhere within the limits of the Town unless issued a permit to do so by the Chief of Police or his authorized designees, except when the person is discharging a firearm, rifle, gun, fowling piece, pistol, or shotgun on his own property. No permit shall be issued allowing the firing or discharging of a firearm, rifle, gun, fowling piece, pistol, or shotgun within the limits of any private property unless the applicant first obtains the written permission of the property owner or authorized designee.

B. The provisions of this section shall not apply to any law enforcement officer acting in the performance of his duty, nor the use of a firearm, rifle, gun, fowling piece, pistol, or shotgun in the lawful defense of life or property, or in any military exercise or at any established firing range of a fish and game or sportsmen's club.

Chapter 262

WETLANDS PROTECTION

GENERAL REFERENCES

Earth removal — See Ch. 141.	**Zoning — See Ch. 275.**
Groundwater protection — See Ch. 160.	**Subdivision regulations — See Ch. 340.**

§ 262-1. Purpose and intent.

The purpose of this bylaw is to preserve and protect the wetlands, rivers, streams, ponds, lakes, vernal pools, water resources, flood-prone areas, and adjoining upland areas of the Town of Sharon by regulating and controlling activities deemed to have significant or cumulative effect upon the functions and characteristics of such wetlands, rivers, streams, ponds, lakes, vernal pools, water resources, flood-prone areas, and adjoining upland areas. Such functions and characteristics shall include, but are not limited to, the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, protection of wetlands, rivers, streams, ponds, lakes, vernal pools, water resources, and other bodies of water, prevention and control of pollution, water quality, and protection of fisheries, shellfish, wildlife habitat, rare species habitat, including rare plant and animal species, agriculture, scenic vistas, recreation and aesthetics (collectively, the "resource area values protected by the bylaw"). This bylaw is intended to utilize the Home Rule authority of the Town of Sharon to protect the resource areas under the Wetland Protection Act (WPA), MGL c. 131, § 40, to protect additional resource areas beyond the WPA recognized by the Town as significant, and to impose in local regulations and permits additional standards and procedures stricter than those of the WPA and regulations thereunder, 310 CMR 10.00.

§ 262-2. Definitions.

ALTER — Includes, without limitation, the following actions when undertaken to, upon, within or affecting resource areas protected by the bylaw:

A. Removal, excavation or dredging of soil, mulch, humus, sand, gravel, or aggregate materials of any kind;

B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;

C. Drainage or other disturbance of water level or water table;

D. Dumping, discharging or filling with any material which may degrade water quality, alter elevation or interfere with the functioning of wetland, floodplains, bank or bodies of water;

E. Driving of piles or erection, expansion or repair of buildings or structures of any kind;

F. Placing of obstructions or objects in a body of water, whether or not they interfere with the flow of water;

G. Destruction of plant life, including cutting or trimming of trees and shrubs. Plant life shall include those species specified in the Wetlands Protection Act, MGL c. 131, § 40, and the plant life that is significant to physical stability of the bank, flood control, storm damage prevention, prevention of pollution and/or protection of fisheries and wildlife habitat;

H. Changing of water temperature, biochemical oxygen demand (BOD), or other physical, biological or chemical characteristics of any ground- or surface waters;

I. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;

J. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by the bylaw.

APPLICANT — Any person making a filing, or on whose behalf a filing is submitted.

AQUIFER RECHARGE AREAS — Those areas composed of permeable stratified sand and gravel and certain wetlands that collect precipitation or surface water and then carry it to aquifers.

AREA SUBJECT TO PROTECTION UNDER THE BYLAW — Those areas defined in the Massachusetts Wetlands Protection Act or § 262-3 of the bylaw. It is used synonymously with "resource area."

AREAS OF CRITICAL ENVIRONMENTAL CONCERN — Those critical areas and resources designated by the Commonwealth of Massachusetts for the purpose of long-term preservation, management and use or stewardship under authority granted by MGL c. 21A, § 2(7), and the regulations promulgated thereunder (codified at 301 CMR 12.00).

BANK — An area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BEACH — A naturally occurring shoreline with an unvegetated bank.

BEST AVAILABLE MEANS — The most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available. "Best available" shall not be defined by economics.

BEST PRACTICAL MEASURES — State-of-the-art technologies, designs, measures or engineering practices that are in general use to protect similar interests.

BORDERING VEGETATED WETLANDS (BVW) — Bordering vegetated wetlands are freshwater wetlands. These are resource areas where groundwater discharges to the surface and where, under some circumstances, surface water discharges to the groundwater. Vegetated/freshwater wetlands are likely to be significant to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, to the protection of fisheries, to the protection of shellfish, and wildlife. The physical characteristics of vegetated wetlands are critical to the protection of interests specified in MGL c. 131, § 40. Types of freshwater wetlands are wet meadows, marshes, swamps, and bogs. They are areas where the topography

is low and flat, and where the soils are annually saturated. Said resource area shall be protected, whether or not they border surface waters.

BOUNDARY — The limits of an area subject to protection under the bylaw.

BROOK — Considered the same as "stream."

BUFFER ZONE — The land within 100 feet horizontally landward from the perimeter or outer border of any resource area, as defined in this bylaw and the Commission's rules and regulations.

CERTIFICATE OF COMPLIANCE — A written determination in recordable form by the Commission that work, or a portion thereof, has been completed in accordance with the issued order of conditions.

COMMISSION — The Conservation Commission of the Town of Sharon, a lawfully constituted agency established pursuant to MGL c. 40, § 8C, to regulate and control activities governed by this bylaw.

CONDITIONS — Those requirements set forth in an order of conditions issued by the Commission for the purpose of permitting, regulating or prohibiting any activity that removes, fills, dredges or alters and has an impact or cumulative effect upon a resource area.

CREEK — The same as "stream."

DATE OF ISSUANCE — The date any document issued by the Commission (including, but not limited to, an order of conditions, a determination of applicability, or an enforcement order) is mailed, as evidenced by a postmark, or the date it is hand delivered and receipted to an applicant, or the applicant's agent.

DATE OF RECEIPT — The date of actual delivery to an office, home address or usual place of business by mail or hand delivery.

DETERMINATION OF APPLICABILITY — A written finding, following a public hearing by the Commission, as to whether a site or the work proposed thereon is subject to the jurisdiction of the bylaw. A finding will be one of the following:

A. Positive determination: a written finding that an area on which the proposed work is to be done, or the activity thereon, will cause a significant impact to one or more of the interests protected by the bylaw.

B. Negative determination: a written finding that an area on which proposed work is to be done, or the activity thereon, will not cause a significant impact to any of the interests protected under the bylaw.

C. Negative determination with conditions: a written finding that the work proposed on the area allowed under the conditions prescribed by the Commission will not cause a significant impact to any of the interests protected by the bylaw.

ENFORCEMENT ORDER/VIOLATION NOTICE — Issued to any owner, applicant or agent in the event of a violation of this bylaw, the Massachusetts Wetlands Protection Act or any order issued thereunder.

EXTENDED DROUGHT — Any period of four or more months during which the average rainfall for each month is 50% or less of the ten-year average for that same month.

FILING — Any filing made under the Massachusetts Wetlands Protection Act or the bylaw to the Commission, including, but not limited to, a request for determination of applicability, notice of intent, abbreviated notice of intent or abbreviated notice of resource area delineation.

FLOOD CONTROL — Preventing or reducing flooding and flood damage.

FRESHWATER WETLANDS — Vegetated wetlands, and consist of any area of at least 2,000 square feet where surface water and/or groundwater, or ice at or near the surface of the ground, supports a plant community dominated (at least 50%) by wetland species and/or exhibits other evidence of hydrology. They are otherwise defined in MGL c. 131, § 40.

GROUNDWATER PROTECTION DISTRICT — Area designated to protect, preserve, and maintain the existing and potential groundwater supply and groundwater recharge areas; to preserve and protect current and potential sources of water supply for public health and safety; and to conserve the natural resources of the Town and to prevent environmental pollution.

GROUNDWATER SUPPLY — Water below the earth's surface in the zone of saturation.

INTERESTS PROTECTED BY THE BYLAW — Those interests specified in § 262-1 of the bylaw.

INVASIVE PLANT AND ANIMAL SPECIES — Species not native to the resource area whose presence threatens the integrity of natural communities and the survival of indigenous plant and animal species.

ISOLATED LAND SUBJECT TO FLOODING — An isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water to a volume of 1/4 acre-feet and to an average depth of at least six inches. The area may be underlain by pervious material which in turn may be covered by a mat of organic peat or muck.

ISOLATED WETLAND — An area of at least 2,000 square feet, where surface and/or groundwater, or ice at or near the surface of the ground, supports a plant community dominated (at least 50%) by wetland species and/or exhibits other evidence of hydrology though the area does not border surface waters.

LAKE — Any open body of fresh water with a surface area of 10 acres or more, including, but not limited to, great ponds.

LAND SUBJECT TO FLOODING — An area with low, flat topography adjacent to and inundated by floodwaters rising from creeks, rivers, streams, ponds or lakes. It extends from the banks of these waterways and water bodies; where bordering vegetated wetlands occur, it extends from such wetland.

LAND UNDER WATER BODIES AND WATERWAYS — The bottom of, or land under the surface of, any creek, river, stream, pond or lake.

MARSH — Area where a vegetational community exists in standing water or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all of, the following plants or groups of plants: arums (Aracaea), bladder worts (Ultricularia), bur reeds (Sparganiaceae), button bush (Cephalanthus occidentalis), cattails (Typha),

duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophylic grasses (Poaceae), leatherleaf (Charmaedaphne calyculata), pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Potamogeton), rushes (Juncaeae), smartweeds (Polygonum), sweet gale (Myrica gale), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water starworts (Callitrichaceae), water willow (Decodon verticillatus).

MASSACHUSETTS WETLANDS PROTECTION ACT — MGL c. 131, § 40, and the regulations promulgated thereunder (codified at 310 CMR 10.00).

MASSDEP — The Massachusetts Department of Environmental Protection.

MEAN ANNUAL BOUNDARY — With respect to vernal pools, the highest observed water surface elevation.

MEPA — Massachusetts Environmental Policy Act, MGL c. 30, §§ 61 to 62, and the regulations promulgated thereunder as codified at 310 CMR 11.00.

NOTICE OF INTENT — The written notice filed under the Massachusetts Wetlands Protection Act and/or the bylaw by any applicant intending to remove, fill, dredge, or otherwise alter a resource area.

ORDER — An order of conditions and/or order of resource area delineation, superseding order or final order, issued pursuant to the Massachusetts Wetlands Protection Act and/or the bylaw.

ORDER OF CONDITIONS — The document issued in recordable form by the Commission containing conditions which regulate or prohibit an activity under the Massachusetts Wetlands Protection Act and/or the bylaw.

ORDER OF RESOURCE AREA DELINEATION — The document issued in recordable form by the Commission indicating acceptance of the marked boundaries designating areas subject to protection under the bylaw, as defined herein.

OWNER OF LAND ABUTTING THE ACTIVITY — The owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the federal government or agencies thereunder to the extent subject to Town bylaws, the commonwealth or political subdivisions thereof to the extent subject to Town bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Sharon, and any other legal entity, its legal representatives, agents or assigns.

PLAN — Such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Commission to describe the site, all areas subject to jurisdiction under the Massachusetts Wetlands Protection Act or the bylaw and/or to determine the impact of the proposed work upon the interests identified in the Massachusetts Wetlands Protection Act or the interests protected by the bylaw.

POND — Any open body of fresh water with a surface area observed or recorded within the last 10 years of at least 5,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation or otherwise. Ponds shall contain standing water except for periods of extended drought, as defined herein. The following man-made bodies of open water shall not be considered ponds:

A. Basins or lagoons which are part of wastewater treatment plants;

B. Swimming pools or other impervious man-made basins;

C. Individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

PREVENTION OF POLLUTION — The prevention or reduction of contamination of soils and/or surface water or groundwater.

PRIVATE WATER SUPPLY — Any source or volume of surface or groundwater demonstrated to be in any private use or shown to have potential for private use.

PROTECTION OF FISHERIES — To prevent or reduce contamination or damage to fish and to protect their habitat and nutrient sources.

PROTECTION OF WILDLIFE — The protection of any plant or animal species listed as endangered, threatened or of special concern, or on the Watch List by Mass Wildlife's Natural Heritage and Endangered Species Program; listed as federally endangered or federally threatened by the U.S. Fish and Wildlife Service; deemed locally threatened, in writing, by the Commission; and the protection of the ability of any resource area to provide food, breeding habitat, or escape cover for species falling within the definition of "wildlife."

PUBLIC WATER SUPPLY — Any source or volume of surface or groundwater demonstrated to be in public use, or approved for water supply pursuant to MGL c. 111, § 160, by MassDEP, or shown to have a potential for public use.

QUORUM — More than half of the filled seats on the Commission.

RARE SPECIES — Includes, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

REQUEST FOR DETERMINATION OF APPLICABILITY — A written request on the proper form made by any person, to the Commission, for a determination as to whether a site or work thereon is subject to the bylaw.

RESOURCE AREA — Those areas defined in the Massachusetts Wetlands Protection Act or § 262-3 of the bylaw. "Resource area" is used synonymously with "area subject to protection under the bylaw."

RIVER — A natural flowing body of water that empties into any lake, pond, ocean or other river and which flows throughout the year, including but not limited to the following: Beaver Brook, Billings Brook, Canoe River, Little Canoe River, Devil's Brook, Massapoag Brook, Puffer Brook, School Meadow Brook, Spring Meadow Brook, Sucker Brook, Traphole Brook, in their entirety throughout the Town of Sharon.

RIVERFRONT AREA — As defined in the MGL c. 131, § 40.

STORM DAMAGE PREVENTION — The prevention of damage caused by water from storms, including, but not limited to, erosion and sedimentation, damage to vegetation, property, or buildings, or damage caused by flooding, waterborne debris or waterborne ice.

STREAM — A body of running water, including brooks and creeks, which move in a

definite channel in the ground due to hydraulic gradient. A stream may flow through a culvert or beneath a bridge. A body of running water which does not flow throughout the year is termed an "intermittent stream."

VEGETATED WETLANDS — See "freshwater wetlands."

VERNAL POOL — Includes, in addition to scientific definitions found in the regulations under the Massachusetts Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which at last in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing and other important wildlife habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been mapped and/or certified by the Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high water line defining the depression.

WET MEADOW — Area where groundwater is at the surface for a significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges, and rushes; made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (Iris), vervain (Verbena), thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwigia), hydrophilic grasses (Poaceae), loosestrife (Lythrum), marsh fern (Dryopteris thelypteris), rushes (Juncaceae), sedges (Cyperaceae), sensitive fern (Onoclea sensibilis), smartweed (Polygonum).

WILDLIFE — Living things and especially mammals, birds, reptiles, amphibians and fish, as well as invertebrates, which are neither human nor domesticated, and living in their natural environment.

The Commission may adopt definitions, not inconsistent with this § 262-2, in its regulations promulgated pursuant to § 262-11 of this bylaw.

§ 262-3. Jurisdiction.

A. No person shall remove, fill, dredge, build upon, or alter any bank, freshwater wetland, vernal pool, beach, flat, marsh, wet meadow, bog, swamp, or lands bordering on any creek, river, stream, lands adjoining these resource areas out to a distance of 200 feet, known as the "riverfront area," or any pond, lake, or any land under said waters, or any land subject to storm flowage, or flooding, or inundation by groundwater or surface water, or lands adjoining these resource areas out to a distance of 100 feet, known as the "buffer zone," without filing written notice of the intention to do so with the Commission in accordance with the provisions set forth in this bylaw and without receiving and complying with the order of conditions issued by the Commission and provided all appeal periods have elapsed, unless the Commission shall have determined that this bylaw does not apply to the activity proposed.

B. The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the commonwealth governing agriculture including work performed for normal maintenance or

improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetland Protection Act Regulations at 310 CMR 10.04.

§ 262-4. Exemptions and exceptions.

A. This bylaw shall accommodate emergency projects in the following manner:

(1) Emergency projects necessary for the protection of the health or safety of the residents of Sharon which are to be performed, provided that the work is to be performed by, or has been ordered to be performed by, an agency of the commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

B. The following activities are exempt under this bylaw:

(1) Maintenance, repair, replacement, without substantial change or enlargement, or existing and lawfully located structures or facilities used in the service of the public and used to provide electric, gas, water, sewerage, drainage, railroad transportation, telephone, telegraph and other telecommunication services to the public, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

(2) Normal maintenance or improvement of land in agricultural use. The Commission shall determine whether the requirements of the bylaw apply to activities proposed that may change land in agricultural use and affect the interests protected by this bylaw.

(3) Routine maintenance and repair of existing public ways.

(4) Normal maintenance, repair, replacement of any existing betterment to private, owner-occupied property, including, but not limited to, existing fences, decks, patios, hedges, docks, boat moorings, trees, shrubs, lawns, gardens, mailboxes, retaining walls or lampposts, as long as the resource areas protected by this bylaw are unaffected.

§ 262-5. Applications and fees.

A. Any person who desires a determination as to whether this bylaw applies to an area, or to any activity proposed thereon, shall submit a written request for determination of applicability to the Commission, signed by the owner of the area, or the

applicants, if such applicant believes an owner to be acting improperly on an area, on a form obtainable from the Commission, together with plans showing the existing characteristics of the area and the nature and extent of the activities to be performed thereon. The information submitted shall also include lot lines, Town ways, the location of all wetlands, vernal pools, floodplains, watercourses, and buffer zones, existing buildings, and all changes proposed, and such other information as the Commission may require by regulation.

B. Any person requesting a hearing before the Commission shall be required to make a minimum payment of $50 per hearing, said amount payable to the Town of Sharon which in turn will be placed in the advertising fund for the purpose of payment of the advertisement of the hearing notice and any other associated costs. The Commission shall hold a public hearing on the activity within 21 days of receiving such completed notice of intent. Notice of the time and place of such hearing shall be given by the Commission, at the expense of the applicant, not less than five days prior to the public hearing, by publication in a newspaper of general circulation in Sharon, and by mailing a notice by certified mail to the applicant, and the owner, if a person other than the applicant, and to the Sharon Board of health and the Sharon Planning Board. All publications and notices shall contain the name of the applicant, a description of the area where the activity is proposed, by street address, if any, or other adequate identification of the location of the area or premises which is the subject of the notice, date, time and place of the public hearing, the subject matter of the hearing, and the nature of the action, or relief requested, if any. Such hearing may be held at the same time and place as any public hearing required to be held under MGL c. 131, § 40, or otherwise. If the Commission determines that additional information is necessary, the hearing may be continued to a future date for as many hearings as may be deemed necessary by the Commission.

C. Any person filing a permit or other application or other request with the Commission shall give written notice thereof, by certified mail (return receipt requested) to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and any abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

(1) The request for determination of applicability shall be delivered to the Commission by certified mail (return receipt requested), together with a certification that all abutters to the area subject to determination, and the owner, if not the person making the request, have been sent notice that a determination is being requested hereunder, and to such other persons as the

Commission may require by regulation. In order to comply with the provisions of this bylaw, each application must be complete, as filed, and must comply with the rules set forth herein. The commission, in its discretion, may hear any oral presentation under this bylaw at the same public hearing to be held under the provisions of MGL c. 131, § 40.

(2) Notice of the time and place of such hearing shall be given by the Commission, at the expense of the applicant, not less than five days prior to the public hearing, by publication in a newspaper of general circulation in Sharon and by mailing a notice by certified mail (return receipt requested), to the applicant, or owner, if a person other than the applicant. All publications and notices shall contain the name of the applicant, a description of the area where the activity is proposed by street address, if any, or any other adequate identification of the location of the area or premises which is the subject of the notice, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of the action or relief requested, if any.

D. The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plan filed under the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

E. At the time of an application, the applicant shall pay the filing fees as specified in the Commission's rules and regulations. The fee is in addition to that required by the Massachusetts Wetlands Protection Act and regulations.

F. Pursuant to MGL c. 44, § 53G, and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants, including engineers, wetland scientists, wildlife biologists, or other experts in order to aid in review of proposed projects. This fee is called the "consultant fee." The specified consultant services may include, but are not limited to, performing or verifying the accuracy or resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeological and drainage analysis; and researching environmental or land use law. The exercise of discretion by the Commission in making its determination to require payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws. Such funds shall be deposited with the Town Treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

(1) Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant,

the amount of fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five business days of the date notice is given without incurring any costs or expenses.

(2) The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within 10 business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and MassDEP of such a decision in writing.

