

ZONING BYLAWS
OF THE
TOWN OF STOCKBRIDGE

AMENDED
MAY 19, 1997

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JANUARY 12, 1998
AND
MAY 18, 1998

AMENDED
MAY 17, 1999

AMENDED
MAY 15, 2000

SECTION 6.6 GREAT ESTATES OVERLAY DISTRICT INVALIDATED
AUGUST 10, 2000

AMENDED
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TOWN OF STOCKBRIDGE

ZONING BYLAW

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SECTION 1: TITLE, AUTHORITY AND PURPOSE

1.1 Title

This Bylaw shall be known as the “Zoning Bylaw of the Town of Stockbridge, Massachusetts,” hereinafter referred to as “this Bylaw.”

1.2 Authority

This Bylaw is adopted in accordance with the provisions of Chapter 40A of the General Laws as amended to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of the present and future inhabitants of the town.

1.3 Purpose

The purpose of this Bylaw is to achieve greater implementation of the powers granted to the municipalities under Article 89 of the Amendments to the Constitution of the Commonwealth in the general interests of public health, safety and welfare, including, but not limited to the following objectives:

- a. To prevent overcrowding of land, to secure safety from fire, flood, panic and other dangers, to conserve health, and to lessen congestion in the streets;
- b. To facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements;
- c. To conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment;
- d. To preserve and increase amenities by the promulgation of regulations designed to:
 - Protect the town’s significant environmental features such as: flood plains and flood prone areas, wetlands, the Housatonic River, brooks, ponds, water resources, woodlands, areas of scenic beauty, and sites and structures of historic importance.
 - Preserve the natural, scenic and aesthetic qualities of the community.
 - Minimize the adverse effects of development on the town’s unique environmental and historic features.
 - Further the objectives of the town’s Comprehensive Plan.

- Employ cooperatively the various measures taken by the town's agencies, under diverse legislative authority, including the State Sanitary Code, Earth Removal Bylaw, Wetlands Protection Act, Subdivision Control Legislation, and the State Building Code, for the protection and enhancement of the town's existing small-town character, open spaces, low density of population, and in the interests of the town's orderly growth at deliberate pace.

SECTION 2: DEFINITIONS

- 2.1** For the purpose of this Bylaw and unless the context of usage clearly indicates another meaning, the following rules of construction apply to the text of this Bylaw:

Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular.

The words “used” or “occupied” include the words “designed,” “intended,” or “arranged to be used or occupied.”

The words “building,” “structure,” “lot,” “land,” or “premises” shall be construed as though followed by the words “of any portion thereof.”

The word “shall” is mandatory; the word “may” is permissive.

The words “including” or “such as” shall not limit a term to specified examples, but are intended to extend its meaning to all other instances or circumstances of like kind or character.

For words not specifically defined herein, reference shall be made to the most recent edition of Webster’s Unabridged Dictionary.

- 2.2** For the purposes of this Bylaw, the following words and terms as used herein shall have the meanings or limitations of meaning hereunder defined, explained or assigned:

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADEQUATE ACCESS: Adequate access allows entrance to the property by the fire department, police department, and other agencies charged with the responsibility of protecting the public peace, safety and welfare.

AFFORDABLE HOUSING: Where requirements have been eased by the provision of “affordable housing,” the following requirements must be met:

- a. Unless otherwise stated, a minimum of 30% of the additional residential units created, but in no case less than one unit, must be offered at rents or selling prices not higher than specified in paragraph b., below. Example: Conversion of an existing single family residence to a five unit multifamily residence: Four additional units are created. Thirty percent of four is 1.2. Thus, two units must be offered at “affordable” prices.
- b. To be regarded as “affordable” units must meet the following criteria:
 1. Rental units - rental units must be first offered to low-moderate income individuals selected from a waiting list maintained by the Stockbridge Housing Authority. Rents charged cannot exceed 100% of the current “Fair Market

Rents” for the US Department of Housing and Urban Development Section 8 Rental Certificate and Voucher Program.