G. Fees are payable by cash or check to the Town of Sharon at the time of request or filing, and are not refundable. Town, county, state or federal projects are exempt from fees. The Commission, upon a majority vote, may waive fees in the event of hardship or other cause.

§ 262-6. Procedures.

Unless the Commission determined that this bylaw does not apply to such activity pursuant to the provisions of this bylaw, every person who wishes to remove, fill, dredge, or alter any wetland, vernal pool, floodplain, or buffer zone shall first file a written notice of intent (NOI) with the Commission, signed by the owner of the area, or his/her legally authorized representative, on a form available from the Commission, together with a list of the names and addresses of all abutters to the area subject to such notice, and with such notice, such plans and additional information as the Commission may deem necessary, by regulation, or otherwise, to describe the nature of the activity proposed and its effect on the wetlands, floodplains and buffer zones. The NOI shall be delivered to the Commission by hand, or by certified mail (return receipt requested) together with a certification that all abutters to the area subject to the NOI, and the owner, if the person making the application is other than the owner, have been sent notice that a NOI has been filed hereunder, and to such other persons as the Commission may, by regulation, determine. The plans shall show the location of the wetland boundaries and shall be at such scale as the Commission may deem necessary, by regulation, or otherwise. All drawings and plans should be stamped, signed and dated by such registered professional as the Commission may require, by regulation, or otherwise. In addition, the NOI, with its plans, will show lot lines, Town ways, the names of all abutters, the location of all the wetland areas, vernal pools, floodplains, watercourses, and buffer zones, pertinent physical features of the land, existing buildings, and all changes proposed to be made. In order to comply with the provisions of this bylaw, each notice must be complete, as filed and comply with the rules set forth herein. No such notice shall be accepted as complete before all permits, variances, and approvals required by the bylaw of the Town of Sharon with respect to the proposed activity, which are obtainable at the time of such notice, have been obtained, or if not obtainable at that time, have been applied for, as provided in MGL c. 131, § 40.

A. Burden of proof. The applicant shall have the burden of proving, by a preponderance of the credible evidence, that the activity proposed in the NOI will not negatively impact the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be

significant cause for the Commission to deny a permit or grant a permit with conditions as the Commission deems reasonable, necessary, or desirable to carry out the purposes of this bylaw, or to postpone or continue the hearing to another date certain to enable the applicant and others to present additional evidence, upon such terms and conditions as seems to the Commission to be just.

B. The Commission, in its sole discretion, may hear any oral presentation under this bylaw by any interested or aggrieved party, at the same public hearing required for any permit application under the Massachusetts Wetlands Protection Act. Notice of the time and place of such hearing shall be given by the Commission, at the expense of the applicant, not less than five days prior to the public hearing, by publication in a newspaper of general circulation in Sharon and by mailing a notice by certified mail (return receipt requested) to the applicant, or owner, if a person other than the applicant. All publications and notices shall contain the name of the applicant, a description of the area where the activity is proposed by street address, if any, or any other adequate identification of the location of the area or premises which is the subject of the notice, the date, the time, and place of the public hearing, the subject matter of the hearing, and the nature of the action, or relief requested, if any.

C. If, after the hearing, the Commission determines that the proposed activity impacts the resource areas protected by this bylaw, the Commission may, by written order issued within 21 days after the close of such hearing, impose such conditions, safeguards, and limitations on time and use upon such activity as it deems necessary to protect those interests; but the Commission may prohibit such activity altogether, in the event that it finds that the interests of this bylaw cannot be preserved and protected by the imposition of such conditions, safeguards, or limitations. Due consideration shall be given to possible effects of the proposal on all resource area values to be protected under this bylaw and to any demonstrated hardship on the applicant by reason of a denial, as brought forth at the public hearing. If the Commission shall determine that the activity proposed does not require the imposition of conditions to preserve and protect the interests of this bylaw, the applicant shall be notified in writing. No condition shall be imposed, nor any determination rendered, by the Commission, unless the Commission meets with a quorum present.

D. The Commission may, as part of its order of conditions, require, in addition to any security required by any other Town or state board, committee, commission, agency or officer, that the performance and observation of the conditions, safeguards and limitations imposed under this bylaw by the applicant and owner be secured by one, or both, of the methods described in the following clauses:

(1) By a proper bond, deposit of money, or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of certificate of compliance for work performed pursuant to the permit. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by Town Counsel or the town Treasurer; and/or

(2) By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of

record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

E. In the event all activity authorized by the order of conditions is not completed within three years after the date of issuance, the authorization contained therein shall expire, unless the order has been renewed prior to expiration, such renewal being subject to all of the conditions of this bylaw. An order of conditions may be renewed, upon written request of the applicant, for a period of up to three years.

(1) No activity governed by an order of conditions shall be carried on unless, and until, all permits, approvals and variances required by the bylaws of the Town of Sharon shall have been obtained, and unless such order of conditions shall have been recorded or registered at the Norfolk Count Registry of Deeds or in the Norfolk District Land Court Department and until all applicable appeal periods have expired.

(2) The Commission shall have the right to record or register its order of conditions with said registry. In the event that an order of conditions, issued pursuant to this bylaw, is identical to a final order of conditions issued pursuant to the provisions of MGL c. 131, § 40, only one such order need be recorded or registered.

§ 262-7. Certificate of compliance.

The Commission shall, upon receiving a written request therefor, inspect the resource areas where the activity governed by an order of conditions was carried out, and issue a certificate of compliance to the owner of the property in a form suitable for recording, or registering, if the Commission shall determine that all of the activity, or activities, or portions thereof, limited thereby, have been completed in accord with said order. The written request for a certificate of compliance shall be accompanied by evidence of the prior recording, or registering, of the governing order of conditions.

§ 262-8. Pre-acquisition violation.

Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this bylaw, or in violation of any order of conditions issued under this bylaw, shall forthwith comply with any such order, or restore the land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such a person, unless such action is commenced within three years following the recording of the deed, or the date of the death by which such real estate was acquired by such person.

§ 262-9. Right of entry.

Any applicant who is an owner, or any applicant legally authorized to represent the owner, who requests the Commission to evaluate a written notice of intent, request for determination, or abbreviated notice of resource area delineation gives the Commission, and its agents, the right of entry to the owner's property for the purpose of evaluating the information provided in the filing.

§ 262-10. Enforcement; violations and penalties.

In accordance with the provisions of MGL c. 40, § 21D, as well as every other authority and power that may have been, or may hereafter be conferred upon it, the Town of Sharon may enforce the provisions of this bylaw, restrain violations thereof, and seek injunctions and judgments to secure compliance with its order of conditions. Without limiting the generality of the foregoing:

A. No person shall remove, fill, dredge, build upon, degrade or otherwise alter a resource area protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

B. Any person who violates any provision of this bylaw, or any condition or permit issued pursuant it, shall be punished by a fine pursuant to MGL c. 40, § 21, and pursuant to the Town of Sharon bylaws, Chapter 1, Article I. Each day, or portion thereof, during which a violation continues shall constitute a separate offense. This bylaw may be enforced pursuant to MGL c. 40, § 21D, by a Town of Sharon police officer, or other officer having police powers.

C. In the event of a violation of this bylaw, or of any order issued thereunder, the Commission or its agents may issue a stop order to the owner, the applicant, or their agent, by certified mail (return receipt requested) or by posting the same in a conspicuous location on the site affected. Any person who shall violate the provisions of a stop order shall be deemed in violation of the bylaw; but the failure of the Commission to issue a stop order, for any reason, shall not prevent the Town of Sharon from pursuing any other legal remedy at law, or in equity, to restrain violations of this bylaw and to secure compliance with its orders.

D. The Town of Sharon shall be the beneficiary of all fines imposed on account of the violation of this bylaw in order to defray the expense of enforcing the same.

E. Upon the request of the Commission, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this bylaw and permits issued pursuant to it.

F. Upon the recommendation of the Commission, the Select Board may employ special counsel to assist the Commission in carrying out the legal aspects, duties, and requirements of this bylaw.

G. As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the noncriminal disposition procedure set forth in MGL c. 40, § 21D, which has been adopted by the Town in Chapter 1, Article I, of the General Bylaws.

§ 262-11. Regulations.

After notice and public hearing the Commission may promulgate rules and regulations to affect the purpose of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the

effect of this bylaw.

§ 262-12. Coordination with other boards.

Any person filing a permit application, request for determination of applicability, or abbreviated notice of resource area delineation with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested), or hand delivery, to the Select Board, Planning Board, Board of Appeals, Board of Health, Town Engineer, and Building Inspector. A copy shall be provided in the same manner to the Commission of the adjoining municipality, if the application or request for determination of applicability pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from the receipt of the notice to file written comments and recommendations with the Commission, which the Commission shall take into account, but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and respond to them at a hearing of the Commission, prior to final action.

§ 262-13. Relationship of this bylaw to Massachusetts General Laws.

This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas and interests with standards and procedures stricter than those pursuant to the Wetlands Protection Act, MGL c. 131, § 40, and the regulations thereunder, 310 CMR 10.00.

§ 262-14. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any order of conditions which previously have become final.

Chapter 275

ZONING

GENERAL REFERENCES

Earth removal — See Ch. 141.

Groundwater protection — See Ch. 160.

Hazardous materials — See Ch. 170.

Historic preservation — See Ch. 174.

Signs — See Ch. 221.

Stormwater management — See Ch. 230.

Wetlands protection — See Ch. 262.

Board of Health regulations — See Ch. 300.

Subdivision regulations — See Ch. 340.

ARTICLE I
Purpose And Authority

SECTION 1100.
Purpose and Authority

It shall be the purpose of 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, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, 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, under the authority of MGL c. 40A and Article 89 of the Amendments to the Constitution.

ARTICLE II
District Regulations

SECTION 2100.
Establishment of Districts

2110. Districts.

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

Rural 1 Districts
Rural 2 Districts
Suburban 1 Districts
Suburban 2 Districts
Single Residence A Districts
Single Residence B Districts
General Residence Districts
Housing Authority Districts
Business Districts A
Business Districts B
Business Districts C
Business Districts D
Light Industrial Districts
Professional Districts A
Professional Districts B

Overlay Districts:
Flood Hazard Districts
Water Resource Protection Districts
Senior Living Overlay District (Senior Living District)
Historic Districts
Sharon Commons Smart Growth Overlay District (SCSGOD)
Wastewater Overlay District

2120. Zoning Map.

a. 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 6, 2013, 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

Subsection 2130.

b. Flood Hazard Districts are defined as an overlay district. The district 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.

2130. District boundaries.

The location of the boundary lines of the map referred to in Subsection 2120 shall be determined as follows:

2131. Where the boundary lines are within the lines of streets or ways, the centerlines of such streets or ways shall constitute the boundary lines.

2132. 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.

2133. 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.

2134. 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.

2140. Divided lots.

2141. 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:

a. 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.

b. 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.

2142. Municipal boundary. If the Town line divides a lot, this bylaw shall be applied as if the entire lot were situated within Sharon.

SECTION 2200.
Use Regulations

2210. Application.

2211. Authorization. No premises shall be used except as provided in Section 2300, District Use Regulations, 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 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.

2212. Special permits. Uses authorized by special permit shall, where appropriate, be made subject to conditions, limitations and safeguards as provided in Subsection 6310. Such conditions, limitations and safeguards shall be in writing and made part of the special permit by the special permit granting authority.

2213. Site plan approval in certain business districts. New construction, additions, exterior alterations or changes of use in Business Districts A, B, C and D require site plan approval as provided in Subsections 6320 and 6330. In addition, the aforesaid activities may also require site plan approval pursuant to Subsection 6323c.

2220. 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.

SECTION 2300.
District Use Regulations

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.

c. 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 and subject to the following conditions:

(1) Age of principal inhabitant of each dwelling unit is not less than 60 years.

(2) Occupancy is limited to individuals or families of low income with rentals based on income in accordance with the regulations issued by the commonwealth or federal agency subsidizing the operation.

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.

c. 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.

c. In the Rural 2 District only, indoor/outdoor recreation facilities 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 Subsection c.

d. In all residential districts under this Subsection 2310, commercial solar energy systems 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 Subsection d. Solar energy systems permitted under this subsection shall be exempt from lot coverage, natural vegetation and impervious surface requirements as defined in Section 2400 and Section 4500 of this bylaw. **[Added 5-7-2018 ATM by Art. 20]**

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.

c. 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.

c. 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.

(4) In the Water Resource Protection District, home offices and occupations allowed or allowed on special permit in General Residence, Single Residence, Suburban, Rural and Housing Authority Districts, provided that the dwelling plus the office or business will not produce an estimated volume of sanitary sewage exceeding 4.5 gallons per 1,000 square feet of lot area per day, as estimated under the provisions of 310 CMR 15:00, Title V of the State Environmental Code.

(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.

2316. Restrictions. All uses allowed under Subsections 2314 and 2315 are subject to the

following restrictions:

a. The business or profession must be owned and operated by a person residing on the premises.

b. The business or profession shall occupy no more than 25% of the habitable floor area of the dwelling combined with the habitable floor area of any accessory building used in the business or profession.

c. Off-street parking requirements of Section 3100 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 Subsection 3117.

d. There shall be no building alteration resulting in a nonresidential character, or visible parking of commercial vehicles.

e. No parking and no impervious surfaces other than walks and driveways shall be located within a required front yard setback.

f. There shall be no sale of articles produced elsewhere than on the premises.

g. 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.

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.

c. 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 (1) the total of all buildings on a lot does not exceed 60,000 square feet of gross floor

area in Business Districts B and C, 5,000 square feet of gross floor area in Business District A, and the building floor area limits established for Business District D, (2) the total number of required (prior to any reductions under Subsection 3111) off-street parking spaces does not exceed 150 in Business Districts B and C and 20 spaces in Business District A, and (3) uses in Business District D comply with the requirements of Subsections 2327, 2328, and 2329. 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.

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

b. Retail stores.

c. 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:

   (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.

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.

j. In Business District A and Business District B only, cleaners, laundries, laundromats, including processing on the premises, provided all such work is done directly for the consumer visiting those premises.

k. In Business District D, the following: **[Amended 11-6-2017 STM by Art. 2]**

   (1) Multiple freestanding buildings on a single lot accommodating multiple principal uses permitted under Subsections 2322, 2323, 2325, and 2326, provided that they comply with the objectives and requirements of Business District D as set forth in Subsection 2327 and with the limitations of Subsection 2466.

(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:

(1) The purpose of this requirement is to make housing available that is affordable to low- and moderate-income households. At minimum, affordable housing provided shall 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) Definition applicable to Business District D:

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 MGL c. 40B. Units must be approved through the local action unit (LAU) program of the Massachusetts Department of Housing and Community Development.

(3) All units provided to satisfy this requirement must be eligible for inclusion in the Massachusetts Department of Housing and Community

Development's Subsidized Housing Inventory (SHI), and their 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. 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. 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. The minimum number of units of affordable housing provided shall be 12 1/2% of the total number of on-site dwelling units with any fractional unit deemed to constitute a whole unit. The number of units of affordable housing as provided herein may not be waived.

(4) Certificates of occupancy 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:

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

(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.

c. Business District D development.

2325. Permitted accessory uses: such accessory purposes as are customarily incident and subordinate to the foregoing purposes, but not including:

a. In Business Districts A, B, and C, outdoor storage or display of parts, materials or inventory.

b. 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.

c. Drive-through services serving the customer while seated in a car, except for

drive-through services authorized by special permit in Subsection 2326 below. **[Amended 11-6-2017 STM by Art. 2]**

d. Vending machines, unless placed within a building or a parking lot.

2326. Uses and accessory uses allowed by special permit from the Board of Appeals: **[Amended 11-6-2017 STM by Art. 2]**

a. Buildings with gross floor area exceeding 60,000 square feet in Business Districts B and C, exceeding 135,000 square feet in Business District D, and exceeding 5,000 square feet in Business District A.

b. Parking facilities exceeding 150 parking spaces in Business Districts B and C and 20 parking spaces in Business District A.

c. 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. Business District D design requirements. **[Amended 11-6-2017 STM by Art. 2]**

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

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

c. 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.

d. Buildings shall be energy-efficient and shall incorporate energy-saving devices.

e. 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. These LEED ND strategies are as follows:

(1) Site planning:

(i) 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.

vehicle Miles Travelled

(ii) Compact development. To the extent practicable, the development footprint shall be minimized in site layout and buildings may incorporate second story and mezzanine areas.

(iii) Reduced parking footprint. Site design shall reserve locations for parking fully compliant with Section 3100; however, each site plan application that is seeking a reduced parking footprint shall include a parking management report by a civil professional engineer (PE) 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.

(iv) 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.

(v) 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.

(2) Environmental mitigation:

(i) 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.

(ii) 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.

(iii) Water conservation shall be promoted by precluding use of potable water for irrigation and requiring that irrigation be subject to an irrigation management plan.

(iv) 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.

(3) Access:

(i) 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.

(ii) Bicycle facilities. Bicycle racks and indoor bicycle storage shall be provided as appropriate.

(iii) 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.

(4) Stormwater management:

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

(ii) 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.

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

f. 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. 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. 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" (Subsection 2464c).

g. 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.

h. 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. 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.

i. 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.

j. 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.

k. 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.

l. 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.

2329. Business District D performance standards.

a. Within Business District D, all uses shall comply with the following

performance standards listed herein. All such standards may be waived as part of the site plan review process. Performance standards shall be evaluated for the "build plus five-year case" as defined in Subsection 6327b.

b. 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.[24] 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.

c. 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" as set forth in as defined in Subsection 6327b. 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. 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.

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

e. 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.

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.

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24. Editor's Note: See Ch. 340, Subdivision Regulations.

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.

c. 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.

f. 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. Construction, operation, and/or repair of the above uses shall be subject to the following requirements: **[Added 5-1-2017 ATM by Art. 24]**

(1) As-of-right siting. Large-scale ground-mounted solar photovoltaic installations shall be subject to as-of-right site plan review pursuant to Section 6320 and shall not be subject to special permit, variance, amendment, waiver, or other discretionary approval.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

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.

a. 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;

b. 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. 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 Board of

Appeals for parking facilities approved by special permit for occasional event parking;

c. 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;

d. 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. 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 Board of Appeals for parking facilities approved by special permit for occasional event parking.

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;[25]

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

2347. Professional District B design requirements. Design requirements for buildings other than residence for a single family:

a. Site design.

(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

25. **Editor's Note: See Ch. 221, Signs.**

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.

b. Standards.

(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.

(4) Utilities shall be installed underground.

c. Stormwater management.

(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 (MGL 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.

d. 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 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.

e. 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.

SECTION 2400.
Dimensional Regulations

2410. General regulations.

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.

2412. Lot shape, width and frontage.

Purpose: It shall be the purpose of these regulations to prevent the subdivision of properties into irregularly shaped lots which undermine the intent of the Zoning 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.

a. 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.

b. 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.

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

d. 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.

e. 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.

f. In any residential district, the minimum frontage and the minimum lot width may be reduced to 25 feet, and the requirement in Subsection 2412d 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:

(i) In Single Residence A and Suburban 1 Districts by 125 feet additional;

(ii) In Single Residence B and General Residence Districts by 75 feet additional;

(iii) In Rural 1 and Suburban 2 Districts by 150 feet additional; and

(iv) 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.

g. 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.

h. The regulations contained within Subsection 2412 shall not apply to Business District A, unless the property contains a single- or two-family dwelling.

2413. Building locations. Building location requirements apply to projections such as enclosed porches and overhanging 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.

2414. 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.

2415. 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.

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. Each four persons accommodated in a hospital, nursing home, camp, dormitory or other group living arrangement shall be considered equivalent to a dwelling unit in determining required lot area.

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) From other streets: 50 feet to street sideline, 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:

(1) From streets constructed or maintained wholly or in part by state funds under MGL c. 90: 40 feet from the street sideline, 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 Board of Appeals may grant a special permit (see Subsection 6310) 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.

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:

(1) From streets constructed or maintained wholly or in part by state funds under MGL c. 90: 40 feet from the street sideline, or, if more restrictive, 70 feet from the street centerline.

(2) From other streets: 30 feet from street sideline, or, if more restrictive, 50 feet from street centerline. The Board of Appeals may grant a special permit (see Subsection 6310) for a smaller setback on a corner lot having a lot area of less than 8,000 square feet at the time this bylaw was adopted.

b. Minimum setback from side or rear lot lines:

(1) Residential buildings: 20 feet.

(2) Other buildings: 10 feet.