2. Homeownership units - units offered for sale must be first offered to individuals eligible for participation in the Massachusetts Homeownership Opportunity Program as is determined by the most recent regulation and policies issued by EOCD. Maximum purchase prices charged for such units may not exceed those established by the Massachusetts Homeownership Opportunity Program. In the event that no qualified buyers in the target group are found, the income limitation may be raised in 10% increments under the administration of the Stockbridge Housing Authority until a qualified buyer is found.

- c. The restriction of affordability shall remain in force for a period of ten years from the date of initial occupancy of each unit.

AGRICULTURAL USE: Any parcel of land which is used in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This term does not include riding stables, kennels, or facilities for the commercial raising of fur-bearing animals.

BED AND BREAKFAST: An accessory use to a dwelling occupied as the owner’s principal legal residence, in which at least one (1) and not more than five (5) rooms are commercially offered for transient occupants. Transient occupancy shall be defined as for not more than 90 consecutive days.

BILLBOARD - A sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

BOATHOUSE - A structure with direct access to a navigable body of water which is used for the storage of boats and associated equipment and which does not have bathroom or kitchen facilities and is not designed or used for lodging or residency.

BODY ART - Any method of inserting a needle into the body to place jewelry and/or indelible colors in the perforation produced by the needle so as to leave permanent marks or designs, or other method of making or leaving permanent marks on, or alterations to, the body for adornment purposes. This definition includes, but is not limited to, body piercing, tattooing, cosmetic tattooing, branding, scarification and any other technique of physical body adornment. This definition also includes piercing of the outer perimeter of the ear, but does not include piercing of the earlobe with pre-sterilized single-use stud-and-clasp ear-piercing systems.

BODY ART ESTABLISHMENT - Any place where body art procedures are practiced or where the business of body art is conducted, or any part thereof.

BUILDING: Any structure having a roof intended for shelter, housing, or enclosure of any person, process, equipment, animals or goods.

BUILDING HEIGHT - The vertical distance to the highest point of flat or mansard roofs including the top of a parapet or, in the case of pitched roofs, to the highest point of the ridge or top of the roof from the lowest existing grade that is both within six (6) feet of the walls of a building and more than six (6) feet from a creek, river, stream, pond or lake.

CHILD CARE FACILITY - A private or public establishment which provides child care for a fee for children placed there by parents, guardians, or other individual(s) responsible for their care. The term child care facility shall mean a day care or a school age child care program, as these terms are defined in Section Nine of Chapter 28A of the general laws of the Commonwealth of Massachusetts.

COMMERCIAL GAMBLING ESTABLISHMENT - Any premises wherein or whereon legal gaming is done. This term shall not include convenience stores or package stores which sell lottery tickets. This term does include commercial race tracks.

COMMERCIAL GARAGE - The use of any building, land area or other premises for the display and sale of new or used automobiles, trucks, vans, trailers, or recreation vehicles; or for the sale of gasoline or other motor vehicle fuel which may include facilities for lubricating, washing, cleaning or otherwise servicing of motor vehicles or for the commercial purpose of painting or repairing motor vehicles.

COTTAGE ERA ESTATE - A single Lot in the R-4 or R-2 Districts consisting of no less than 80 contiguous acres, having a principal one-family dwelling dating from "America's Gilded Age" of approximately 1870-1920.

CUTTING OR REMOVAL OF TREES - Cutting or removal of trees shall mean the removal of one or more trees, trimming of major branches or cutting of roots.

DISTANCE: - The length between objects as measured on a horizontal plane.

DRIVE-IN-THEATER - An open lot devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

DUMP - A sanitary landfill, a refuse transfer station, a refuse incinerator rated by the Massachusetts Department of Health at more than one ton of refuse per hour, a resource recovery facility, a refuse composting plant, a dumping ground for refuse or any other works for treating, storing or disposing of refuse.

DWELLING, ONE-FAMILY - A detached residential building designed for and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

DWELLING, TWO-FAMILY: A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families with not more than one (1) family in each unit.

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by three (3) or more families, with not more than one (1) family in each unit.

DWELLING UNIT: One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one (1) family.