(3) Two single-family residences may be constructed with a common party wall so as to form a double house, whether situated on a single lot or on two contiguous lots.

c. 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.

d. 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 and 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) Residential Units: 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 Subsection 2323, Permitted commercial uses, and in certain uses as set forth in paragraphs a, d, h, l(3), l(4), l(5), l(6), l(7), and l(8) of Subsection 2326 or 225 dwelling units total.

(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. Coverage and open space. For purposes of this Subsection 2464, "open space" shall mean 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. **[Amended 11-6-2017 STM by Art. 2]**

a. Maximum project coverage:

Business District D	30%, excluding freestanding parking decks not within the footprint of any occupied building for Business District D development or for lots not within a Business 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 for a Business District D development or for lots 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	20%

c. 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%

d. Lot coverage and open space variations may be allowed by special permit from the Board of Appeals in Business Districts A and C: Maximum lot coverage may be increased to not more than 85% of total lot area, and minimum landscaped open space coverage may be reduced to not less than 15% of total lot area by special permit from the special permit granting authority. Under this special permit, increased lot coverage shall include buildings and impervious surfaces. In granting a special permit for increased lot coverage or decreased landscaped open space coverage, the special permit granting authority shall determine that the special permit includes the provision of amenities or facilities that provide for the public benefit or convenience. Typical site improvements may be determined to be public benefits or convenience when in compliance with the following:

(1) When street plantings are provided along the entire street frontage for nonresidential uses, except at drives, and except where neither a street setback nor a buffer zone is required. The required plantings should generally be located between the street and the build-to line generally be located between the street and the build-to line.

(2) When curb cuts are consolidated either on a single lot or between abutting lots resulting in better traffic circulation and safety.

(3) When landscaping exceeding the minimum parking lot standards is provided. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns for internal circulation.

(4) When drainage techniques are used in order to promote improved stormwater drainage, such as porous pavement instead of traditional paving materials. Also, landscaped areas may be below grade in order to allow for stormwater retention and infiltration.

(5) When enhanced screening of dumpsters, refuse areas, and loading bays is provided for adjacent streets and properties. Plantings should be supplemented by an opaque fence or wall at least six feet tall.

(6) When a septic system is installed that provides enhanced treatment capability or where the lot is encumbered by easements that facilitate provision of a shared septic system with enhanced treatment capability.

(7) When the building and facade design are compatible with the promotion of architectural elements as described in the Post Office Square Design Guidelines.

(8) When a landscaped area, or small park, preferably including public seating, is located in the front yard setback.

2465. Buffer and landscape requirements.

a. Buffer strips shall be provided alongside any rear lot lines adjacent to lots in

residential districts and shall be densely planted with predominantly evergreen trees and shrubs that are drought-tolerant and require minimal irrigation. Plants shall be selected and planted to provide a continuous year-round screen from ground level to a minimum height at maturity of 40 feet. For buffer strips that are 30 feet or less in width along residential lot lines, the buffer strip shall include a six-foot-high opaque wood fence.

(1) Minimum buffer strip width for lots adjacent to residential districts: 15 feet.

(2) Minimum buffer strip width adjacent to lots with existing residences: 25 feet along lot lines of lots with residential structures existing at the time of building permit issuance.

b. Landscape strips shall be provided along the entire lot frontage between parking areas and the street sideline and shall be planted with drought-tolerant plants, including mulch, turf, ground cover, shrubs, and trees. Pavement is limited to walkways and access drives.

(1) Minimum width of landscape strips: 20 feet along the street sideline.

c. Interior landscaping shall be provided within all at-grade parking lots, which shall be planted with drought-tolerant plants, including mulch, turf, ground cover, shrubs, and trees. A minimum of one shade tree shall be planted for every 20 parking spaces.

(1) Minimum area: 5% of the parking lot surface area.

2466. 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. In 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 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. **[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 Post Road
	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 1-95 are considered as front setbacks as set forth above) and N/A from lots within Business District D
Professional Districts	20 feet from lot lines in any Residence District and 10 feet from all other lot lines

c. 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.

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.

c. 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) Business District D:

(i) 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.

(ii) 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.

2468. Additional requirements for Business District D. **[Amended 11-6-2017 STM by Art. 2]**

a. 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.

b. The maximum permitted gross floor area 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.

c. 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 Board of Appeals pursuant to Subsection 6320.

2469. 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.

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. Multiple buildings: Multiple buildings devoted to the principal and accessory uses set forth in Subsections 2331 through 2334, inclusive, are permitted to be located on a lot.

b. Minimum street setback: 75 feet to the sideline or 100 feet to the centerline of any street or way, except freeways.

c. 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.

d. 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.

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.

ARTICLE III
General Regulations

SECTION 3100.
Off-Street Parking and Loading

3110. Business and Professional District parking requirements.

Off-street parking and loading shall be provided to the following minimum specifications:

3111. Number of parking spaces required.

a. Parking in excess of the minimum standards set forth within this Subsection 3111 shall be at the discretion of 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. The minimum number of parking spaces required shall be as follows: **[Amended 11-6-2017 STM by Art. 2]**

(1) For religious and public educational institutions: one parking space per 600 square feet of gross floor area.

(2) For 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.

(3) For bowling alleys: two parking spaces per bowling alley.

(4) In Business District D:

Hotel	1 parking space per room or suite
Business and Professional Office	4 parking spaces per 1,000 square feet of gross floor area
Residential	1.65 parking spaces per dwelling unit provided that the Zoning Board of Appeals may reduce the number of required parking spaces based upon finding that shared parking is available

(5) For 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.

(6) For all other permitted nonresidential uses in Business Districts B, C and D and the Professional Districts: 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.

(7) For assisted-living residences in Professional District B: two parking spaces for every three units.

(8) For residential uses excluding residential use in Business District D, there shall be one parking space per dwelling unit.

(9) In Business District A, for any place of public assembly that utilizes seasonal outdoor seating, the additional seasonal outdoor space shall be exempt from parking requirements.

b. Where the computation of required spaces results in a fractional number, a fraction of 1/2 or more shall be counted as one.

c. 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 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.

d. In Business District A, multi-level above- or below-grade parking may be allowed, if determined appropriate by the 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.

e. 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 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 Subsection 3112 and the proximity of transit facilities.

f. 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.

g. 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.

3112. 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:

a. 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 Board of Appeals finds that the lot is no longer required by the users thereof.

b. The provisions of paragraph a. 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. **[Added 11-6-2017 STM by Art. 2[26]]**

c. 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 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.

d. 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 Board of Appeals. For Professional District A, accessory off-

26. Editor's Note: This article also redesignated former Subsections b and c as Subsections c and d, respectively.

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 Subsection 3113 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.

3113. Design of parking spaces and aisles.

a. 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 Subsection 3111, Paragraph c.

b. 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:

Angle of Parking	Minimum Aisle Width (feet)
30°	12, one-way
45°	14, one-way
60°	16, one-way
90°	24, two-way

3114. Location and width of curb cuts.

a. 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.

b. Driveways intersecting the street shall be no less than 65 feet on center.

c. 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.

d. For business uses, curb cut and driveway width may be changed as part of site plan review based upon standard engineering practice.

3115. Requirements for off-street loading.

a. There shall be at least one loading bay for any building containing more than 5,000 square feet of gross leasable business floor area.

b. 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.

c. The loading bay shall be so laid out as to minimize parking maneuvers within a street, way or parking aisle.

3116. 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.

3117. Required landscaping.

a. 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.

b. 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.

c. The total landscaped area maintained in lawns, ornamental plantings, or buffer screening shall not equal less than as required in Subsection 2464b and c and Subsection 2465, unless reduced by the Planning Board or Board of Appeals 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.

3120. (Reserved)

3130. Light Industrial District parking requirements.

Off-street parking and loading may be constructed at grade or within structures and shall conform to minimum standards as follows:

3131. Number of parking spaces required.

a. A minimum of four parking spaces shall be provided per 1,000 square feet of gross floor area or part thereof in office, financial, institutional, municipal building and retail use, including accessory uses incidental to the foregoing; and in all other uses not specifically enumerated.

b. A minimum of three parking spaces shall be provided for 1,000 square feet of gross floor area or part thereof in other light industrial use, including incidental

accessory use.

c. A minimum of one parking space shall be provided per 1,000 square feet of gross floor area or part thereof in warehouse use, including incidental accessory use.

3132. Parking design requirements. 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.

3133. Requirements for off-street loading. 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.

3134. Loading design requirements. Loading bays shall measure at least 65 feet long and 12 feet wide.

3140. Other parking requirements.

3141. Dwelling conversion. For dwelling and accessory building conversion allowed in accordance with Subsections 4213 and 4220, 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.

3142. 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.

3143. 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.

3144. 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 Subsections 6320 through 6337.

SECTION 3200.
Sign Regulations

Signs shall be allowed only as provided in the Sharon Sign Bylaw, Chapter 221 of the Sharon General Bylaws.

SECTION 3300.
Environmental Controls

3310. General controls.

No activity shall be carried on in a Business or Industrial District which is:

3311. Injurious, noxious or offensive to a neighborhood by reason of noise, smoke, odor, gas, dust, vibration or similar objectionable feature; or

3312. Dangerous to a neighborhood on account of fire or any other cause.

3320. Wetland setbacks.

Wetlands contribute to the following public interests:

- Protection of current and future drinking water supply
- Protection of groundwater
- Flood control
- Control of erosion and sedimentation
- Storm damage prevention
- Prevention of pollution
- Protection of lakes, ponds, streams and other water bodies
- Protection of wildlife and fisheries habitat

The role that an undisturbed buffer zone plays in the maintenance of viable wetland and water resources is well documented in scientific literature. Protective buffer zones help to preserve the functional benefits of wetlands and water bodies.

3321. Purpose. The purpose of the wetland setbacks is:

a. To prevent incremental and cumulative impacts to the Town's wetlands, floodplains and water bodies, by restricting the level of disturbance adjacent to these resources, thus preserving their beneficial functions;

b. To avoid hazard resulting from reduction of the water retention capacity of the wetlands;

c. To ensure that as much of the protective vegetated buffer as possible remains undisturbed within the wetland setback;

d. To prevent flood and storm damage hazards;

e. To reduce the incidence of unhealthful conditions resulting from development in areas of high water table;

f. To reduce the likelihood of stream and water body eutrophication and the unhealthful results therefrom;

g. To limit the degradation of surface and groundwater systems, including, but not limited to, those that influence the quality of current and potential drinking water supplies;

h. To prevent the degradation of wildlife and fisheries habitat; and

i. To prevent the nutrient and pollutant overloading of the Town's wetland and water resources.

3322. Applicability. Setback regulations shall apply within the following areas: all land within 100 feet of the following resource areas (as defined in MGL c. 131, § 40):

a. The normal high water mark of all ponds and lakes;

b. The top of the banks of all streams;

c. The land between the channels of braided streams; and

d. The edge of bordering vegetated wetlands.

3323. Permitted uses. The following uses, and no others, are permitted within wetland setback areas, and then only if they comply with all other provisions of this and any other applicable bylaw or regulation:

a. The construction and maintenance of a driveway of minimum legal and practical width where alternative means of access from a public way to unrestricted land of the same owner are unavailable; the enlargement to minimum legal and practical width and the maintenance of raised roadways in existence on the date of adoption of this provision, and the construction of other single-lane driveways and paths or residential subdivision streets, including excavation and filling incidental thereto.

b. The installation and maintenance of underground utilities, provided the surface of the wetland is restored substantially to its original condition; construction which may be required by public or quasi-public agencies or private utilities for the installation or extension of above-ground services;

c. The routine operation and maintenance of services on open land in a cluster development or on property owned or controlled by public or quasi-public bodies and used for conservation, water supply, park or recreation purposes or on land owned or controlled by public agencies or public utilities and used for the transmission of electric power, gas or oil, or the normal maintenance of sewerage or water lines;

d. The construction and maintenance of boat launching ramps, the excavation of boat channels or boat mooring slips accessory to a single-family use;

e. The construction of wildlife impoundments and other such excavations, provided that no fill or other material shall be placed upon the premises except as may be necessary to construct the retention structure and provide access thereto, and to provide bank stabilization;

f. The construction and maintenance of beaches, outdoor recreation activities, such as, but not limited to, hiking, boating, trapping, hunting, fishing, horseback riding, skeet and trap shooting and shooting preserves;

g. The construction and maintenance of catwalks, wharves, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, foot bridges,

observation decks and shelters;

h. Other works which are designed to enhance conservation or the appearance and attractiveness of open space or recreation areas without altering their use as such.

3324. Prohibited activities. Except where required to accomplish a use or activity authorized by Subsection 3323 above, the following activities and/or uses are prohibited within wetland setback areas:

a. Filling, placing or dumping any soil, loam, peat, sand, gravel, rock or other mineral substance, refuse, trash, rubbish or debris;

b. Draining, excavating or dredging any premises or removing therefrom loam, peat, sand, gravel, soil or other mineral substance;

c. Any act or use of any premises in a manner which would destroy the natural contours of the land, detrimentally alter existing patterns of water flow or otherwise alter or permit the alteration of the natural and beneficial character of the environment;

d. The discharge of stormwater within the wetland setback of Lake Massapoag or tributary watercourse.

3330. Water supply setbacks.

3331. Purpose. The purpose of the water supply setback is to avoid hazards to public health and safety resulting from contamination or reduction in the volume of water supply.

3332. Applicability. Setback regulations shall apply to all land within 400 feet of any public well or well development area in the central portion of high-yield aquifer deposits, as indicated on the Zoning Map.

3333. Permitted uses. The following uses, and no others, are permitted and then only if they comply with all other provisions of this or any other applicable bylaw or regulation:

a. A driveway of minimum legal and practical width, provided that no portion thereof shall be sloped in excess of 4% and that no road salt shall be used in maintenance.

b. Utilities, except wastewater collection, treatment and disposal systems.

c. Open space and conservation uses, provided that the land is maintained substantially in its natural state.

d. Active recreation activities such as hiking, trapping, hunting, fishing, horseback riding, bicycling, provided that the land is maintained substantially in its natural state.

e. One residential structure and associated wastewater treatment and disposal system per lot, provided that:

(1) The lot was lawfully in existence on the date of adoption of this section;

(2) The lot will not be further subdivided; and

(3) Any new principal structure is located at the greatest distance from any well or well development area permitted by other requirements of this bylaw.

3334. Prohibited uses. Except where authorized in Subsection 3333, the following are prohibited within the water supply setback:

a. Structures, pavements and other impervious materials.

b. The placing or dumping of any low-porosity or unclean fill, trash, debris or rubbish.

c. Any filling, excavating, grading or draining that would substantially alter surface or groundwater hydrology and any removal of earth, rock, soil, humus or mineral substance from the premises.

d. Any application of pesticides, herbicides or fertilizers.

3340. Special permits.

Subject to the limitations above, the Board of Appeals may grant a special permit to allow any use otherwise permitted in the district in which the premises in question is located, subject to all requirements of that district; provided that the Board of Appeals, after seeking and obtaining the advice of the Conservation Commission, Board of Health and Planning Board, determines that the proposed use will not violate the purposes stated for the wetlands setback or water supply setback.

3350. Sedimentation and erosion.

The following are permitted only if they comply with all other provisions of this or any other applicable bylaw or regulation and are subject to the following restrictions:

3351. The construction of structures, pavements, utilities and other site improvements disturbing more than 20,000 square feet of land cumulatively, provided that sedimentation and erosion control measures are utilized in accord with a comprehensive sedimentation and erosion control plan approved by the Board. The Board, in its discretion, may require approval of the aforesaid sedimentation and erosion control plan by the Stormwater Manager, in accordance with the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town,[27] in those circumstances where such approval is not otherwise required.

3352. The discharge of stormwater to any surface water body or watercourse, ditch, culvert or drainage system, provided that at least 80% of water-borne sediment is removed.

3360. Discharge and storage prohibitions.

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27. Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

a. The discharge of toxic or hazardous materials within the Town of Sharon is prohibited.

b. The outdoor storage of toxic or hazardous materials within the Town of Sharon is prohibited where prohibited by other provisions of this bylaw and by the provisions of other Town bylaws, and is further prohibited, except in product-tight containers which are protected from the elements, leakage, accidental damage and vandalism, and which are in accord with all other applicable provisions of this bylaw.

SECTION 3400.
Development Scheduling

3410. Purpose.

The purpose of Section 3400, Development Scheduling, is to assure that growth, consistent with Massachusetts Growth Policy, "shall be phased so that it will not unduly strain the community's ability to provide public facilities and services, so that it will not disrupt the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth." (From Page 61, City and Town Centers, the Massachusetts Office of State Planning, September, 1977)

3420. Permit issuance.

Except in a Senior Living District, the Inspector of Buildings shall issue building permits for construction of new dwelling units in subdivisions submitted for approval after December 5, 1978, or for multifamily dwellings (regardless of location) only as follows.

3430. Rate.

One hundred new building permits are allowed in any given two-year period. If approvals exceed 50 units in one year, the Building Inspector will allow a maximum of 24 lots released from any subdivision in a given calendar year. Exceptions: low-income housing and rebuilding of destroyed homes.

3440. Grandfathering.

The protection against subsequent zoning changes granted to land in a subdivision by MGL c. 40A, § 6, shall, in the case of a development whose completion has been constrained by Section 3400, be extended from five years to eight years. Any landowner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with MGL c. 59, § 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

SECTION 3500.
Storage of Trailers

3510. Defined.

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.

3520. Restrictions.

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 Board of Appeals. All applicants for such permits shall be subject to the conditions and requirements and processed in the manner provided in Section 6300 of this bylaw.

SECTION 3600.
Registered Marijuana Dispensaries and Marijuana Establishments
[Amended 5-5-2014 ATM by Art. 20; 5-7-2018 ATM by Art. 22]

3610. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

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.

3620. Siting requirements.

a. All RMDs and marijuana establishments, as defined in Subsection 3610 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.

b. 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, nursing home 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.

c. The maximum lot coverage, including building, parking and driveways, shall be 50% of the upland lot area.

d. 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 MGL c. 138, § 15, for the retail sale of alcoholic beverages not to be drunk on the premises where sold. **[Added 5-7-2018 ATM by Art. 23]**

3630. 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.

3640. Sign requirements.

a. 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.

b. 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.

c. 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.

d. 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.

e. The appropriate lighting of the sign(s) shall be determined by the Zoning Board of Appeals.

f. The sign(s) shall otherwise comply with the Sign Bylaw, Chapter 221 of the General Bylaws of the Town of Sharon.

3650. Special permit submission and approval.

a. In addition to the requirements in this Section 3600, special permit applications for approval under this Section 3600 shall comply with the submittal requirements for site plan approval as detailed in Subsection 6326 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, nursing home 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.

b. 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.

c. Lapse of permit.

(1) 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 MGL c. 40A, § 17, from the grant thereof.

(2) 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.

(3) In addition to the requirements of Subsection (2) above, 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.

(4) 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.

3660. 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.

STILL IN EFFECT?

SECTION 3700.

Temporary Moratorium on the Retail Sale and Distribution of Recreational Marijuana.

[Added 11-6-2017 STM by Art. 4]

3710. Purpose.

By vote at the State election on November 8, 2016, the voters of the commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016, and the Cannabis Control Commission is required to issue regulations regarding implementation by March 15, 2018.

Currently under the Zoning Bylaw, recreational marijuana establishments and marijuana retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating recreational marijuana establishments and marijuana retailers. Further, the state law clarifying the ballot measure establishes a process for the Town to either ban or restrict the issuance of licenses for such facilities.

The regulation of recreational marijuana establishments and marijuana retailers raise novel and complex legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of recreational marijuana establishments and marijuana retailers and address such novel and complex issues, as well as to address the potential impact of the state regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of recreational marijuana establishments and marijuana retailers and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for marijuana retailers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives. The temporary moratorium is not intended to be a comprehensive moratorium on all recreational marijuana activities but rather a temporary prohibition only on recreational marijuana retail sales.

3720. Definitions.

MANUFACTURE — To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

MARIJUANA ACCESSORIES — Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT — A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed

marijuana-related business.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA PRODUCTS — Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA RETAILER — An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

MARIJUANA TESTING FACILITY — An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

3730. Temporary moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for marijuana retailers. The moratorium shall be in effect through June 30, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding recreational marijuana establishments and marijuana retailers and related uses, determine whether the Town shall restrict any, or all, licenses for recreational marijuana establishments and marijuana retailers, determine whether the Town will prohibit on-site consumption at recreational marijuana establishments and marijuana retailers and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of recreational marijuana establishments and marijuana retailers and related uses.

3740. Severability.

The provisions of this Section 3700 of the Zoning Bylaw are severable. If any provision, paragraph, sentence, or clause of this Section 3700 or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Section 3700.

ARTICLE IV
Special Regulations

SECTION 4100.
Adult Entertainment Uses

4110. Purpose and authority.

a. The purpose of this bylaw 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 MGL c. 40A, § 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.

b. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter of 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 MGL c. 272, § 31.

4120. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

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 MGL 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 MGL 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 MGL 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 MGL c. 272, § 31.

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 MGL 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 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 MGL c. 272, § 31.

4130. Siting requirements.

a. 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.

b. No adult use 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, nursing home 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.

4140. Additional siting requirements.

a. The maximum lot coverage, including building, parking and driveways, shall be 50% of the upland lot area.

b. 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.

c. 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.

d. 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.

e. 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.

4150. 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.

4160. Sign requirements.

a. 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.

b. 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.

c. 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.

d. No adult use may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate or contain reflective or fluorescent elements.

e. The appropriate lighting of the sign(s) shall be determined by the Zoning Board of Appeals.

f. The sign(s) shall otherwise comply with the Sign Bylaw, Chapter 221 of the General Bylaws of the Town of Sharon.

4170. Special permit submission and approval.

a. In addition to the requirements in this Section 4100, special permit applications for approval under this Section 4100 shall comply with the submittal requirements for site plan approval as detailed in Subsection 6326 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 MGL c. 119, § 63 (inducing or abetting delinquency of a child) or MGL 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, nursing home and hospital, and municipal building open to the general public.

b. 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 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.

(8) Where the adult use is not governed by other state or local licensing board, the following conditions shall apply:

(i) 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 MGL c. 119, § 63, or MGL c. 272, § 28, or similar laws in other states.

(ii) Special permits for adult use establishments shall not be granted to any

person or persons convicted of violating the provisions of MGL c. 119, § 63, nor MGL c. 272, § 28, or similar laws in other states.

c. Lapse of permit.

(1) 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 MGL c. 40A, § 17, from the grant thereof.

(2) 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.

4180. Existing adult use establishments.

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.

4190. Prohibited uses.

Nothing in this bylaw 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.

SECTION 4200.
Special Residential Uses

4210. Dwelling conversions.

Within Single Residence, Suburban and Rural Districts, the following uses may be authorized on special permit from the Board of Appeals:

4211. One additional 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;

c. That the additional unit shares a common entrance in the existing structure.

4212. 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.

4213. Conversion of a dwelling or building accessory thereto, or both, into a building or buildings containing in the aggregate as many 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.

4220. 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.

4230. Business Districts B and C.

Apartments in excess of two dwelling units, including services related thereto, over nonresidential establishments may be authorized in Business Districts B and C by special permit from the Board of Appeals, provided that no dwelling unit shall be located below the second floor, in accordance with the following:

4231. 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.

4232. Usable open space shall be provided on the same site to at least the following amounts per unit:

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

4233. 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.

4234. Notwithstanding the provisions of Subsection 3112, all parking required for residences shall be located on the same lot and shall be reserved for the residents.

4235. On a lot which is used for residence as well as business, the landscaping requirements of Subsection 3117 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.

4236. Site plan approval shall be required in all cases pursuant to Subsection 6320. In addition to the reviews provided in said Subsection 6320, the 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.

4240. Business District A.

a. Site plan approval shall be required pursuant to Subsections 6320 and 6330. The Planning Board shall be the authority for site plan review and the Board of Appeals shall be the special permit granting authority for all developments in Business District A, unless otherwise noted in the Zoning Bylaw. In addition to the reviews provided in said sections, the Planning Board and 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.

b. Multiple-residence buildings containing three or more dwelling units, and mixed-use buildings with or without residential uses which require a special permit under Subsection 2326, 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. 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.

(5) 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.

c. On a lot which is used for residence as well as business uses, the landscaping requirements of Subsection 3117 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.

d. Notwithstanding the provisions of Subsection 3112, 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.

e. Housing and affordability. 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 1/2% of dwelling units built shall be affordable housing. Developments shall not be segmented or phased in a manner to avoid compliance with these provisions.

(1) For purposes of this section, 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 MGL 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 MGL c. 184, § 31, and the requirements of Subsection 4904e.

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.

(2) 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.

(3) 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.

(4) Requirements. Affordable housing shall 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) At least 10% of the affordable housing units shall be handicapped-accessible.

(5) Design and construction.

(i) 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. 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.

(ii) 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).

(6) 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) 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, as per Subsection 4240g. Such assurance may be provided through use of the security devices referenced in MGL c. 41, § 81U, or through the special permit granting authority's withholding of certificates of occupancy until proportionality has been achieved.

(10) 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.

(11) No waiver. Notwithstanding anything to the contrary herein, the affordability provisions in this Subsection 4240e shall not be waived.

SECTION 4300.
Flexible Development

4310. Intent and applicability.

The intent of Section 4300 is to allow flexibility in meeting the basic intent of the dimensional requirements of Section 2400, 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.[28]

4320. Application and review procedure.

4321. 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:

a. 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.[29] 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.

b. An environmental and community assessment as required by the Land Subdivision Rules and Regulations[30].

c. Any additional information necessary to make the assessments cited in Subsection 4350 at a level of detail commensurate with the scale of the development, as determined by the Zoning Board of Appeals.

4322. 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.

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28. **Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.**

29. **Editor's Note: See Ch. 340, Subdivision Regulations.**

30. **Editor's Note: See Ch. 340, Subdivision Regulations.**

4323. 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.

4330. 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:

4331. The number of lots to be developed shall not exceed the number of lots (as defined by Article V) which could reasonably be expected to be developed under the conventional plan endorsed by the Planning Board under Subsection 4321a and in full conformance with zoning, with Land Subdivision Rules and Regulations,[31] and with the state and Town sanitary codes for on-lot septic systems, including area and percolation requirements.

4332. 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.

4333. All sites and structures officially designated as being of national, state or local historical or architectural significance shall be maintained and preserved.

4334. 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.

4340. Multifamily development.

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

4341. Density and parcel size requirements.

a. In the Suburban 1 District, the allowable number of dwelling units for a multifamily development shall not exceed 200% of the number of lots (as defined by Article V) which could reasonably be expected to be developed under the conventional plan endorsed by the Planning Board under Subsection 4321a and in full conformance with zoning, Land Subdivision Rules and Regulations[32] and with the state and Town sanitary codes for on-lot septic system disposal systems, including area and percolation requirements.

b. 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

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31. Editor's Note: See Ch. 340, Subdivision Regulations.

32. Editor's Note: See Ch. 340, Subdivision Regulations.

Subsection 4321a 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.

c. 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.

d. 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.

4342. Other requirements.

a. 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.

b. 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.

c. 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.

d. 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.

e. 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:

(1) 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;

(2) 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 section, 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;

(3) The unit owner and the homeowners' association, if any, shall enter into a written agreement, as provided below in Paragraph (6) hereof. 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 section 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;

(4) 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;

(5) 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 section;

(6) 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 bylaw for execution by each homeowner and the specified homeowners' association seeking to make use of this bylaw. 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 Subsection 4342e.

f. 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.[33]

4343. Each lot containing multifamily dwellings shall have lot area as otherwise required but not less than 5,000 square feet per dwelling unit.

4350. Decision criteria.

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 specified at § 340-4.1B of the Land Subdivision Rules and Regulations, and also the following:

4351. Criteria for all flexible development.

a. 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.

b. 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.

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33. Editor's Note: See Ch. 340, Subdivision Regulations.

c. 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.

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

e. 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.

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

g. 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.

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

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

(2) 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.

(3) Reduction of the extent of waterways altered or relocated.

(4) Reduction in the volume of cut and fill for roads and construction sites.

(5) 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.

4352. Additional criteria for multifamily development.

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

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

c. 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.

4360. Conservation subdivision design (CSD).

4361. Purpose and intent.

a. The primary purposes for CSD are the following:

(1) To allow for greater flexibility and creativity in the design of residential developments;

(2) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources, including aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with the Town's comprehensive and open space plans;

(3) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;

(4) To minimize the total amount of disturbance on the site;

(5) To further the goals and policies of the comprehensive and open space plans;

(6) To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economical and efficient manner and in a manner compatible with the surrounding land use.

b. The secondary purposes for CSD are the following:

(1) To preserve and protect agriculturally significant land;

(2) To protect the value of real property;

(3) To protect community water supplies and private drinking water wells;

(4) To provide for a diversified housing stock;

(5) To preserve and enhance the community character and promote a traditional New England village concept through the creative application of building and landscape design.

c. Except as otherwise provided herein, all other bylaws and regulations of the Town shall apply to the CSD.

d. The Planning Board shall give great weight and full consideration in its review of any CSD application to a determination by the Board of Health that approval poses an unreasonably detrimental impact to public health, drinking water quality or quantity, air quality, surface water quality or quantity, or by the Conservation Commission that approval poses an unreasonably detrimental impact to wetlands or stream flow. In the event that the Planning Board determines to grant such approval despite such negative determination by the Board of Health or the Conservation Commission, such approval shall contain specific findings which identify the reasons that said negative recommendation has not been followed.

The Board of Health and the Conservation Commission shall base their determination upon consultation with the Water Management Advisory

Committee, the Lake Management Committee and other relevant boards and committees, and review of materials submitted by the applicant and the Town's employees and consultants, as the Board of Health and Conservation Commission deem appropriate.

4362. Eligibility.

a. Minimum size of tract. To be eligible for consideration as a CSD, the tract shall contain a minimum of five acres.

b. Zoning classification. Only those tracts located in the Rural 1, Rural 2, Suburban 1, Suburban 2 and Single Residence A and Single Residence B Districts shall be eligible for consideration as a CSD. All CSDs shall comply with the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town.[34]

c. Contiguous parcels. To be eligible for consideration as a CSD, the tract shall consist of a parcel or set of contiguous parcels.

d. Land division. To be eligible for consideration as a CSD, the tract may be a subdivision or a division of land pursuant to MGL c. 41, § 81P; provided, however, that CSD may also be permitted where intended as a condominium on land not so divided or subdivided.

4363. Definitions. Terms used in this section that are defined in Article V (Definitions) of the Bylaw shall have the meaning set forth in Article V. For the purpose of this section, the following terms shall have the following meanings:

AGE-QUALIFIED RESIDENCES — Dwelling units intended and operated for occupancy by persons 55 years of age or older, and at least 95% of the occupied units are occupied by at least one person who is 55 years of age or older and with no more than one person who is younger than 55 years of age.

BELOW-MARKET-VALUE RESIDENCE — The determination of below market value made according to Executive Order 418 or any superseding order or legislation.

CONSERVATION SUBDIVISION DESIGN (CSD) — A tract of land designed and developed with mixed uses, with open space used for recreational and/or conservation purposes as an integral characteristic of the development, in a way that departs from the underlying zoning regulations concerning use of land or buildings, lot size, density, bulk or type of structure, lot coverage, or other requirements conventionally required in the district.

RECREATION USE — Land devoted to recreational enjoyment, including swimming facilities, hiking trails, tennis courts, and incidental facilities.

USABLE OPEN SPACE — A parcel of land within the tract of land designated for a CSD, maintained and preserved for open space uses, and designed and intended for the use and enjoyment of residents and the general public. Usable open space shall include conservation use, historic preservation use, educational use, recreational use, park purposes, agricultural use, horticultural use, forestry use

34. **Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.**

or for a combination of these uses, including complementary structures, streets or parking areas and other improvements that are necessary and appropriate for the benefit and enjoyment of the usable open space. In calculating the amount of usable open space to satisfy the requirements of this bylaw, complementary structures, streets or parking areas and other improvements that are necessary and appropriate for the benefit and enjoyment of the usable open space shall not be included. In addition, usable open space shall not include designated yard areas accessory to dwelling units within the CSD.

4364. Special permit required. The Planning Board may authorize a CSD pursuant to the grant of a special permit. Such special permits shall be acted upon in accordance with the following provisions:

Pre-Application.

a. Conference. The applicant is very strongly encouraged to request a preapplication review at a regular business meeting of the Planning Board and at a regular business meeting of the Board of Health, and, if the proposed CSD is located within the buffer zone of a wetlands, at a regular meeting of the Conservation Commission. If a meeting for a preapplication review is held by the Planning Board, the Planning Board shall invite the Board of Appeals. The purpose of a preapplication review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board, Board of Health, and Conservation Commission at the earliest possible stage in the development. At the preapplication review, the applicant may outline the proposed CSD, seek preliminary feedback from the Planning Board, Board of Health, and the Conservation Commission and/or its technical experts, and set a timetable for submittal of a formal application. At the expense of the applicant, the Planning Board, Board of Health, and/or Conservation Commission may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a CSD special permit. Regardless of any other experts, at this stage, the Planning Board shall engage the services of a professional planner of its choosing (at the applicant's expense) to facilitate the review process. In the event a preapplication conference is not requested by the applicant, the Planning Board will engage a professional planner at the time of formal application. The engaged planner will participate in the review process until resolution is reached or the application is withdrawn. The planner may also facilitate community/neighborhood/abutter review and input. For projects of fewer than 20 units, the Planning Board, if it so chooses, may limit the professional planner's involvement to a written advisory review of the application to be submitted to the Planning Board prior to the Planning Board's final decision or at any earlier point in the review process as designated by the Planning Board.

b. Submittals. In order to facilitate review of the CSD at the preapplication stage, applicants are strongly encouraged to submit the following information:

(1) Site context map. This map illustrates the parcel in connection to its

surrounding neighborhood. Based on existing data sources and field inspections, it should show various kinds of major natural resource areas or features (including intersections) that cross parcel lines or that are located on adjoining lands, or are in close enough proximity to be adversely affected. This may enable the Planning Board, Board of Health, and Conservation Commission to understand the site in relation to what is occurring on adjacent properties, or what could happen to surface and ground waters, wetlands, water supplies or other environmentally sensitive features, and traffic patterns that could be adversely affected by the subdivision.

(2) Existing conditions/site analysis map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, floodplains and steep slopes, but shall also include mature undegraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), significant trees identified by an arborist, unusual geologic formations and scenic views into and out from the property. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

(3) Other information. In addition, applicants are invited to submit the information set forth in Subsection 4366 in a form acceptable to the Planning Board.

c. Site visit. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate preapplication review of the CSD. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Department of Public Works, Fire Department and Building Inspector.

d. Design criteria. The design process and criteria set forth below in Subsection 4365 should be discussed by the parties at the preapplication conference and site visit.

4365. Design process. At the time of the application for a special permit for CSD, in conformance with Subsection 4366, applicants are required to demonstrate to the Planning Board that the following design process was performed by a licensed landscape architect or a licensed professional acceptable to the Planning Board in accordance with the Land Subdivision Rules and Regulations of the Planning Board of the Town of Sharon.[35]

a. Step One: Identifying Conservation Areas. Identify preservation land by two steps:

(1) First, primary conservation areas (such as wetlands, and floodplains regulated by state or federal law) and secondary conservation areas

35. **Editor's Note: See Ch. 340, Subdivision Regulations.**

(including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated.

(2) Second, the potentially developable area will be identified and delineated. To the maximum extent feasible, the potentially developable area shall consist of land outside identified primary and secondary conservation area.

b. Step Two: Locating House Sites. Locate the approximate sites of individual houses within the potentially developable area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

c. Step Three: Design Layout and Alignment of the Streets and Trails. Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails.

d. Step Four: Lot Lines. Draw in the lot lines, when applicable.

4366. Procedures.

a. Application. An application for a special permit for a CSD shall be submitted on the form(s) provided by the Planning Board in accordance with the Land Subdivision Rules and Regulations of the Planning Board.[36] Applicants for CSD shall also file with the Planning Board 12 copies of the following:

(1) Concept plan. The concept plan shall include a sketch plan and a yield plan. The applicant shall submit both the site context map and existing conditions/site analysis map prepared according to Subsection 4364. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

(i) Sketch plan. The sketch plan shall address the general features of the land, and give approximate configurations of the lots, open space and roadways.

[a] Quality standards. Engineering specifications as to scale, number of copies, sheet size, and other requirements shall conform to those specified by the Planning Board Rules and Regulations for Subdivision of Land.[37]

[b] Required content. The sketch plan shall include the following:

[1] The subdivision name, boundaries, North point, date,

36. Editor's Note: See Ch. 340, Subdivision Regulations.

37. Editor's Note: See Ch. 340, Subdivision Regulations.

legend, title "Concept Plan," and scale;

[2] The names of the record owner, the applicant and licensed professional who prepared the plans;

[3] The names, approximate location, and widths of adjacent streets;

[4] The proposed topography of the land shown at a contour interval no greater than +/- two feet. Elevations shall be referred to mean sea level or as specified in the Land Subdivision Rules and Regulations of the Planning Board;[38]

[5] The location of existing landscape features, including forests, farm fields, meadows, wetlands, water bodies, archeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major long view, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Subsection 4364b(2). Proposals for all site features to be preserved, demolished, or moved shall be noted on the sketch plan;

[6] 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 sketch plan;

[7] Lines showing proposed private residential lots with approximate areas and frontage dimensions;

[8] All existing and proposed features and amenities, including trails, recreation areas, pedestrian and bicycle paths, community buildings, off-street parking areas, shall be shown on the plan and described in a brief narrative explanation, where appropriate;

[9] The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner;

[10] Proposed roadway grades;

[11] Official soil percolation tests for the purpose of siting

38. **Editor's Note: See Ch. 340, Subdivision Regulations.**

wastewater treatment options are not required for the concept plan. However, a narrative explanation shall be prepared by a certified professional engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized;

[12] A narrative explanation prepared by a certified professional engineer proposing systems for stormwater drainage and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether soft or hard engineering methods will be used and the number of any detention/retention basins or infiltrating catch basins. It is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/ retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan. Low-impact design (LID) methods should be utilized;

[13] A narrative explanation prepared by a certified professional engineer, detailing the proposed drinking water supply system and the CSD's impact on the quantity and quality of the Town's water supplies;

[14] A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan;

[15] All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative;

[16] A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, with an accompanying narrative explaining their general purpose;

[17] A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw;

[18] A narrative by a certified traffic engineer about the expected impacts on traffic, including backups and idling at intersections that could adversely affect air quality;

[19] A narrative by a certified professional engineer about the impacts of the proposed subdivision on surface and ground water quality and quantity, and stream flow.

(ii) Yield plan. The applicant shall submit a narrative explanation detailing the results of the determination of any proposed allocation of yield determined according to Subsection 4367, Basic maximum number of lots, units and bedrooms.

(2) Relationship between concept plan and definitive subdivision plan. The concept plan special permit shall be reconsidered if there is substantial variation between the definitive subdivision plan and the concept plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the concept plan. A substantial variation shall be any of the following:

(i) An increase in the number of building lots;

(ii) A significant decrease in the open space acreage;

(iii) A significant change in the lot layout;

(iv) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;

(v) Significant changes to the stormwater management facilities; and/or significant changes in the wastewater management systems.

b. Procedures. Whenever an application for a CSD special permit is filed with the Planning Board, the applicant shall also file, within five working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation with the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within 35 days of the receipt by the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The decision/findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

c. Other information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a special permit for a CSD with the public hearing required for approval of a definitive subdivision plan.

4367. Basic maximum number of lots, units and bedrooms.

a. The basic maximum number shall be derived from a yield plan. The yield plan shall show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision. The yield plan shall contain the information required for a sketch plan as set forth above in Subsection 4366. The proponent shall have the burden of proof with regard to the basic maximum number of lots (or dwelling units) resulting from the design and engineering specifications shown on the yield plan. The allowable number of dwelling units within a CSD shall be as follows:

(1) In the case of single-family residences with more than two bedrooms, the maximum number of lots (or dwelling units) allowed in the CSD shall be the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision (before other bonuses are applied);

(2) In the case of a single-family detached or attached when they are limited to two bedrooms or less, multiple-family residences, attached or detached, with no more than two bedrooms per dwelling unit, however the same may be owned, whether by condominium or otherwise, the allowable number of dwelling units shall not exceed 1.25 times the allowable number of conventional lots (before other bonuses are applied);

(3) In the case of residences that are designated as age-qualified and with no more than two bedrooms per dwelling unit, the maximum number of dwelling units shall not exceed 1 2/5 (1.4) times the allowable number of conventional lots (before other bonuses are applied);

(4) For every two units of each type of residence classified as below-market residences, with the determination of below market value made according to Executive Order 418 or any superseding order or legislation, one additional unit of the same type may be added as a density bonus. This density bonus shall not exceed 10% of the basic maximum number;

(5) An additional 10% dwelling unit bonus shall be granted for each additional 10% of usable open space that is provided beyond the required minimum amount.

b. In no event shall the total density bonuses granted exceed 1 1/2 times the allowable number of conventional lots. Further, in no event shall the total impervious area of the CSD exceed the total impervious area utilized in the conventional subdivision plan.