FAMILY: One (1) or more individuals related by blood, marriage or adoption, or not more than five (5) individuals who are not so related living in a single dwelling unit.

FAST FOOD ESTABLISHMENT: An establishment whose primary business is the sale of food for consumption on or off the premises and which has generally the following characteristics:

- a. The food is served over a service counter.
- b. The food is available upon a short waiting time.
- c. The food is packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.
- d. The food is intended for immediate consumption rather than for use as an ingredient or component of meals.
- e. The food is served in disposable containers and utensils.
- f. The food is of a very specialized nature.
- g. Places which are commonly known as fast food establishments.

FUNERAL HOME - A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation and subject to all pertinent laws regulating such use.

HALF-STORY: That portion of a building under a sloping roof the cubic contents of which are never more than one-half (1/2) of that of the story below. If the cubic contents are greater it shall be deemed a story.

HEALTH CARE FACILITY - A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions. This term shall include, but not be limited to, hospitals, medical clinics, residential care facilities, long-term care facilities, and massage/health/fitness centers.

HOME OCCUPATION - Any service or business use conducted entirely within a dwelling or customary accessory building and carried on by the residents thereof, which use is clearly incidental and secondary to the use of the property for residential purposes and does not change the residential character thereof or have any exterior evidence of such secondary use except as permitted by this Bylaw.

HOTEL: A building with six (6) or more rooms in which lodging is offered to paying guests with customary hotel services including feeding in a central dining room on a transient or permanent basis.

JUNK YARD - Any area, lot, land, parcel, building or structure or part thereof, used for the storage, collection, processing, purchasing, sale, salvage or disposal of second hand parts and materials, including automobiles, trucks, tractor trailers, buses, motorcycles, or other vehicles as well as tractors, bulldozers, machinery and other equipment.

KENNEL: Structure and other facilities for the keeping of more than three (3) dogs, more than six (6) months old, or other household mammal pets for sale or boarding purposes.

LIBRARY - A structure open to the general public whose principal use is a repository for literary and artistic materials, such as books, records, prints, videotapes, etc.

LIGHT MANUFACTURING - A use involving the manufacture of a product, but not producing heavy, noisy or otherwise objectionable disturbances such as vibration, dust, odors, and heavy truck traffic, and not involving the use of heavy machinery.

LOT: A single tract of land held in identical ownership throughout, defined by metes and bounds or lot lines in a deed conveyance, or shown on a duly recorded plan.

LOT FRONTAGE - The shortest continuous distance measured along the way between the side lot lines at their intersection with the street from which “adequate access” is possible. See definition of “adequate access” above.

LOT WIDTH - The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front line at the minimum required building setback line.

MANUFACTURING - Any industrial process whereby the nature, size or shape of an article is changed into a product which generally shall be a finished product.

MOBILE HOME: A vehicular portable completely enclosed structure built on a permanent chassis, designed as a dwelling unit to be transported after fabrication on its own wheels or on flatbed or detachable wheels. For the purpose of this Bylaw the term “mobile home” includes trailers incorporating the characteristics of mobile homes as herein defined.

MOBILE HOME PARK - A parcel of land used or intended to be used, let or rented for occupancy, by mobile homes for living purposes, regardless of whether such structures actually are occupied seasonally or otherwise.

MUNICIPAL/GOVERNMENTAL USE – Any land, structure, or combination thereof used or controlled predominantly for public purposes by any department or branch of the Town of Stockbridge, Berkshire County, the Commonwealth of Massachusetts, or federal government whether or not such department or branch owns the building or structure and/or the land on which it is situated.

MUSEUM - A building or structure, whether public, private, commercial or non-commercial, used for education and display of matters of a historical, artistic, scientific, technological, natural or similar nature.

OPEN SPACE RECREATION - Any recreational activity, particularly oriented to and utilizing the outdoor character of an area including, but not limited to golf, tennis, swimming or skiing, sportsmen's club, livery or riding stable. Open space recreation does not include the use of property for sales or for events such as fairs or carnivals.

PENAL INSTITUTION - A place where persons convicted or accused of crimes are confined.

PLACE OF AMUSEMENT OR ASSEMBLY - An establishment engaged in providing entertainment for a fee and including such activities as studios, theatrical productions, musical entertainment and bowling alleys.

PRIVATE CLUB: Land and/or buildings used exclusively by members of an organized group, who are elected by a committee or by membership, and not open to public use.

PUBLIC UTILITY - A private or public enterprise that supplies or transmits gas, water, electricity or communications to any or all members of the public, and that is closely regulated by federal, state or town regulations because of its natural or legal monopoly; but not including any enterprise that provides wireless telecommunications services.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK - Any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing ones is also included, in so far as it takes place within the right-of-way.

RESEARCH LABORATORY - An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RESTAURANT - An establishment where food and drink are prepared, served, and consumed, primarily within the principal building. The serving of alcoholic beverages may be permitted only as accessory to the primary use.

RIDING STABLE - An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and where horses may be hired for riding.

ROAD - A right-of-way of any way used and maintained as a public way including the vehicular traveled way plus necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is in issue so that a

dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.

SCREENING: A screen shall consist of one of the following as determined by the Stockbridge Planing Board.

- a. Plant materials such as shrubs, trees or plants at least three feet in height at time of planting to reach a minimum height of five feet at maturity and that will form a dense year-round screen.
- b. A masonry wall, or a wooden or fabricated fence at least five feet in height, at least 50% solid design to obscure any view.
- c. Any existing growth of shrubs, trees or plants at least five feet in height, judged to provide adequate dense growth to obscure any view.

SIGN - Any structure or device used for the purposes of visual communication, which identifies or calls attention to any premises, person, product, activity, business or use of a property. For the purposes of this Bylaw the following shall not be included in the application of the regulations herein:

- a. Legal notices, identifications, information, directional or warning signs erected or required by governmental agents or bodies; or various warning signs as commonly used by property owners;
- b. Memorial signs or tablets not exceeding one (1) square foot in area;
- c. Signs directing, guiding or controlling traffic and parking on private property but bearing no advertising matter;
- d. Signs painted on or attached to duly registered motor vehicles except when the primary use of the vehicle is for a display rather than transportation and when the vehicle is usually within sight of a public way;
- e. Temporary signs on the inside of glass of store windows as commonly used in retail business, or such signs of special events or for political candidates.

SIGN, ACCESSORY - Any sign that advertises or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter. Signs located inside a building which are visible from outside the building are subject to all restrictions contained herein as to size and number of signs permitted.

SIGN, NON-ACCESSORY - Any sign that is not an accessory sign.

SIGN, AREA -

- a. The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing.
- b. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- c. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross section of that object.
- d. In computing the area of signs, both sides of V-shaped signs, but only one side of back-to-back signs, shall be counted.

STORY: That portion of a building contained between any floor and the floor or the ceiling next above it, but not including any portion so contained if more than one-half (1/2) of such portion vertically is below the average finished grade of the ground adjoining such building.

STREET: A public way, or a private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for frontage under the Subdivision Control Law.

STRUCTURE: Any construction or any production or piece of work artificially built up or composed of parts joined together in some definite manner including but not limited to tents, reviewing stands, platforms, satellite TV antennas, tennis courts, stagings, towers, display signs, fences, and swimming pools, but not including those fences which delineate property lines.

STREET LINE: The right-of-way line of a street as established under public authority, or as shown on a plan approved by the Planning Board, or if neither of the above apply, a line parallel to the center line of the street measured back a distance equal to one-half (1/2) of the normally required right-of-way.

SUMMER CAMP - A location away from home, often in a rural or country setting, where campers spend all or part of the summer living in tents, barracks, or dormitories, participating in organized activities, sports, and arts and crafts, and usually eating together in a central dining facility. A summer camp must comply with all applicable regulations of the state Sanitary Code Articles IV and VIII.

TAVERN/BAR - An establishment used primarily for the serving of liquor by the drink to the general public and where packaged liquors may be served or sold only as accessory to the primary use. Taverns and bars must serve food. Inn holders may operate a tavern/bar.