4368. Reduction of dimensional requirements. The Planning Board encourages applicants to modify lot size, shape, and other dimensional requirements for lots within a CSD, subject to the following limitations:

a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the CSD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw.

b. At least 50% of the required setbacks for the district shall be maintained in the

CSD unless a reduction is otherwise authorized by the Planning Board.

4369. Open space requirements.

a. The amount of usable open space, percentage of usable open space allowed for recreational use and the minimum amount of natural vegetation in a CSD shall be determined by the size of the unsubdivided land area.

(1) For CSDs from five acres to 25 acres: A minimum of 40% of the lot shall be usable open space. A total of 20% of the usable open space can be used for recreational purposes. Building lots within this group shall have a minimum of 15% natural vegetation.

(2) For CSDs from 26 acres to 50 acres: A minimum of 45% of the lot shall be usable open space. A total of 20% of the usable open space can be used for recreational purposes. Building lots within this group shall have a minimum of 15% natural vegetation.

(3) For CSDs over 51 acres: A minimum of 50% of the lot shall be usable open space. A total of 20% of the usable open space can be used for recreational purposes. Building lots within this group shall have a minimum of 15% natural vegetation.

b. Requirements for open space:

(1) The percentage of the minimum required open space that is wetlands shall not exceed the percentage of the overall tract which is wetlands.

(2) The open space shall be contiguous. "Contiguous" shall be defined as being connected. Open space will still be considered connected if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.

(3) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, a combination of purposes. Usable open space may include paved or unpaved pedestrian walks and bike paths.

(4) Wastewater and stormwater management systems serving the CSD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.

c. Ownership of the open space. The open space shall, at the Planning Board's election, be conveyed to:

(1) The Town or its Conservation Commission;

(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 CSD. 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, it shall grant the Town an easement for this purpose. In such event, the Town shall first provide 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, in which case the trust or corporation shall be obligated to reimburse the Town. 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.

4370. Design standards. The following general and site-specific design standards shall apply to all CSDs and shall govern the development and design process:

a. General design standards.

(1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainageways shall be treated as fixed determinants of the road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

(2) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

(3) Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.

(4) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

(5) Historic, traditional or significant uses, structures, or architectural elements which exist on the site or on adjacent properties shall not be

removed or disrupted.

b. Site-specific design standards.

(1) Mix of housing types. The CSD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than six dwelling units. Residential structures shall be oriented toward the street serving the premises and not the required parking area.

(2) Parking. Each dwelling unit shall be served by off-street parking spaces as specified in Subsection 3143. Parking spaces in front of garages may count in this computation. All parking areas with greater than eight spaces shall be screened from view.

(3) Buffer areas.

(i) Visual separation from abutting properties shall be assured through leaving a buffer containing dense trees and other vegetation of 50 feet. If the Planning Board determines that existing vegetation is inadequate to provide effective visual screening, it may require that existing vegetation be enhanced with additional plantings. This buffer shall be provided at the following locations:

[a] Perimeter of the property where it abuts residentially zoned and occupied property; and

[b] Existing public ways. Driveways necessary for access and egress to and from the tract may cross such buffer areas.

(ii) None of the existing vegetation in this buffer area will be disturbed, destroyed or removed during construction or upon completion.

(iii) The Planning Board may reduce the required buffer (or alternatively to allow clearing with replanting in the reduced buffer area) to as little as 20 feet in a specific area if it is determined that no harm will result to abutting properties and if doing so will help achieve a specific purpose of the CSD. Fifty percent of the required buffer in the above prescribed areas may be counted toward usable open space calculations.

(4) Drainage. The Planning Board shall encourage the use of "soft" (nonstructural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surfaces and enable infiltration where appropriate.

(5) Common/Shared driveways. A common or shared driveway may serve a maximum number of two single-family units.

(6) Screening and landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.

(7) On-site pedestrian and bicycle circulation. Walkways and/or bicycle paths shall be provided to link residences with parking areas, open space and adjacent land uses where appropriate.

(8) Natural vegetation. At least 25% of the total area of the total tract shall be a natural vegetation area.

(9) CSDs shall be designed so as to minimize the negative impact on the level of service on any roadways intersecting the roadways of the proposed subdivision. The level of service should not be less than the level of service that would be expected from the alternative conventional subdivision. The determination of level of service and other factors related to traffic will be made through a complete traffic study that will meet the requirements of the Town Engineer of the Town of Sharon. "Level of service" shall be as defined by the latest version of the Institute of Traffic Engineers' Highway Capacity Manual.

(10) CSDs shall be designed to be as energy-efficient as feasible to minimize the use of fossil fuels for heating and cooling.

(11) CSDs shall be landscaped with drought-resistant vegetation so as to eliminate the need for irrigation, and pest-resistant vegetation to eliminate the need for pesticides.

(12) CSDs shall use water-efficient toilets, washing machines, dishwashers, faucets, and showers to minimize water use.

4371. Decision of the Planning Board.

a. The Planning Board shall hold a public hearing, for which notice has been given as provided in MGL c. 40A, § 11, within 65 days from the date of the filing of such application. The decision of the Planning Board shall be made within 90 days following the date of such public hearing. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the special permit granting authority.

b. The Planning Board may grant a special permit for a CSD if it determines that the proposed CSD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:

(1) Whether the CSD meets the criteria for flexible development, Subsection 4351a, b, c, d, e, f, g, h, Paragraphs (1) through (5), as well as achieves greater flexibility and creativity in the design of residential developments than a conventional plan;

(2) Whether the CSD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources, including water bodies and wetlands, and historical and archeological resources;

(3) Whether the CSD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;

(4) Whether the CSD reduces the total amount of disturbance on the site;

(5) Whether the CSD furthers the goals and policies of the Open Space and Comprehensive Plan;

(6) Whether the CSD facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner;

(7) Whether the concept plan and its supporting narrative documentation comply with all sections of this Zoning Bylaw.

4380. Senior Living Overlay District (Senior Living District).

4381. Senior Living District requirements. Senior Living District development is subject to the following:

a. Purpose. The purpose of the Senior Living District is to enhance the public welfare by creating a vibrant community for senior citizens, including senior citizens with disabilities, by providing a full range of support services ranging from independent living to nursing home care.

b. Eligibility. An applicant may submit a site plan application pursuant to Subsection 4387 for a Senior Living District development within the Senior Living District as shown on the Sharon Zoning Map.

c. Application. Senior Living Districts shall be considered as superimposed on underlying districts created under this bylaw. Senior Living District development shall conform to all other provisions of this bylaw except to the extent that use, dimensional, parking, and loading requirements are set forth in Subsection 4380. The Senior Living District shall not restrict owners' rights relative to the underlying zoning district, including other overlay districts. However, if an applicant elects to use the Senior Living District provisions by filing a site plan approval application for a Senior Living District development with the Board of Appeals pursuant to Subsection 4387, and so develops a Senior Living District development, all development shall conform to the use, dimensional, parking, and loading requirements of Subsection 4380. Single-family residences shall not be provided on the same lot as senior dwelling units or nursing homes. To the extent there are inconsistencies between provisions of Subsection 4380 and the provisions of any underlying district, the provisions of Subsection 4380 shall govern.

d. Age restriction. All dwelling units within Senior Living Districts shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall limit the dwelling units to occupancy by persons of age 62 or older. Occupancy of each dwelling unit is limited to a maximum of two persons. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole by the owner of one or more dwelling units or by the Town of Sharon. In the event of a violation, and at the request of the Town, the owner of Senior

Living District development shall enforce the age and occupancy restrictions.

e. Open space requirements. In order to obtain an initial building permit for a Senior Living District development, an applicant shall transfer to the Sharon Conservation Commission, pursuant to MGL c. 40, § 8C, not less than 2.8 acres of abutting or adjacent land for each acre of land contained in the lot.

f. Application of wetland setbacks. In a Senior Living District development, the construction and maintenance of a site access drive of minimum legal practical width is permitted within wetland setback areas, even where there is an alternative means of access from a public way to unrestricted land of the same owner, provided that all required orders of conditions and other required authorizations are obtained under the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) or the Town of Sharon Wetlands Protection Bylaw.[39]

g. Affordability requirement. A minimum of 10% of all senior dwelling units within each Senior Living District development shall be affordable dwelling units, except as provided hereinafter. In lieu of setting aside affordable dwelling units within a Senior Living District development, affordable dwelling units may be provided elsewhere in the Town of Sharon equal to 11% of the senior dwelling units authorized within a Senior Living District development. The applicant for the Senior Living District development may:

(1) Construct or otherwise provide off-site affordable dwelling units;

(2) Secure construction of off-site affordable dwelling units through a monetary payment to a private, public, or nonprofit agency or organization identified in the site plan review process; or

(3) Provide funds to the Town of Sharon, acting by or through its Affordable Housing Trust Fund, or otherwise, to promote affordable housing, and acceptance by the Town of such funds shall be deemed satisfaction of the affordable housing requirements set forth in this Subsection 4381. Satisfaction of this affordability requirement may be evidenced by a development agreement or other agreement by and between the Town and the applicant. An applicant may use one or more of these options in satisfying its obligations.

h. Only that portion of a lot within a Water Resource Protection District is subject to such provisions.

i. Sureties. The property owner shall post instruments of surety, insurance policies, letters of credit or similar securities (hereinafter "instruments") to the benefit of the Town of Sharon in a form acceptable to Town Counsel to protect the Town and residents of surrounding areas from damage caused by construction or operation of the Senior Living District development as set forth below. Instruments may encompass the entire project or a specific phase of the project deemed to be independent of other construction phases as determined under Subsection 4387. Instruments, in an amount to be reasonably established by the Board of Appeals under Subsection 4387, shall be provided as follows:

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39. Editor's Note: See Ch. 262, Wetlands Protection.

(1) An instrument, to be provided prior to inception of construction and to be maintained through substantial completion of construction, in an amount to be reasonably established by the Board of Appeals under Subsection 4387 sufficient to provide for the securing, from a public health and safety perspective, of partially completed site improvements and to provide for site stabilization, restoration of suitable drainage patterns, and revegetation of disturbed areas.

(2) An instrument, to be provided prior to the issuance of the first certificate of occupancy, to secure incomplete site infrastructure improvements, if any, until such time as such site improvements have been satisfactorily completed.

(3) An instrument, to be provided upon completion of all site improvements or issuance of the final certificate of occupancy, whichever occurs later, and to be maintained for one year thereafter, to replace any plant materials which fail to thrive.

j. Notwithstanding anything to the contrary in these bylaws and regardless of whether the Senior Living District development qualifies as a subdivision or a division of land pursuant to MGL c. 41, § 81P, streets and ways, drainage facilities, and utilities in a Senior Living District development need not be designed and constructed in compliance with the Sharon Rules and Regulations Governing the Subdivision of Land.[40]

4382. Definitions. The following terms shall have the meanings set forth herein notwithstanding any conflicting definitions in Article V:

AFFORDABLE DWELLING UNIT — A dwelling unit fully eligible for inclusion in the Department of Housing and Community Development's Chapter 40B Subsidized Housing Inventory. Affordable housing units shall be provided that can be sold or rented to households whose income is at or below 80% of the median household income within the Town of Sharon as reported by the U.S. Department of Housing and Urban Development and shall be deed restricted as affordable units for a period of time as provided in a comprehensive permit issued for such housing.

SENIOR DWELLING UNIT — An area within a multifamily building consisting of one or more rooms, providing living facilities for one household (not necessarily including equipment for cooking or provisions for the same), and including space for living and sleeping, but not including nursing home beds.

SENIOR LIVING DISTRICT DEVELOPMENT — A project located on a lot of land within the Senior Living District and developed pursuant to the requirements set forth in this Subsection 4380. A Senior Living District development may be designed and developed for Senior Living District uses, with open space used for recreational and/or conservation purposes, in a way that departs from the underlying zoning regulations and other provisions of this bylaw solely to the extent that uses of land and buildings or dimensional, parking, and loading requirements are governed by the provisions of Subsection 4380.

4383. Use regulations.

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40. Editor's Note: See Ch. 340, Subdivision Regulations.

a. Permitted uses:

(1) Age-qualified multifamily residences in buildings containing a minimum of 20 senior dwelling units, including independent-living and assisted-living units.

(2) Nursing homes, including nursing homes on the same lot as senior dwelling units, providing skilled nursing and rehabilitation services or nursing home facilities (with or without dementia wards).

b. Permitted accessory uses:

(1) Support services to meet senior residents' needs, including fitness centers, recreation and leisure facilities (including golf courses, tennis courts and pools), community centers, resident and employee locker and lounge rooms, food services (including kitchens and cafeterias).

(2) Medical services, including medical offices, dental offices and other health services, or maintenance and storage facilities; provided, however, such medical or dental offices shall not exceed 10,000 square feet of floor area.

(3) Food services, including kitchens, cafeterias, and dining rooms.

(4) Convenience services, such as retail stores, automatic teller machines and banks, post offices, hair salons, laundries, dry cleaning pick-up/drop-off with no on-site cleaning, convenience stores, restaurants, cafes, bars, grills, movie theaters and services intended primarily to service a Senior Living District development; provided, however, in no event shall any one of these single uses exceed 15,000 square feet in floor area and in the aggregate not to exceed 60,000 square feet in floor area.

(5) Security services and related uses, including guard houses.

(6) A property sales office and facility management office for the Senior Living District development.

(7) Parking and loading facilities, including at-grade facilities as well as below-grade and above-grade structured facilities, which may include managed parking facilities within structures utilizing parking lifts and stacked parking.

(8) Wastewater and stormwater 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, as applicable, to the issuance of a Treatment works construction permit by the Sharon Board of Health, 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. 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.

(9) Maintenance buildings and garages for parking of service or facility vehicles, excluding any vehicle maintenance; provided, however, such maintenance building shall not exceed 10,000 square feet in floor area.

(10) Below-grade, at-grade and above-grade utilities and appurtenances, including a water tower or water tank.

(11) Passive recreation facilities, including walking, jogging and bicycle trails.

4384. Performance standards. Senior Living District developments shall comply with the following:

a. 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.

b. Wastewater treatment plant effluent shall limit phosphorous to a maximum of one mg/l unless analyses submitted under Subsection 4387 demonstrate that higher concentrations will not cause an exceedance of Massachusetts Surface Water Quality Standards for Class A Surface Waters in downgradient surface waters.

c. Wastewater treatment and stormwater management facilities shall be designed to reasonably minimize transfers outside of the Neponset River basin and transfers shall be mitigated, to the extent permits and approvals are issued, as practicable, through recharge or conservation measures established under Subsection 4387.

d. Stormwater management facilities shall attenuate increases in the volume of off-site discharge for the one-year-frequency storm event.

e. Stormwater management facilities shall conform, as practicable, to the Department of Environmental Protection's Stormwater Management Policies (March 1997), whether or not the activity is subject to the Massachusetts Wetlands Protection Act (MGL c. 131, § 40).

f. Potable water from the Sharon municipal water distribution system shall not be used for irrigation.

g. Any on-site sanitary sewers shall be subject to ongoing requirements for leak detection and repair.

h. Buildings shall, as practicable, incorporate water conservation devices, including water-efficient plumbing fixtures.

i. Rooftop mechanical equipment shall be visually screened and acoustically buffered and day-night average sound levels caused by rooftop equipment shall not exceed 55 dB at the property line.

4385. Dimensional regulations. A Senior Living District development shall comply with the dimensional requirements set forth herein. With respect to all requirements of

these Subsections 4380 through 4390, leasehold parcels within a lot shall be deemed as part of the lot. Dimensional requirements are as follows:

a. Minimum lot area: 70 acres.

b. Maximum density.

(1) Seven and one-quarter (7.25) senior dwelling units per acre, calculated at the time of site plan review of a Senior Living District development.

(2) Two and one-quarter (2.25) bedrooms per senior dwelling unit.

(3) One hundred fifty nursing home beds per lot, in addition to senior dwelling units.

c. Maximum building height.

(1) For buildings and structures containing senior dwelling units, the maximum height, excluding any accessory features, rooftop equipment, and mechanical or elevator penthouses, shall exceed neither eight stories nor 105 feet.

(2) For buildings and structures containing senior dwelling units, the maximum height, including any accessory features, rooftop equipment, and mechanical penthouses, but excluding elevator penthouses, shall not exceed 115 feet total.

(3) Except as provided in Subsection 4385c(1) and (2), for all buildings and structures exceeding 5,000 square feet in floor area, including buildings containing nursing home facilities, the maximum height, including any accessory features, rooftop equipment, and mechanical penthouses, but excluding elevator penthouses, shall not exceed 45 feet total.

d. Lot width and frontage. Building locations shall conform to the following:

(1) Lot width: 375 feet.

(2) Lot frontage: 250 feet.

e. Coverage limits. Buildings shall conform to the following:

(1) Maximum lot coverage: 10%, not including parking structures.

(2) Maximum lot coverage: 15%, including above-grade and below-grade parking structures.

(3) Maximum impervious materials coverage: 35%, including structures and pavement.

f. Minimum open space and buffers.

(1) Minimum natural vegetation area: 35% of the lot area.

(2) Minimum street buffer strips: 50 feet maintained as a natural vegetation area, except as required by vehicular and pedestrian access and egress and

related traffic safety improvements and above-, below-, or at-grade utilities.

(3) Minimum side and rear lot line buffer strips: 10 feet maintained as a natural vegetation area, except as required by vehicular and pedestrian access and egress and related traffic safety improvements and above-, below-, or at-grade utilities.

g. Building location. Buildings locations shall conform to the following:

(1) Minimum street setback: 250 feet to streets existing at the time of application under Subsection 4387

(2) Minimum yard setbacks: 50 feet to side or rear lot lines.

h. A minimum separation of 40 feet shall be provided between buildings on the same lot; provided, however, that buildings may be connected by foundation systems, basements, cellars, above-grade or below-grade hallways or passageways or below-grade or above-grade parking facilities.

i. Curb cuts. No curb cut shall be less than 12 feet in width or more than 60 feet in width, except as determined during site plan review, pursuant to Subsection 4387, based upon standard traffic engineering practice.

j. Landscaping. Landscaping shall be as shown on a plan submitted and approved pursuant to Subsection 4387.

4386. Required off-street parking and loading. redundant ?

a. Parking requirements. The minimum number of off-street parking spaces shall be 1 1/4 per senior dwelling unit; one for each three beds at a nursing facility. Parking facilities shall conform to the following:

(1) All required parking shall be provided on the same lot or lots as the principal or accessory use. Required parking may be located at grade or in below-grade or above-grade parking structures.

(2) Except as provided in Paragraph (4), each required off-street parking space shall have direct access to a parking aisle and shall be large enough to contain a rectangle not less than nine feet by 18 feet, except for parallel spaces which shall be large enough to contain a rectangle not less than nine feet by 22 feet, exclusive of drive and maneuvering space.

(3) Parking aisles shall have 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:

(i) Parking space angle: parallel, 30°, 45°, 60°, 90°.

(ii) Minimum aisle width: 12, 12, 12, 16, 24 feet, respectively, for one-way traffic measured between ends of stall lines.

(4) Within managed parking facilities within structures, parking lifts and stacked parking spaces may be provided if:

(i) Parking attendants are available to operate such a facility; and

(ii) In the case of stacked parking, not more than two required parking spaces are placed behind a parking space having direct access to an aisle or driveway having the minimum width set forth above. Convenient visitor parking shall be provided within managed parking facilities or in separate visitor parking lots.

b. Loading requirements. There shall be at least one loading bay for any building containing more than 1,000 square feet of gross leasable business floor area, which area shall not include any floor area devoted to senior dwelling units. Loading facilities shall conform to the following:

(1) No loading bay shall be less than 12 feet by 30 feet, nor provide less than 14 feet of vertical clearance.

4387. Site plan approval. Notwithstanding anything to the contrary, within a Senior Living District development, no building permit shall be issued and 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 site plan bearing the endorsement of approval of the Board of Appeals pursuant to this Subsection 4387. For purposes of the Senior Living District, the site plan approval process and procedures shall be as set forth in this Subsection 4387. The Board of Appeals is designated as the site plan review authority for all purposes under these Subsections 4380 through 4390.

a. An application and site plan shall be submitted to the Board of Appeals. Site plans shall be drawn to a scale of 40 feet to the inch (or such other scale as the Board of Appeals may accept) and shall contain the following, except to the extent otherwise waived by the Board of Appeals:

(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, a 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.