~~**TEMPORARY STRUCTURE WORDING**~~

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~~ARTICLE 43. To see if - Any tent, membrane structure, car port, storage unit, rigid canopy or similar portable or demountable structure, supported in whole or in part by members resting on the Town will vote to amend the Town Bylaws, Article _____ by~~

~~WORDING TO CHG THE DATE OF THE TOWN MEETING PRIOR TO ELECTION DAY~~

~~ARTICLE 44. To see if the Town will vote a Home Rule which would ground and lacking a permanent foundation, of a size and design sufficient and appropriate to allow the Conservation Commission to have alternates, parking of an automobile therein.~~

TENT SALE - An outdoor event at which food and/or merchandise is sold, whether or not held under a tent, tarp or similar shelter. The term tent-sale includes events commonly known as tag, garage, lawn or porch sales. The term tent sale does not include carnivals, fairs or events where games of chance are held, all of which are specifically prohibited.

TREES - A tree whose trunk has a diameter of four inches or more as measured one foot above the ground.

VETERINARY HOSPITAL - A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. A veterinary hospital may include a kennel.

WAREHOUSE - A building used to temporarily store or hold products or articles for use in assembly or manufacturing or for future transfer of said product or article to another location.

YARD, REQUIRED: The open areas of the lot extending inward from a lot line for the distance specified in the zoning regulations, within which no structure may be located except as otherwise provided in this Bylaw.

YARD, FRONT: A required yard extending along the full length of the front lot line between the side lot lines.

YARD, REAR: A required yard extending the full length of the rear lot line between the side lot lines.

YARD, SIDE: A required yard extending along a side lot line from the required front yard to the required rear yard.

SECTION 3: ZONING DISTRICTS

3.1 Establishment of Districts

For the purpose of this Bylaw the Town of Stockbridge is hereby divided into the following districts:

Zoning Districts

R-4	4 Acre Residence
R-2	2 Acre Residence
R-1	1 Acre Residence
R-C	Central Residence
B	Business
M	Manufacturing

Conservancy Districts

F-P	Flood Plain Districts
G-A	Groundwater Recharge Areas

Overlay Districts

LPOD	Lake and Pond Overlay District
WTOD	Wireless Telecommunications Overlay District

3.2 Location of Districts

The location and boundaries of these districts shall be as shown on the following four (4) maps, on file in the office of the Town Clerk, which maps with all explanatory matter thereon are hereby made a part of this Bylaw.

- 3.2.1 Zoning districts R-4, R-2, R-1, R-C, B and M shall be as shown on the Zoning Map of Stockbridge, Massachusetts, dated April 11, 1989, and bearing the signatures of the members of the Planning Board.
- 3.2.2 Conservancy districts G-A and F-P shall be considered as overlying zoning districts and shall include areas as shown on the following maps:
- Groundwater Recharge Areas (G-A) are as shown on the map prepared by Robert G. Brown Associates, Inc., entitled "Delineation and Description of the Housatonic River Flood Plains and the Inland Wetlands in the Town of Stockbridge, Massachusetts."
 - Flood Plain Districts (F-P) shall include all zones A, A1-30 and the regulatory floodway as shown on the Flood Insurance Rate Map and Flood Boundary and Floodway Map, a part of the Flood Insurance Study prepared for the Town of Stockbridge by the Federal Emergency Management Agency, dated July 5, 1982, which is hereby made a part of this Bylaw, and is on file with the Town Clerk.
- 3.2.3 Overlay Districts LPOD and GEOD are as described in Sections 6.5 and 6.6 of this Bylaw. Overlay District WTOD is as described in Section 6.6A of this Bylaw.