(6) Site plans shall show, among other things, all existing and proposed buildings and structures and their uses, means of building egress, parking areas, access drives, loading areas, trails, recreation areas, pedestrian and bicycle paths, 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.

(7) Site plans shall show existing and proposed grading with a one-foot contour interval and spot grades based on NAVD 88. Earthwork quantities, geotechnical investigations, and foundation engineering reports shall be provided as required by the Board of Appeals.

(8) 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.

(9) Site plans shall show 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.

(10) Site plans shall include landscape plans and detail sheets showing all hardscape and planting elements. Site lighting fixture locations shall be shown for coordination purposes. Use of native plant materials is encouraged. Invasive 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. 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.

(11) 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.

(12) Elevations for all structures shall be submitted.

(13) 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.

(14) A traffic study conforming to the EOEA/EOTC Guidelines EIR/EIS

Traffic Impact Assessment (1989), which shall include information concerning proposed access and egress and the traffic impact to surrounding roadways and intersections and proposed mitigation. Roadway and intersection improvement plans shall be submitted pursuant to Subsection 4387b(6) and (7).

(15) An analysis of groundwater quality at the project boundary or at the boundary of any parcels containing wastewater disposal facilities and an analysis of surface water quality in downgradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, are required. When the concentration of any pollutant in the effluent discharges from on-site wastewater treatment facilities exceeds the permitted maximum permitted concentration of that pollutant, a geohydrologic analysis shall be performed to evaluate future groundwater quality at the project boundary, including the contribution of effluent discharged on site and background concentrations of water pollutants. Surface and groundwater transport of effluent from on-site wastewater disposal facilities and of landscape chemicals, including pesticides, herbicides, and fertilizers, to downgradient surface water bodies shall be quantified and post-development concentrations of pollutants shall be established. The analysis shall quantify the project impacts on surface water quality in downgradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to determine compliance with the Massachusetts Surface Water Quality Standards for Class A Surface Waters for dissolved oxygen, temperature, pH, fecal coliform bacteria, solids, color and turbidity, oil and grease, and taste and odor (314 CMR 4.05) and to quantify degradation in water quality that would impair existing uses (314 CMR 4.04).

(16) A water balance analysis quantifying pre- and post-development water use and recharge, including any interbasin transfers.

(17) Construction impacts and truck traffic shall be provided for sites disturbing over five acres.

(18) 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.

(19) Pursuant to the EOEA/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989), air quality studies will be provided.

(20) 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.

(21) Visibility analysis, including a perspectives study during the winter months.

(22) A fiscal impact study shall be provided.

(23) An infrastructure study shall be provided.

(24) A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, with an accompanying narrative explaining their general purpose.

b. Design objectives. For projects submitted for site plan review, site improvements shall be constructed to the following design objectives unless waived by the Board of Appeals:

(1) Buildings shall be located and screened with mature plantings to minimize visibility from abutting residential properties and public ways.

(2) Existing off-site structures and utilities shall be protected from damage caused by rock removal by blasting or pneumatic means.

(3) Existing off-site private water supply wells shall be protected from damage caused by rock removal by blasting or pneumatic means and shall be protected from pollution caused by pollutants discharged from wastewater treatment facilities.

(4) Transfers of potable water outside of the Neponset River basin shall be mitigated, to the extent feasible and subject to the issuance of any required permits and approvals, through recharge within the Neponset River basin or water conservation measures.

(5) Wastewater treatment facilities should abate contaminants from such facilities, allowing surface water quality in downgradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to meet the Massachusetts Surface Water Quality Standards for Class A Surface Waters for dissolved oxygen, temperature, pH, fecal coliform bacteria, solids, color and turbidity, oil and grease, and taste and odor (314 CMR 4.05) and not cause degradation of water quality below existing levels. However, applicants shall not be obligated to improve the surface water quality above the existing conditions or mitigate impacts from other sources.

(6) To the extent the applicant obtains the necessary permits and approvals, off-site intersection upgrades shall be provided to minimize the negative impact of project-generated traffic on intersection operations and levels-of-service at all intersections in the intersection study area. The purpose of such upgrades will be to ensure that intersections currently operating at a Level of Service D or better shall not be further degraded below a Level of Service D. The applicant shall not be required to upgrade intersections (i) with existing levels of service below Level of Service D to Level of Service D (but may be required to mitigate such intersection to address project traffic) or (ii) where degradation of the level of service is caused by unrelated projects or development. The intersection study area shall be Bay Road from and including its intersection with East Street to the Easton Town Line. The determination of level of service and other factors related to traffic will be made through a traffic study

conforming to the EOEA/EOTC Guidelines EIR/EIS Traffic Impact Assessment (1989), which shall include information concerning proposed access and egress and the traffic impact to surrounding roadways and intersections and proposed mitigation. "Level of service" shall be as defined by the latest version of the Transportation Research Board of the National Academies' Highway Capacity Manual 2000.

(7) Off-site roadway upgrades shall be provided to minimize the negative impact of project-generated traffic on operations and safety at all locations along the roadway study corridor. The roadway study corridor shall include Bay Road from East Street to the Easton Town Line. Existing safety, sight distance, and horizontal and vertical geometric deficiencies and substandard pavement widths on roadway segments within the roadway study corridor shall be corrected, provided that such corrections are required to permit safe operations, and further subject to:

(i) Improvements can be completed within the existing right-of-way; and

(ii) To the extent permitted by authorities having jurisdiction.

The extent of roadway segment corrections or safety protocols may be set forth in a development agreement or other agreement between the Town and applicant. This Paragraph (7) shall be met to the extent addressed in a development agreement or another agreement.

(8) Buildings shall incorporate, to the extent feasible, energy-saving devices and shall promote energy conservation through use of insulation and energy-efficient building envelope elements consistent with the Massachusetts Building Code.

(9) Irrigation shall be subject to an irrigation management plan that incorporates staged drought management provisions. The irrigation management plan may provide for nonmunicipal water and treated effluent application to turf in recreation facilities to the extent allowed by regulatory agencies having jurisdiction. On-site well water may be used, but drawdown affecting adjacent water supply wells should be minimized.

(10) 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 imposed during site plan review.

(11) Parking lot lighting shall be designed with lower illumination levels consistent with IESNA recommended practice. Parking lot light trespass shall be limited to 0.5 foot-candle at the property line, except at site access drives, and there shall be no point sources of light visible from adjacent streets and properties. Parking lot pole heights shall be limited to 18 feet. All parking lot lighting fixtures shall incorporate "dark skies" principles through use of lighting fixtures designed to limit upward-

projecting light.

(12) Runoff from pedestrian areas, landscape areas, and low-volume vehicular areas shall be accommodated using low-impact design principles, where practicable.

(13) All site utilities shall be installed underground.

c. Reports to the Board of Appeals. Within 10 days following receipt of a duly submitted site plan, the Board of Appeals shall transmit one copy thereof to the Planning Board, Board of Health, and Conservation Commission. The Planning Board, Board of Health, and Conservation Commission shall investigate the case and report in writing their recommendations to the Board of Appeals. The 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 Board of Appeals shall not take final action on said plan until it has received reports thereon from the 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 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.

d. Criteria. In granting site plan approval, the Board of Appeals shall consider the following:

(1) The extent to which the site plan fulfills the objective of the Senior Living District to create a vibrant community for senior citizens, including senior citizens with disabilities;

(2) The extent to which affordable dwelling units are provided in accordance with Subsection 4381g;

(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 parking areas and other parts of the Senior Living District development are adequately screened from adjoining premises or from the street, by walls, fences, plantings or other devices;

(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 adequate supplies of drinking water are provided;

(7) The extent to which adequate provisions are made for off-street parking and loading;

(8) The extent to which adequate fire and police protection and access are provided;

(9) If within the Surface Water Resource Protection District, the extent to which measures are provided to minimize cumulative impacts on Lake Massapoag and its tributary streams, including consideration of nitrate-nitrogen loadings;

(10) If within the Ground Water Resource Protection District, the extent to which measures to minimize cumulative impacts on municipal water supplies are provided, including consideration of nitrate-nitrogen loadings, for that portion of the site within the Ground Water Resource Protection District;

(11) 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;

(12) The extent to which phosphorous in wastewater effluent is limited to a maximum of 1 mg/l or to concentrations demonstrated not to cause an exceedance of Massachusetts Surface Water Quality Standards for Class A Surface Waters in downgradient surface waters;

(13) The extent to which wastewater treatment and stormwater management facilities reasonably minimize transfers outside of the Neponset River basin, with consideration of the extent to which transfers are mitigated, to the extent practicable, through recharge or conservation measures;

(14) The extent to which stormwater management facilities shall attenuate increases in the volume of off-site discharge for the one-year-frequency storm event;

(15) The extent to which stormwater management facilities conform, to the extent practicable, to the Massachusetts Department of Environmental Protection's Stormwater Management Policies (March 1997);

(16) The extent to which use of potable water from the Sharon municipal water distribution system for irrigation is avoided;

(17) The extent to which the site's operation and maintenance plan provides for leak detection and repair for all on-site sanitary sewers;

(18) The extent to which on-site buildings incorporate water conservation devices, including water-efficient plumbing fixtures;

(19) The extent to which rooftop mechanical equipment is visually screened and acoustically buffered and the extent to which day-night average sound levels caused by rooftop equipment do not exceed 55 decibels at the property line;

(20) The extent to which buildings are located and screened with mature plantings to minimize visibility from abutting residential properties and public ways;

(21) The extent to which existing structures and utilities are protected from

damage caused by rock removal by blasting or pneumatic means;

(22) The extent to which existing private water supply wells are protected from damage caused by rock removal by blasting or pneumatic means and the extent to which existing private water supply wells are protected from pollution caused by pollutants discharged from wastewater treatment facilities;

(23) The extent to which transfers of potable water outside of the Neponset River basin are mitigated, to the extent practicable, through recharge within the Neponset River basin or water conservation measures;

(24) The extent to which wastewater treatment facilities abate contaminants from such facilities, allowing surface water quality in downgradient lakes and ponds within 2,000 feet of the project boundary, including Briggs Pond, to meet the Massachusetts Surface Water Quality Standards for Class A Surface Waters and not cause degradation of water quality below existing levels; provided, however, that applicants shall not be obligated to improve the surface water quality above the existing conditions;

(25) The extent to which negative traffic impacts are minimized in off-site intersections in the intersection study area through provision of necessary intersection upgrades such that existing intersections currently operating at a Level of Service D or better shall not be further degraded below a Level of Service D.

(26) The extent to which off-site roadway upgrades are provided to minimize the negative impact of project-generated traffic on operations and safety at all locations along the roadway study corridor by remediating existing safety, sight distance, and horizontal and vertical geometric, and pavement width deficiencies;

(27) The extent to which buildings incorporate energy-saving devices and promote energy conservation through use of insulation and energy-efficient building envelope elements;

(28) The extent to which irrigation water use is minimized through adherence to an irrigation management plan and the extent to which irrigation well drawdown impacts affecting existing water supply wells on neighboring properties are minimized;

(29) The extent to which native plant materials are used; invasive plants are avoided; and the quantities of pesticides, fertilizers, and herbicides are minimized;

(30) The extent to which parking lot lighting limits light trespass to 0.5 foot candle at the property line; limits pole heights to 18 feet; and uses lighting fixtures that minimize upward-projecting light;

(31) The extent to which runoff from pedestrian areas, landscape areas, and low-volume vehicular areas is accommodated using low-impact design principles;

(32) The extent to which underground utilities are provided.

e. The Board of Appeals shall hold a public hearing, for which notice has been given as provided in MGL c. 40A, § 11, concerning a site plan submitted for review and approval pursuant to this Subsection 4387.

f. Final action by the Board of Appeals. The Board of Appeals' final action shall consist of either an approval based on the determination that the site plan for the Senior Living District development is consistent with the criteria and requirements set forth in this Subsection 4380, an approval subject to reasonable conditions consistent with the criteria and requirements set forth in this Subsection 4380, or a denial based on a determination that:

(1) The required site plan application filing materials for the Senior Living District development are incomplete; or

(2) The site plan is unreasonably inconsistent with the criteria and requirements set forth in this Subsection 4380 (unless otherwise waived) so that it admits of no reasonable solution.

Failure of the Board of Appeals to make any determination within 60 days of its hearing, as such hearing may be extended by consent of the applicant, shall constitute a determination of consistency.

4388. Consultants. **[Amended 5-1-2017 ATM by Art. 19]**

a. To facilitate review of an application for a site plan, the Board of Appeals may engage outside consultants in accordance with Subsection 4390.

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. 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.

c. Scope of work. In the course of exercising its powers under this bylaw, the Board of Appeals 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 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.

d. Review fees.

(1) 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 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 pursuant to MGL c. 44, § 53G. These funds may be expended only for the purposes described in above Subsection 4388a, 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.

(2) 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 applicants' specific projects; and if the findings and reports are made part of the public record.

e. 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.

f. 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.

g. 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.

h. 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.

4389. Enforcement and implementation. Any site plan approval issued under this section shall lapse within one year if construction thereof has not commenced sooner, except upon application within one year and for good cause shown. Such time period shall be extended upon request by the applicant for one year. A Senior Living District development may be constructed in multiple phases over time. Once construction of any portion of a Senior Living District development has commenced, such site plan approval shall not lapse if the construction proceeds in phases in accordance with an overall project schedule of completion.[41]

golf?

4390. Recreation and Residential Overlay District (RROD). [Added 5-1-2017 ATM by Art. 19]

4391. Recreation and Residential Overlay District requirements. Recreation and Residential Overlay District projects shall comply with the following:

a. 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.

b. Eligibility. The site must be located within the Recreation and Residential Overlay District on the Zoning Map, Town of Sharon, Massachusetts.

c. Recreation and Residential Overlay District projects require site plan approval from the Planning Board pursuant to Section 4397.

d. 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 Section 4390. 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 Section 4390, then all development within the total Recreation and Residential Overlay District project shall conform to the use, dimensional, parking, and loading requirements of Section 4390. To the extent there are inconsistencies between provisions of Section 4390 and the provisions of any underlying district, the

41. **Editor's Note: Former Subsection 4390, Outside consultants, which immediately followed this subsection, was repealed 5-1-2017 ATM by Art. 19. See now Subsection 4388 above.**

why is this a By-Law?

provisions of Section 4390 shall govern.

e. 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.

f. 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.

g. 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.

h. 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.[42]

i. 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-

42. **Editor's Note: See Ch. 340, Subdivision Regulations.**

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.

j. 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[43] 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

43. Editor's Note: See Ch. 340, Subdivision Regulations.

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 Section 4394.

k. 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 assess 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.

4392. Definitions. The following terms shall have the meanings set forth herein, notwithstanding any conflicting definitions in Article V:

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 4390 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 4390.

4393. Use regulations. Uses and accessory uses within a Recreation and Residential Overlay District shall comply with the following:

a. 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.

b. 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.

4394. Performance standards. A Recreation and Residential Overlay District project shall comply with the following:

a. 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 4391.(i). 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.

b. Wastewater collection and treatment. Wastewater collection and treatment shall comply with the following:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) Any on-site sanitary sewers shall be subject to ongoing requirements for leak detection and repair.

c. 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).

(1) Stormwater management facilities shall attenuate increases in the rate of off-site discharge for the one-year-frequency storm event.

(2) Stormwater management facilities incorporating low-impact design measures shall be used to abate contaminants caused by golf course operation, including nitrogen and phosphorous.

(3) 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.

(4) 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.

d. 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.

e. 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.

f. Water conservation. Buildings shall, as practicable, incorporate water conservation devices, including water-efficient plumbing fixtures and appliances.

g. 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.

4395. Dimensional regulations. A Recreation and Residential Overlay District project shall comply with the dimensional requirements set forth herein.

a. Dimensional requirements for the total Recreation and Residential Overlay District project are as follows:

(1) Minimum total project area: 180 acres.

(2) Maximum total area of lots within a recreational and residential overlay district project:

(i) For Two-family dwelling use: 20 acres.

(ii) For multiuse clubhouse use without golf course: 24 acres.

(3) Maximum total project density.

(i) Fifty-two dwelling units total per Recreation and Residential Overlay District project.

(ii) One multiuse clubhouse per Recreation and Residential Overlay District project.

(iii) Two bedrooms per dwelling unit maximum and 104 bedrooms total per Recreation and Residential Overlay District project.

(4) Maximum total project coverage limits.

(i) Maximum area of impervious materials, including structures: 15%.

(ii) Minimum natural vegetation area: 10%.

b. Location requirements.

(1) 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.

(2) 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.

c. 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: 2/3 of the minimum lot width.

(6) Maximum lot coverage: 25%.

(7) Maximum coverage limits of impervious materials, including structures:

(i) For the golf course: 10%.

(ii) For the multiuse clubhouse: 40%.

(iii) 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:

(i) From side lot lines: 15 feet.

(ii) 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.

d. Maximum building height.

(1) For dwellings: not to exceed the more restrictive of 2.5 stories or 35 feet.

(2) For multiuse clubhouses: not to exceed the more restrictive of two stories or 40 feet, including rooftop mechanical equipment.

(3) For accessory buildings: not to exceed the more restrictive of two stories or 30 feet.

4396. Required off-street parking and loading.

a. 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).

b. 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.

c. 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.

d. Homeowner and property owner organization documents must include provisions for establishing and enforcing parking restrictions and prohibitions.

e. Minimum loading requirements for the multiuse clubhouse: one loading space per 50,000 square feet of gross floor.

f. 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.

4397. Site plan review and approval. All uses within a Recreation and Residential Overlay District require site plan approval from the Planning Board. Unless waived by the Planning Board, applications for site plan review and approval shall comply with the following:

a. Applicants are encouraged to submit sketch plans and meet informally with the Planning Board prior to formal submission of a site plan approval application.

b. Submittal. 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.

c. 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.

d. 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).

e. 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).

f. 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.

g. Site plans shall show existing and proposed grading with a one-foot contour interval and spot grades based on NAVD 88.

h. 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.

i. 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.

j. 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).

k. 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.

l. Site plans shall also show all proposed two-family dwellings and related site improvements.

m. 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.

n. 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.

o. Earthwork quantities shall be provided.

p. 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.

q. 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.

r. 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.

s. 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.

t. 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.

u. 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.

v. 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.

w. 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 4391i.

(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.

x. 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 4390, an approval subject to reasonable conditions consistent with the criteria and requirements set forth in this Section 4390, 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 4390 (unless otherwise waived) so that it admits of no reasonable solution.

4398. Consultants. To facilitate review of an application for a site plan, the Planning Board may engage outside consultants in accordance with Section 4388. 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.

a. 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.

b. 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.

c. 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.

4399. 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.

SECTION 4400.
Flood Hazard District

4410. General provisions.

4411. Floodplain District boundaries. The Floodplain District is herein established as an overlay district. The District 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.

4412. 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.

4413. 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.

4414. Base flood elevation data. 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.

4420. Regulations.

4421. Zoning regulations. Any development within the Flood Hazard District shall be subject to all otherwise applicable requirements of the underlying zoning district in which it is located, including usual use and dimensional requirements.

4422. 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.

4423. Reference to existing state regulations. The Floodplain District is an overlay district to all other districts. All development in the District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, and with the following:

a. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high-hazard areas;

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

c. Adopting Inland Wetland Orders, DEP (currently 310 CMR 13.00);

d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

e. 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.

4430. Exceptions.

The Board of Appeals may grant a special permit for an exception to the requirements of Subsection 4420 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:

4431. Good and sufficient cause;

4432. Failure to allow the departure would result in exceptional hardship to the applicant;

4433. 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;

4434. The departure is the minimum necessary, considering the flood hazard, to afford relief.

Exceptions may also be granted for reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places.

4440. Applicability.

Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

4450. Notification of watercourse alteration.

Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

Adjacent communities
NFIP State Coordinator

251 Causeway Street, Suite 600-700

Boston, MA 02114
NFIP Program Specialist

99 High Street, 6th Floor

Boston, MA 02110

SECTION 4500.
Water Resources Protection District

4510. Purpose.

a. The purpose of the Groundwater Protection District 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. 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.

b. The purpose of the Surface Water Protection District is 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.

c. Land in either the Groundwater Resources Protection District or the Surface Water Resources Protection District shall be deemed to be in the Water Resources Protection District.

4520. Applicability.

The Surface Water Resources Protection District shall be as shown on the Zoning Map. The Groundwater Resources Protection District shall be as shown on the Zoning Map.

4521. Special permits for insensitive locations.

The Board of Appeals, pursuant to Subsection 4543 of this bylaw, may grant a special permit to exempt a location from the requirements of Section 4500 of this bylaw.

4530. Regulations.

Water Resources Protection Districts shall be considered to be superimposed over any other district established in this bylaw. Land in a Water Resources 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:

4531. Prohibited uses and activities. Within the Water Resources Protection Districts, the following uses and activities are specifically prohibited: **[Amended 11-6-2017 STM by Art. 2]**

a. Sanitary landfill or other disposal of solid waste;

b. Motor vehicle salvage operations and junkyards;

c. 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;

d. Sewage treatment plants, except as follows:

(1) 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 Subsection 2329 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;

(2) 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 Subsection 4532d, 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 monitoring and testing.

e. Commercial car washes;

f. Outdoor storage of road salt or other deicing chemicals;

g. 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 4532e. **[Amended 10-12-2020 ATM by Art. 26]**

h. Dumping of snow from outside the district;

i. Commercial dry cleaning establishments;

j. Commercial self-service laundries, unless connected to public sewerage;

k. Commercial service and repair of airplanes, boats and motor vehicles, including body shops;

l. 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 4532e. **[Amended 10-12-2020 ATM by Art. 26]**

m. Commercial plating, finishing or polishing of metals;

n. Chemical and bacteriological laboratories;

o. Storage of herbicides, pesticides or fertilizer, other than in amounts normally associated with household or agricultural uses;

p. The following activities if done commercially: cabinet or furniture making, painting, wood preserving, furniture stripping and refinishing, photographic processing and printing;

q. Electronic circuit assembly;

r. 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;

s. 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.

4532. Special permit uses. Within the Water Resources Protection Districts, the following uses are prohibited unless a special permit is granted by the Board of Appeals:

a. 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;

b. The enclosed storage of road salt or other deicing chemicals;

c. 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;

d. 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 Subsection 2329. 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.

e. In Business District D, the following: **[Added 10-12-2020 ATM by Art. 26]**

(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:

(i) Underground storage tanks; or

(ii) Storage tanks partially below mean ground elevation; or

(iii) Above ground storage tanks.

Said storage tanks shall comply with Article XX; Town of Sharon, MA, Code Division 1: Bylaws, Part II: General Legislation, § 160-5D.

4533. 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:

a.

District	Minimum Lot Area (square feet)
Surface Water Resources Protection District	80,000
Groundwater Resources Protection District	60,000

b. The provisions of Paragraph a 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 (square feet)
Surface Water Resources Protection District	80,000 per dwelling unit
Groundwater Resources Protection District	60,000 per dwelling unit

4534. Stormwater management. Site design shall comply with the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town[44] 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.

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44. Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

4535. Impervious materials coverage.

a. Except by special permit from the 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 Subsection 4534.

b. 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 section 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.

c. Large-scale ground-mounted solar photovoltaic installations are excluded from impervious area limitations. **[Added 5-1-2017 ATM by Art. 24]**

4536. Locations within lots. Where the premises are partially outside of the Water Resources Protection District, site design shall, to the degree feasible, locate such potential pollution sources as on-site disposal systems outside of the district.

4540. Special permits.

4541. Special permit granting authority. The special permit granting authority (SPGA) under Subsection 4532 of this bylaw shall be the Board of Appeals. Such special permit shall be granted if the Board of Appeals determines, after opportunity for review and recommendation by other Town agencies as specified in Subsection 4542 below, that the intent of this bylaw as well as its specific criteria are met. In making such determination, the 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.

4542. Submittals.

a. 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 pursuant to Subsection 6313 of this bylaw may 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,[45] and any other relevant bylaw, and the Town Engineer shall submit his report to the Board of Appeals prior to the public hearing.

b. Applications for other than one single-family house 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 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:

(i) Wastewater per person: five pounds of nitrogen per year.

(ii) Three persons per dwelling unit.

(iii) Lawn fertilizer: three pounds of nitrogen per 1,000 square feet of lawn per year.

(iv) Road runoff: 0.19 pound of nitrogen per curb mile per day.

(v) Background nitrogen concentration: actual field measurements.

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45. Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

(4) The following criteria are to be used for groundwater flow and impacts to drinking water supply wells:

(i) Identify probable impacted water supply well by constructing flow line downgradient of the proposed site.

(ii) Area recharge rate: 16 inches per year for sand and gravel; nine inches per year for till.

(iii) Hydraulic conductivity: listed from closest downgradient public supply well.

(iv) Saturated Thickness Map IEP (1987), supplemented with site-specific borings.

(v) 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.

c. Any change, alteration or expansion of a single or two family residence shall not be required to make such submittals as required by 4542(a) and (b) at application, provided that the Board of Appeals may thereafter require any or all of such submittals under 4542(a) or (b).

d. 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 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.

4543. Criteria for special permits for insensitive locations.

a. Insensitive locations within the Surface Water Resources Protection District. Subject to the considerations listed in Subsection 6313 of this bylaw, the Board of Appeals may grant a special permit to exempt a location within the Surface Water Resources Protection District from the requirement of Section 4500 of this bylaw 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.

b. Insensitive locations within the Groundwater Resources Protection District. Subject to the considerations listed in Subsection 6313 of this bylaw, the Board of Appeals may grant a special permit to exempt a location within the Groundwater Resources Protection District from the requirement of Section 4500 of this bylaw 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.

c. A determination by the Board of Appeals to grant a special permit pursuant to Subsection 4543a or 4543b shall not exempt the applicant from the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town.[46]

4544. Criteria for special permits not covered by Subsection 4543.

a. Subject to the conditions listed in Subsection 6313 of this bylaw, a special permit for use or activity in a location within the Surface Water Resources Protection District may be granted only if the 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.

b. Subject to the conditions listed in Subsection 6313 of this bylaw, a special permit for a use or activity in a location within the Groundwater Resources

46. Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

Protection District may be granted only if the 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).

c. Subject to the conditions listed in Subsection 6313 of this bylaw, and notwithstanding the provisions of Subsection 4544a or b, a special permit for a change, alteration or expansion of a single- or two-family residence to be issued by the Board of Appeals shall consider the following conditions of any special permit granted thereunder:

(1) Water-saving devices for all bathrooms;

(2) Organic-only fertilizers and weed killers;

(3) Leaders for roof gutters into dry wells;

(4) Upgrade of the existing subsurface sanitary disposal system;

(5) Annual pumping of the subsurface sanitary disposal system;

(6) No garbage disposers or disposals;

(7) And such other conditions as may be deemed appropriate.

d. A determination by the Board of Appeals to grant a special permit pursuant to Subsection 4544a, 4544b, or 4544c shall not exempt the applicant from the provisions of the Stormwater Discharges Generated by Construction Activity General Bylaw of the Town.[47]

4550. Violations.

Written notice of any violation of Subsections 4510 through 4544 of this bylaw shall be provided by the Building Inspector 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.

47. **Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.**

SECTION 4600.
Telecommunications Facilities

4610. Purpose.

The purposes of this bylaw are to:

a. Preserve the character and appearance of Sharon while allowing adequate telecommunications services.

b. Protect the scenic, historic, environmental, natural and man-made resources of Sharon.

c. Provide standards and requirements for the regulation, placement, appearance, camouflaging, construction, monitoring, design, modification and removal of telecommunications facilities.

d. 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.

e. 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.

f. Minimize the total number and height of towers throughout Sharon.

g. 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.

h. 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.

i. Require co-location and the clustering of telecommunications facilities, where possible, consistent with safety and aesthetic considerations.

j. Otherwise minimize the impact of telecommunications facilities, including satellite dishes and antennas, on adjacent properties and residential neighborhoods.

4615. Consistency with federal law.

These regulations are intended to be consistent with state and federal law and, in particular, the Telecommunications Act of 1996 in that:

a. They do not prohibit or have the effect of prohibiting the provision of telecommunications services; and

b. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent telecommunications services; and

c. 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.

4618. Definitions and word usage.

As used in this bylaw, the following terms shall have the meanings indicated. The word "shall" or "will" indicates mandatory requirements; "may" is advisory and indicates recommendations that are not mandatory.

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 pursuant to Subsection 4661, 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.

dBμ — 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.

DWELLING UNIT — As defined in the Sharon Zoning Bylaw, Article V.

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 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.

4619. Exempted wireless communications uses.

The following wireless communications facilities are exempted from the provisions of this bylaw: 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.

4620. General requirements.

a. 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 SPGA. Any proposed major modification of an existing telecommunications facility or tower shall be subject to a new application for a special use permit.

b. 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:

(i) The antennas do not exceed the height of the existing structure;

(ii) Sufficient space exists at the base of the structure for the placement of equipment with proper screening and access; and

(iii) Provisions are made for more than one telecommunications provider where possible.

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

4625. Additional requirements.

a. 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.

b. 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 4627 of this bylaw.

c. 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.

d. 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.

e. 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 bylaw.

The SPGA shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

f. Tower finish, tower heights and tower types.

(1) 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.

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

(3) 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.

g. 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 use permit under this bylaw may install, with at least 30 days' written notice to the SPGA, the Board of Health, Conservation Commission, Building Inspector 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 the applicable site plan review application procedures contained in Subsections 6320 and 6330 of the Zoning Bylaw of the Town of Sharon.

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

i. 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.

j. 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.

k. 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.

4627. Siting criteria and evaluation of impact.

a. 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 Subsection 4625c.

(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.

b. The following additional criteria for siting decisions shall be applied:

(1) 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).

(2) Telecommunications facilities shall be sited on existing non-telecommunications structures where not otherwise prohibited by this bylaw.

(3) 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.

(4) Use of very low power repeaters to provide adequate coverage, without requiring new tower(s), shall be encouraged.

c. 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.

d. 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.

e. 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.

f. 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.

4630. Application process.

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:

a. 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.

b. 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.

c. The following information prepared by a professional engineer:

(1) A description of the telecommunications facility and the technical, economic and other reasons for the proposed location, height and design.

(2) Confirmation that the telecommunications facility complies with all applicable federal and state standards.

(3) 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.

d. 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.

e. 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.

f. 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 with Subsection 4630f(1) 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:

(i) 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

(ii) Sharon already has adequate coverage from this provider.

4640. 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:

a. 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.

b. 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 Subsection 4620b.

c. 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.

d. 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.

e. 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.

f. 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.[48]

g. 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.

4650. Special use permit review.

a. 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.

b. 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 Subsection 4690.

c. 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.

d. 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).

4660. (Reserved)

4661. Independent consultants.

a. Upon submission of an application for a special use permit under this bylaw, the

48. Editor's Note: See Ch. 221, Signs.

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:

(1) Telecommunications/radio frequency engineering;

(2) Structural engineering;

(3) Assessment of EMFs; and

(4) Such other fields as may be deemed necessary by the SPGA.

b. 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.

c. 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.

d. Applicants for any special use 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).

4670. Monitoring and evaluation of compliance.

a. 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 Building Inspector and the Town Clerk.

b. 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 Building Inspector 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.

c. 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.

d. 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 Building Inspector 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.

e. Unsafe structure. In the event that the inspection of any tower reveals structural defects which, in the opinion of the Building Inspector 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 Building Inspector for approval. This plan shall be initiated within 10 days of the submission of the remediation plan, provided it is approved by the Building Inspector, 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 Building Inspector determines that the tower poses a substantial and imminent threat to public safety) 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.

f. Compliance enforcement responsibility. This bylaw shall be enforced by the Town of Sharon's Building Inspector, 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 Manager and the Town Counsel.

g. Compliance certification.

(1) 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 Building Inspector 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.

(2) 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 Building Inspector by the special use permit holders for all telecommunications facilities.

h. 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 MGL c. 40A, § 17), if a substantial use thereof or construction has not sooner commenced.

4680. Removal requirements.

a. 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.

b. 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.

4690. 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.

SECTION 4700.
Utility Services

4710. Natural gas custody transfer facilities.

4711. Purpose. The purpose of this regulation 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 these bylaws, "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.

4712. 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.

4713. 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 Sharon Zoning Board of Appeals. In addition, each applicant must submit the following information as part of its application:

a. 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

b. Engineer's certification that the proposed facility complies with all applicable federal and state standards regulating such facilities.

4714. Special permit review. Applications for a special permit for a natural gas custody transfer facility shall be reviewed in accordance with the procedures under Subsection 6310 of this Zoning 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 2400 et seq. of this bylaw.

4720. Wastewater Overlay District.

4721. Purpose. The purpose of the Wastewater Overlay District is to enhance the public welfare by protecting groundwater resources by providing a higher level of wastewater treatment than is required under 310 CMR 15.000, the State Environmental Code, Title 5.

4722. Requirements. An applicant may submit a site plan application subject to the site plan review (SPR) requirements of Subsection 6323a for development of a wastewater treatment plant within the Wastewater Overlay District as shown on the Zoning Map, Town of Sharon, Massachusetts.

4723. Application. Wastewater Overlay Districts shall be considered as superimposed on underlying districts created under this bylaw. Wastewater Overlay District development shall conform to all other provisions of this bylaw.

4724. Permitted principal uses: wastewater treatment plants for sewage generated on the lot and off-site on lots located in the Professional District B or on certain lots located in the Single Residence A District as provided herein. The wastewater treatment plant must be authorized by a groundwater discharge permit by the Massachusetts Department of Environmental Protection and a treatment works construction permit by the Sharon Board of Health. Such wastewater treatment plant shall treat a maximum of 48,000 gallons of wastewater per day. Within Aquifer Protection Districts, groundwater shall meet or exceed Massachusetts drinking water standards at the property line. Wastewater generated on lots in the Single Residence A District may be accepted for treatment only from developed lots with residences occupied prior to the date of initial operation of the wastewater treatment plant or from lots capable of accommodating on-lot septic systems that conform to Title 5 and Sharon Board of Health regulations, and further provided that said lots are located within 1,000 feet of the Wastewater Overlay District as measured form the nearest point on the boundary of the Wastewater Overlay District to the nearest point on the boundary of the lot.

4725. Wastewater Overlay District requirements.

a. Minimum lot area: nine acres.

b. Minimum lot width: 300 feet.

c. Minimum frontage: 200 feet.

4726. Location. All components of the wastewater treatment plant, including the building, underground equipment, and the soil absorption system, but excluding sanitary sewer lines and sanitary force mains, shall comply with the location requirements of this section.

a. Minimum front setback: 40 feet.

b. Minimum setback from side or rear lot lines: 35 feet.

c. Minimum setback from existing residential lots: 150 feet from the lot lines of lots with residential structures existing at the time of building permit issuance.

SECTION 4800.
Mixed Use Overlay District (MUOD)

4801. Purpose.

The purpose of this Section 4800 is:

a. 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.

b. 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.

c. To permit the use of new development standards which will promote the desired changes in the Town Center and other commercial, transit-oriented locations.

4805. 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.

4810. 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.

4815. 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.

4820. 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.

4825. 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.

4830. Off-street parking regulations.

a. A minimum of one space per residential unit shall be provided, in addition to parking required for retail and business uses pursuant to Subsection 3111. 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.

b. 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.

c. Off-site parking, as allowed under Subsection 3112 of the Zoning Bylaw, 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.

d. 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.

4835. Minimum lot dimensions.

a. The minimum lot dimensions for all MUOD developments shall be as set forth below:

   (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.

b. All individual/separate lots in the proposed MUOD development, if under contiguous ownership, shall be considered as one lot for the purposes of this bylaw.

4840. 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.

4845. Affordable housing.

A minimum of 20% of housing units in a development in the MUOD must be affordable to 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.

4850. Site plan review.

a. All projects developed using the MUOD shall be subject to the site plan review procedures of the Planning Board as provided in Subsection 6330, as well as the Town's Stormwater Discharges Generated by Construction Activity General Bylaw.[49] 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.

b. 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.

4855. Approval authority.

The Planning Board shall be the special permit granting authority 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

49. Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.

within their jurisdiction.

SECTION 4900.
Sharon Commons Smart Growth Overlay District (SCSGOD).

4901. Purpose.

It is the purpose of this section to establish a Sharon Commons Smart Growth Overlay District and to encourage smart growth in accordance with the purposes of MGL 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:

a. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;

b. 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;

c. Increase the production of a range of housing units to meet existing and anticipated housing needs;

d. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;

e. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;

f. Establish development standards to allow context-sensitive design and creative site planning;

g. Enable the Town to receive zoning incentive payments and/or density bonus payments in accordance with MGL c. 40R, 760 CMR 59.06, and additional Chapter 70 aid in accordance with MGL c. 405 arising from the development of housing in the Sharon Commons Smart Growth Overlay District.

4902. Definitions.

For purposes of this section, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Subsection 4902. 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 MGL c. 184, § 31 and the requirements of Subsection 4904e.

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 Subsection 4905 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

ASSISTED -LIVING FACILITY — A facility licensed by the Executive Office of Elder Affairs pursuant to MGL c. 19D and all applicable requirements. This definition shall not include any other forms of group living quarters such as group foster care group homes, single-room-occupancy residences, rooming or lodging houses, and other facilities as listed in Commonwealth of Massachusetts Regulations (651 CMR 12.01).

DESIGN STANDARDS — See Subsection 4912.

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 this Section 4900.

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 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.

ENABLING LAWS — MGL 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 — For purposes of reviewing Project applications and issuing decisions on development Projects within the SCSGOD, the Plan Approval Authority (PAA), consistent with MGL 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 Sharon Commons Smart Growth Overlay District and which is submitted to the Plan Approval Authority for its review and approval in accordance with provisions of this bylaw.

TOWNHOUSE USE — Dwelling containing two or three dwelling units.

ZONING BYLAW — The Zoning Bylaw of the Town.

4903. Overlay district.

a. 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.

b. 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.

c. 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 the Zoning Bylaw. When a building permit is issued for any Project approved in accordance with this Section 4900, 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 Subsections 4910 and 4911 for such Project.

4904. Affordable housing.

a. 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 Subsections 4910 and 4911, below, 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.

b. 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.

c. Requirements. Affordable Housing shall comply with the following requirements:

(1) 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.

(2) 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.

(3) Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

(4) 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.

(5) At least 10% of the Affordable Housing units shall be handicapped-accessible.

d. 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.

e. 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:

(1) Specification of the term of the Affordable Housing Restriction, which shall be the maximum period allowed by law but not less than 99 years;

(2) The name and address of a monitoring agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

(3) 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;

(4) 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;

(5) 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;

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

(7) 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;

(8) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the monitoring agent;

(9) 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;

(10) 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;

(11) 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;

(12) A requirement that residents in Affordable Housing provide such information as the monitoring agent may reasonably request in order to ensure affordability.

f. 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:

(1) Prices of Affordable Homeownership Units are properly computed; rental

amounts of Affordable Rental Units are properly computed;

(2) Income eligibility of households applying for Affordable Housing is properly and reliably determined;

(3) The housing marketing and resident selection plan conforms to all requirements and is properly administered;

(4) 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

(5) Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper Registry of Deeds.

g. 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 in Subsection 4904c.

h. 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, as per Subsection 4904b. Such assurance may be provided through use of the security devices referenced in MGL 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.

i. 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.

j. No waiver. Notwithstanding anything to the contrary herein, the affordability provisions in this Subsection 4904 shall not be waived.

4905. Permitted and prohibited uses.

a. As-of-right uses. The following uses shall be permitted as-of-right in the SCSGOD:

(1) 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.

(2) Subzone B: Townhouse Use.

4906. Density.

a. Subzone A: 20 dwelling units per acre of developable land.

b. Subzone B: 12 dwelling units per acre of developable land.

4907. 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:

Table of Dimensional Requirements

						Setbacks (feet)		
Subzone	Minimum Area (square feet)	Maximum Building Height	Required Frontage	Minimum Width	Maximum Coverage	Front	Side	Rear
A	60,000	4 stories* or 60 feet	N/A	N/A	35% building footprint; 60% total impervious	50	10	10
B	60,000	2.5 stories or 40 feet	N/A	N/A	35% building footprint; 60% total impervious	5	5	5

* Not including below-grade parking facilities.

4908. Traffic and pedestrian safety.

a. 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.

b. Interior design. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic.

c. Transportation plan. The proposed development shall be subject to an approved transportation plan. The transportation plan shall consist of the following information:

(1) 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.

(2) 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.

(3) Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.

4909. Off-street parking regulations.

a. 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.

b. 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.

c. 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.

d. 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.

Table of Off-Street Parking Regulations

Uses	Minimum Number of Parking Spaces per Unit
Multifamily and Townhouse Use	1.5

e. 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:

(1) 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;

(2) The availability of public or commercial parking facilities in the vicinity of the use being served;

(3) Shared use of off-street parking spaces serving other uses having peak user

demands at different times;

(4) Age or other occupancy restrictions which are likely to result in a lower level of auto usage;

(5) 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

(6) Such other factors as may be considered by the PAA.

4910. Application for plan approval.

a. Pre-application.

(1) 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:

(i) Overall building envelope areas;

(ii) Areas which shall remain undeveloped;

(iii) 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.

b. 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.

c. Required submittals. 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:

(i) 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.

(ii) 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.

(iii) 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.

(iv) Grading sheet showing existing and proposed grading using two-foot contours and spot grades, as required to show improvements.

(v) Wastewater sheets showing all components of the sanitary sewer collection, pumping and treatment systems.

(vi) Utilities sheets showing all components of the stormwater management system, water distribution system, site lighting system, lighting photometric plan and cable utility systems.

(vii) 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 4904c.

(9) Project plans that demonstrate compliance with the requirements of Subsection 4904d.

(10) A form of Affordable Housing Restriction that satisfies the requirements of Subsection 4904e.

4911. Procedures.

a. 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.

b. 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, Building Commissioner, 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.

c. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in MGL 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.

d. 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 MGL 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.

4912. Design Standards.[50]

a. 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.

b. 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.

c. 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.

d. Plan approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to Subsections 4910 and 4911 shall not be subject to any Design Standard that has not been approved by DHCD and filed with the Town Clerk.

4913. Decision.

a. 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 4900, 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.

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50. Editor's Note: See also the SCSGOD Design Standards included as an attachment to this chapter.

Note Plan Approval Authority is the ZBA

b. 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.

c. Plan Approval. Plan Approval shall be granted by a simple majority where the PAA finds that:

(1) The applicant has submitted the required fees and information as set forth herein; and

(2) The Project and Site Plan meet the requirements and standards set forth this Section 4900, or a waiver has been granted therefrom; and

(3) Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated by means of suitable conditions.

d. Plan disapproval. A Site Plan may be disapproved only where the PAA finds that:

(1) The applicant has not submitted the required fees and information as set forth herein; or

(2) The Project and Site Plan do not meet the requirements and standards set forth this Section 4900, or a waiver has not been granted therefrom; or

(3) It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

e. 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 Building Commissioner. 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.

4914. Change in plans after approval by PAA.

a. 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 Building Commissioner.

b. 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.

4915. 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 MGL c. 40R. Any other request for enforcement or appeal arising under this section shall be governed by the applicable provisions of MGL 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.

ARTICLE V
Definitions

SECTION 5100.
Definitions

5110. Terms defined.

In this bylaw, the following terms shall have the meanings respectively assigned to them:

ACCESSORY BUILDING — A building devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.

ACCESSORY USE — A use 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.

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.

ASSISTED-LIVING RESIDENCE — Any entity, however organized, whether conducted for-profit or not-for-profit, which meets all of the following criteria: (a) provides room and board; (b) provides, directly by its employees or through arrangements with another organization which the entity may or may not control or own, personal care services for three or more adults who are not related by consanguinity or affinity to their care provider; and (c) collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living, or arranges for the same, and provided that said entity is certified or licensed by the Executive Office of Elder Affairs of the Commonwealth of Massachusetts or any successor office or agency pursuant to MGL c. 19D and all other applicable requirements. This definition shall not include any other forms of group living quarters such as group foster care group homes, single-room-occupancy residences, rooming or lodging houses, and other facilities as listed in Commonwealth of Massachusetts regulations (651 CMR 12.01).

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.

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.

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

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.[51]

DWELLING — A building designed exclusively for residential occupancy, including one-family, two-family and multiple residences, but not including hotels or boardinghouses.

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.

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).

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.

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51. Editor's Note: See Ch. 300, Board of Health Regulations.

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.

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.

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.

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 MGL 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 structures.

LOT, INTERIOR — Any lot or part of a plot other than a corner lot.

MIXED-USE BUILDING — A building intended and designed to be used for at least two different permitted uses as allowed for under Section 2300.

MOTEL OR 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.

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 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."

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 — A 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 use which does not conform to the use regulations of the district in which such use exists.

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.

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.

SALES AND SERVICE FACILITY — The land and buildings thereon primarily used for the particular purpose of selling and servicing manufactured or processed products.

SINGLE-FAMILY DWELLING — A detached residential building intended and designed to be occupied by a single family.

SPECIAL PERMIT GRANTING AUTHORITY — A public board of the Town of Sharon authorized under enabling provisions of MGL 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 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.

STUDIO APARTMENT — A dwelling unit containing less than 400 square feet and without a separate bedroom.

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 MGL c. 21C.

TWO-FAMILY DWELLING — A residential building intended and designed to be occupied by two families.

ARTICLE VI
Administration And Procedure

SECTION 6100.
Administration

6110. Responsibility.

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 place.

6120. Compliance 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 him 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.

6130. Submittals.

6131. 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.

6132. 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:

a. 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.

b. 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.

6133. Conformance. Construction or operations under a building or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

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.

SECTION 6200.
Board of Appeals

6210. Establishment.

The 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.

6220. Powers.

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this bylaw. The Board's powers are as follows:

6221. Special permits. To hear and decide applications for special permits upon which the Board is empowered to act under this bylaw.

6222. 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 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.

6223. Appeals. Other 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 MGL 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

MGL c. 40A or this bylaw.

6224. Withheld building permits. Building permits withheld by the Inspector of Buildings acting under MGL c. 41, § 81Y, as a means of enforcing the Subdivision Control Law may be issued by the 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.

6225. Consultants. To facilitate review of an application for a special permit or variance or an appeal, the Board of Appeals may engage outside consultants in accordance with Subsection 6340.

6226. Rules and regulations; fees. The Board may by majority vote adopt rules and regulations and may impose fees for any application.

6230. Comprehensive permits.

Comprehensive permits may be issued by the Board of Appeals in accordance with the following rules and policies:

6231. Purpose and context.

a. These rules establish procedures for applications to the Board of Appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 744 of the Acts of 1969), MGL c. 40B, §§ 20 through 23. They are required by MGL c. 40B, § 21, as amended by Stat. 1989, c. 593. The purpose of that Act and these rules is to facilitate the development of affordable housing in Massachusetts. Further explanation of the background and purpose is provided in the regulations of the Housing Appeals Committee.

b. These rules alone are not sufficient to describe comprehensive permit procedures before the Zoning Board of Appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee and with the Guidelines for Local Review of Comprehensive Permits, published periodically by the Department of Housing and Community Development, and with the Town of Sharon's Guidelines for Development Under the New England Fund (NEF), as the same are to be enacted as may be amended from time to time. In addition, the Board's general rules for conduct of hearings under MGL c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these rules, these rules shall govern.

6232. Definitions. As used in this Section 6230, the following terms shall have the meanings indicated:

BOARD — The Board of Appeals established under MGL c. 40A, § 12.

LOCAL BOARD — Any local board or official, including, but not limited to, any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer or other commission or district; fire, police, traffic or other department; building inspector or similar official or board; or select

board. All boards, regardless of their geographical jurisdiction or their source or authority (that is, including boards created by special acts of the Legislature or by other legislative action), shall be deemed local boards if they perform functions usually performed by locally created boards.

6233. Filing, time limits and notice.

a. The application for a comprehensive permit shall consist of:

(1) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. An application proposing to construct or rehabilitate four or fewer units may submit a sketch of the matters in Subsection 6233a(3) below, which need not have an architect's signature. All structures of five or more units must have site development plans signed by a registered architect;

(2) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. This submission may be combined with that required in Section 6233a(1) above;

(3) Preliminary, scaled, architectural drawings. For each building, the drawing shall be signed by a registered architect, and shall include typical floor plans, typical elevations and sections, and shall identify construction type and exterior finish;

(4) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;

(5) Where a subdivision of land is involved, a preliminary subdivision plan;

(6) A preliminary utilities plan showing the proposed location and types of sewage, drainage and water facilities, including hydrants;

(7) Documents showing that the applicant fulfills the following jurisdictional requirements:

(i) The applicant shall be a public agency, a nonprofit organization, or a limited dividend organization;

(ii) The project shall be fundable by a subsidizing agency under a low- and moderate-income housing subsidy program*; and

(iii) The applicant shall control the site;

(8) A list of requested exceptions to local requirements and regulations, including local codes, ordinances, bylaws or regulations; and

(9) The site approval letter from the subsidizing agency.

b. The application shall be accompanied by a filing fee based upon the number of proposed housing units of:

(1) For limited dividend organizations: $100 per unit.

(2) For nonprofit organizations: $50 per unit.

(3) For public agencies: $0.

(4) There shall be no filing fee for any project proposed as a local initiative.

(5) In addition, the applicant shall be responsible for paying all legal advertisement costs.

c. Within seven days of filing of the application, the Board shall notify each local official of the application by sending such official a copy of the list required by Subsection 6233a(8) above. Based upon that list, it shall also, within the same seven days, invite the participation of each local official who has a substantial interest in the application by providing such official with a copy of the entire application. All abutters and parties in interest shall be notified of the public hearing, pursuant to MGL c. 40A, § 11.

6234. Consultants. To facilitate review of an application for a comprehensive permit, the Board of Appeals may engage outside consultants in accordance with Subsection 6340.

6235. Public hearing and decision.

a. The Board shall hold a public hearing on the application within 30 days of its receipt, or such other time frame that may be mutually agreed upon by the Board and the applicant. It may require the appearance at the hearing of such representatives or local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials. The hearing shall be held at the date, time and place established by the Chair of the Board.

b. The Board shall render a decision, based on a majority vote of the Board, within 40 days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information required by the Board has been received.

c. The Board may dispose of the application by one of the following manners:

(1) Approve a comprehensive permit on the terms and conditions set forth in the application;

(2) Deny a comprehensive permit as not consistent with local needs; or

(3) Approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that do not render the construction or operation of such housing uneconomical.

6236. Appeals.

a. If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in MGL c. 40A, § 17.

b. If the Board denies the comprehensive permit or approves the permit with unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in MGL c. 40B, § 22.

6240. Design Review Committee.

To assist in fulfilling its responsibilities for site plan review, the Board of Appeals shall appoint a Design Review Committee which shall serve at the will of the Board of Appeals. The Design Review Committee shall serve in an advisory capacity and shall provide guidance and counsel to the Board of Appeals with respect to architectural, site design, landscape, signage, aesthetic, and visual quality concerns. Persons appointed to the Committee shall be selected based upon ability and competence to advise the Board of Appeals on architectural, site design, landscape, signage, aesthetic, and visual quality matters and may have education in the disciplines of architecture, landscape architecture, art, graphic arts, and related fields. The Design Review Committee shall consist of five members. Minutes of all meeting shall be submitted to the Board of Appeals for review. Reports to the Board of Appeals shall be submitted upon majority vote of the Design Review Committee.

SECTION 6300.
Special Review Procedures

6310. Special permits.

6311. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority (SPGA).

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.

6313. In approving a special permit, the SPGA may consider, but is not limited to, the following:

a. Requirement of street side or rear yards greater than the minimum required by this bylaw.

b. 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.

c. Modification of the exterior features or appearance of the structure.

d. Limitation of size, number of occupants, method or time of operation or extent of facilities.

e. Regulation of number, design and location of access drives or other traffic features.

f. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaws.

g. Adequacy of method of sewage disposal, source of drinking water and drainage.

h. Requirements to ensure the adequacy of utilities and other public services.

i. Measures to minimize adverse impacts on public and private water supplies.

j. If within Business District D, the extent to which buildings exceeding the gross floor area and footprint limitations of Subsection 2466, satisfy the requirements, design requirements, and performance standards of Subsections 2327, 2328, and 2329 in a manner comparable to buildings permitted by Subsections 2322 and 2323.

k. 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.

l. 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.

m. If within Professional Districts, potential risk in terms of health and safety, including without limitation biohazards and risk related to behavioral characteristics of patients.

n. Requirement for inspection and monitoring of any condition of the special permit in order to determine compliance with the terms of the special permit.

o. For special permits under Subsection 4535, 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.

6316. Special permits shall expire if a substantial use thereof or construction has not begun, except for good cause, within 24 months (exclusive of time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17) from the grant thereof.

6320. Site plan review.

6321. Approved site plan. 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.

6322. Board of Appeals. Unless specifically designated otherwise, the 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. Site plan review requirements are as follows:

a. Site plan review (SPR).

b. Major site plan review (MSPR).

6323. Applicability. Site plan approval under the requirements of this subsection is

required in the following cases:

a. Site plan review (SPR) is required for the following projects listed below, provided that the Board of Appeals may waive site plan review for minor changes to existing facilities:

(1) In Business District B, for projects exceeding 10 acres;

(2) In the Light Industrial District, for projects exceeding either 60,000 square feet of gross floor area or three acres of land disturbance and for any motel, hotel or motor truck sales and service facility, regardless of floor area or land disturbance;

(3) In Business Districts A and C, site plan review for projects shall be subject to Subsection 6330, using the review criteria established in Subsection 6335;

(4) In Professional Districts, for all projects other than one single-family residence on a lot.

b. Major site plan review (MSPR) is required for the following projects:

(1) In Business Districts D, site plans for all projects;

(2) In the Light Industrial District, site plans for projects exceeding either 200,000 square feet of gross floor area or 10 acres of land disturbance.;

(3) In Professional Districts, projects exceeding 60,000 square feet of floor area.

c. Coordinated review is required under the Stormwater Discharges Generated by Construction Activity General Bylaw[52] 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.

6324. Reports to the Board of Appeals. Within 10 days following receipt of a duly submitted site plan, the 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 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 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 Board of Appeals shall fully consider the recommendations set forth in these reports and shall accord particular weight to

52. **Editor's Note: See Ch. 230, Stormwater Management, Art. II, Construction Activity Discharges.**

reports identifying significant adverse impacts that cannot be avoided, minimized, or mitigated.

6325. 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.

6326. Site plan review submissions. Applications for site plan review (SPR) shall include the following:

a. Applicants are encouraged to submit a sketch plan of proposed projects prior to formal site plan submission.

b. 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).

c. 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.

d. 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).

e. Existing conditions shall be based on an on-the-ground survey based on fieldwork performed no more than two years prior to submission.

f. Said site plan shall show, 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.

g. 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 Board of Appeals.

h. Site plans shall show 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.

i. Site plans shall include landscape plan and detail sheets showing all hardscape and planting elements. Site lighting fixture locations shall be shown for coordination purposes. 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.

j. 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.

k. Architectural plans and elevations for all structures shall be submitted, signed and sealed by a Massachusetts registered architect (RA).

l. 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.

m. In addition, the 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.

6327. Major site plan review submissions.

a. Applications for major site plan review (MSPR) shall include all requirements of Subsection 6326. In addition, the 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.

b. 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 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.

c. Review thresholds. In establishing the scope, the Board of Appeals shall consider the following:

(1) 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.

(2) 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 Board of Appeals.

(3) 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.

(4) Construction impacts and truck traffic shall be provided for sites disturbing over five acres.

(5) 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.

(6) Air quality studies shall be provided where intersections in the traffic study area will operate at Level of Service E or F.

(7) 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.

(8) Visual quality and aesthetic studies shall be provided for projects exceeding 60,000 square feet of gross floor area.

(9) Fiscal impact and property tax studies shall be provided for projects exceeding 60,000 square feet of gross floor area.

(10) Infrastructure studies shall be provided for projects exceeding 60,000 square feet of gross floor area.

6328. Criteria. In determining whether site plan approval should be granted, the Board should consider the following:

a. 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;

b. 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;

c. 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;

d. The extent to which the site plan provides adequate parking and street loading facilities;

e. The extent to which the site plan promotes public safety in terms of adequate fire and police protection and access.

f. 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.

g. 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.

h. If within Water Resource Protection Districts, the extent to which earthwork minimizes impacts on groundwater resources.

6329. Additional criteria for Business District D.

a. 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.

b. The extent to which proposed structures reflect New England's architectural heritage.

c. The extent to which nearby buildings have distinct but harmonious architectural elements.

d. The extent to which the site plan provides grouped buildings that are visually distinct and separate.

e. The extent to which high-quality landscape elements and amenities are provided within the public open spaces within building groups.

f. The extent to which each parking field is visually distinct and the extent to which unbroken and monotonous expanses of pavement are avoided.

g. The extent to which roadways serving the site conform to collector street standards.

h. The extent to which annual recharge for the "build case" exceeds annual recharge for the "existing case."

i. 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."

j. The extent to which on-site wastewater treatment allows groundwater to meet Massachusetts drinking water standards at the property line.

k. 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.

l. The extent to which drive-through facilities conform to the design requirements of Subsection 2328.

6330. 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 as identified in Subsection 2323; 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.

6331. Purpose. The purpose of this bylaw, in addition to and not in limitation of the purposes set forth in Article I, 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.

6332. SElecApplication. 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.

6333. 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 Subsection 6326 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.

6334. Procedures for site plan review.

a. 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.

b. 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.

6335. Site plan review criteria. 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.

a. 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. 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.

b. 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.

c. 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.

d. 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.

e. 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.

6336. Final action. The Planning Board's final action shall consist of either:

a. A determination that the proposed project is in compliance with the criteria set forth in this bylaw;

b. A denial for submission of incomplete information or for not having met the standards established for site plan review;

c. Approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary, consistent with the provisions of this bylaw.

6337. Enforcement and implementation.

a. 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.

b. 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.

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.

SECTION 6400.
Applicability

6410. Nonconforming uses.

6411. Continuance of operation.

a. Subject to the conditions hereafter set forth, any lawful use made of any structure or land, even though not conforming to the use regulations of the district in which located, or any nonconforming structures, even though not conforming to the lot area, frontage, width, setback or structure coverage, structure height, parking or other requirements of the district in which located, lawfully in existence or lawfully begun, or any building or special permit issued, before the first publication of notice of the public hearing of this bylaw required by MGL c. 40A, § 5, may be continued or used until abandoned or not used for two years, or until the variance or special permit, if any, authorizing such use shall expire. Once changed to a conforming use or a conforming structure, no land or structure shall be permitted to revert to a nonconforming use or structure.

b. No amendment increasing the restrictions on the use of land or structures or the lot area, frontage, width, setback or structure coverage, structure height, parking or other requirements, adopted hereafter, shall apply to structures or uses lawfully in existence or lawfully begun, or, except as hereinafter provided, to any building or special permit issued, before the first publication of notice of the public hearing on such proposed amendment required by MGL c. 40A, § 5, but will apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of any structure and to any alteration of any structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

6412. Structural change, alteration or extension.

a. Subsection 6411b notwithstanding:

(1) A nonconforming single- or two-family residential structure may be altered, reconstructed, extended or structurally changed if such alteration, reconstruction, extension or structural change will not increase the degree of nonconformity of such structure;

(2) Nonconforming structures or land may be altered, reconstructed, extended or structurally changed, provided that the nonconforming structure or land is used solely for agriculture, horticulture or floriculture.

b. Subsection 6411b notwithstanding, a nonconforming structure or use shall not be altered, reconstructed, extended or structurally changed except as provided in Subsection 6412a without a special permit from the Board of Appeals, provided that said Board finds that such alteration, reconstruction, extension or structural change is not substantially more detrimental to the neighborhood

than the existing nonconforming structure or use. Within defined water resource protection districts, no special permit shall be granted for any alteration, reconstruction, extension or structural change for a nonconforming structure or use without a specific finding by the Board of Appeals that the granting of such special permit will comply with the provisions of Subsections 6312 and 6313 of this bylaw. It shall be the responsibility of the applicant proposing said alteration, reconstruction, extension or change to demonstrate to the Board of Appeals that the granting of such special permit will comply with Subsection 6312 of this bylaw.

6413. Restoration. Reconstruction of a legally nonconforming structure damaged or destroyed by fire or other accidental or natural cause is allowed if in substantially the form it had at the time of damage or destruction or in any form if within applicable setback requirements and not larger than previously, and if reconstruction is started within 12 months and completed within 24 months of the damage or destruction.

6414. Abandonment. The discontinuance of any nonconforming use of any land or of any nonconforming structure for more than two years shall be deemed to constitute an abandonment; provided that this paragraph shall not apply to the discontinuance or nonuse of any lawful nonconforming land used for agriculture, horticulture or floriculture where such nonuse has existed for fewer than five years.

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.

SECTION 6500.
Severability

The invalidity of any section or provision of this bylaw shall not affect the validity of any other section or provision thereof.