District Boundary Lines

- 3.3.1 The district boundary lines shall be as shown on the Zoning Map and indicated by the dimensions entered thereon.
- 3.3.2 For purposes of interpretation of district boundaries as shown on the Zoning Map, the following rules shall apply:
 - 3.3.3 Boundaries which appear to follow the center lines of streets, railroads or streams shall be construed to follow such lines.
 - 3.3.4 Boundaries indicated as following shore lines of lakes or ponds shall be construed to follow such shore lines.
 - 3.3.5 Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
 - 3.3.6 Boundaries which appear to run parallel to the features indicated above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
 - 3.3.7 Where a district boundary appears to be parallel to a street line and no dimension is given, the boundary shall be interpreted as being 200 feet from said street line.
 - 3.3.8 Where a district boundary line divides a lot in single ownership at the time such district is established, the Planning Board may allow by special permit the extension of the regulations for either portion of the lot not to exceed twenty (20) feet beyond the district line into the remaining portion of the lot. The yard requirements of the district in which the lot has road frontage shall apply to the entire lot.
 - 3.3.9 In cases of uncertainty or disagreement concerning the exact location of a district boundary line or where physical features existing on the ground are at variance with those shown on the Zoning Map or in other circumstances not covered herein, the district boundary shall be determined by the Building Inspector.

SECTION 4: USE REGULATIONS

- 4.1** Except as provided by law or in this Bylaw, no building or structure shall be erected and no building, structure or land, or part thereof shall be used for any purpose or in any manner other than for one or more of the uses set forth in the accompanying Table of Use Regulations, Section 4.11, as permitted by right in the district in which such building, structure or land is located, or which may be permitted in said district and so authorized by special permit granting authority as designated in Section 4.3 herein.
- 4.2** Before any use is permitted or sign erected, the applicant must file the proper application form which will be reviewed and signed by the Planning Board and final permission given by the Selectmen.
- 4.3** Special permit granting authority and symbols used in the Table of Use Regulations, Section 4.11 herein, shall mean the following:
- YES - Use permitted by right.
- SPA - Use which may be authorized by special permit from the Board of Appeals in accordance with the provisions of Section 6.3 herein.
- SPP - Use which may be authorized by special permit from the Planning Board in accordance with the provisions of Section 6.3 herein.
- SPS - Use which may be authorized by special permit from the Board of Selectmen in accordance with the provisions of Section 6.3 herein.
- NO - Specifically excluded or prohibited use.
- 4.4** No more than one (1) principal building or use per lot shall be permitted.
- 4.5** Every use permitted by right or authorized by special permit under the provisions of this Bylaw shall be subject to the State Building Code, State Sanitary Code and the town's Board of Health regulations and all other applicable statutes, bylaws, and regulations, including off-street parking, sign regulations, flood plain and wetland regulations and Section 4.3 as set forth in this Bylaw.
- 4.6** Any use permitted in the portion of any zoning district overlaid by a Flood Plain District or Groundwater Recharge Area shall be permitted as regulated, subject to the restrictions set forth in Section 6.4 of this Bylaw.
- 4.7** Where a structure or use might be classified under more than one of the listed uses, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

4.8 Subject to the limitations contained in this Bylaw a related minor use, building or structure which is customarily incidental and subordinate to any lawful principal use shall be permitted on the same lot with the building to which it is accessory, provided that it does not alter the character of the premises nor be detrimental to the neighborhood. Conditioned upon compliance with all applicable rules and regulations, there is no limit to the number of accessory uses and structures normally associated with the use and/or operation of the principal use.

4.9 Farm buildings and structures used exclusively for agricultural purposes shall be deemed to be accessory buildings and structures for the purpose of this Bylaw. Such buildings and structures may be located on the same lot with the principal permitted use or on separate lots.

4.10 PROHIBITED USES

Notwithstanding any other provision of these bylaws, the following uses shall be prohibited in association with any building or land in any district of the Town, except as required to be permitted under applicable State or Federal Law:

- A. Any use of land, buildings or structures which creates excessive objectionable noise, fumes, odor, dust, electrical interference or undo traffic.
- B. The storage of any materials, supplies or equipment at any construction or demolition site for more than seven days prior to its use or more than seven days after completion of its use.
- C. The storage of any waste (including but not limited to damaged or excess materials and supplies or ruins, rubble or building fragments) created on any construction or demolition site, for longer than seven days after the completion or temporary termination of construction or demotion.
- D. The storage of any unregistered motor vehicle in a location visible from any abutting roadway.
- E. Any business or commercial activity that:
 - 1. Constitutes a significant hazard to the public health, welfare or safety;
 - 2. Presents a significant potential for fire or explosion; or
 - 3. Is significantly detrimental or injurious to the community, neighborhood, environment, or nearby property due to any emission, discharge or release of any noxious or offensive odor, fumes, smoke, gas, vapor, particulate matter, toxic substances, poisonous fluids or solids, radiation, bacterial or viral agent, excrement, refuse, organic matter, chemicals, cinders, dust, vibration, lighting, glare, noise, or signals that interfere with radio and/or television reception or broadcast.

4.11 Table of Use Regulations

A. PRINCIPAL USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
<u>Residential Uses</u>						
1. One-Family Dwelling	YES	YES	YES	YES	YES	YES
2. Two-Family Dwelling (new or conversion to two family) provided that the minimum lot area requirement shall be R-4 - 5 acres; R-2 - 3 acres; R-1 - 2 acres; R-C - 0.75 acres; R-C with a town sewer connection - 20,000 square feet. The lot area requirement shall be reduced to 1.5 acres in R-1 and to 0.75 acres in R-C if one “affordable” unit is created (see definition in Sec. 2.2).	SPP	SPP	SPP	SPP	SPP	SPP
3. Multi-Family Dwelling as regulated in Section 6.9 of this Bylaw	SPP	SPP	SPP	SPP	NO	NO
4.1 Conversion of a One or Two-Family Dwelling existing on January 1, 1976, and containing 2,000 square feet or more of livable floor area into a Multi-Family Dwelling or any use which may be authorized under this Bylaw by special permit in the district, or any combination of such uses, as regulated in Section 6.10 of this Bylaw.	NO	NO	NO	SPP	SPP	SPP
4.2 Conversion of a One or Two-Family Dwelling existing on January 1, 1976, and containing 4,000 square feet or more of livable floor area into a Multi-Family Dwelling or any use which may be authorized under this Bylaw by special permit in the district, or any combination of such uses, as regulated in Section 6.10 of this Bylaw.	SPP	SPP	SPP	N/A	N/A	N/A
4.3 Conversion of One or Two-Family Dwelling existing on January 1, 1990, into multi-family dwelling meeting the criteria for affordable housing (see definition in Sec. 2.2) provided that the house has at least 800 square feet average livable area per unit and the conversion meets the requirements of section 6.10.	SPP	SPP	SPP	SPP	SPP	SPP
4.4 Conversion of an accessory structure existing before January 1, 1990, into one or more dwelling units provided:						
1. the minimum livable area is 300 sq. ft. for one unit and averages a minimum of 500 sq. ft. for two or more units						

A. PRINCIPAL USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
<u>Residential Uses</u>						
2. The minimum area of the lot on which it is situated conforms to the requirements under 2. above						
3. That alterations do not increase the size of the footprint of such pre-existing structure by more than 20%. Greater enlargements may not be used for housing.						
4. That 50% of all rental units so created be rented as affordable housing (see definition in Sec. 2.2.).	SPP	SPP	SPP	SPP	SPP	SPP
<u>Institutional, Municipal and Community Uses</u>						
5. Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by religious sect or denomination, or by a non-profit educational corporation, as regulated in Section 6.14 of this Bylaw.	YES	YES	YES	YES	YES	YES
6. Municipal or governmental use, except as otherwise prohibited in this Bylaw.	SPA	SPA	SPA	SPA	SPA	SPA
7. Public utilities	SPS	SPS	SPS	SPS	SPS	SPS
8. Non-profit library or museum other than an art museum.	SPS	SPS	SPS	SPS	SPS	SPS
9. Non-profit art museum subject to special provisions set forth in Section 6.13.	SPS	YES	SPS	SPS	SPS	SPS
10. Health Care Facility, or other similar use established and operated under the State Environmental Code.	SPS	SPS	SPS	SPS	SPS	SPS
11. Child care facility.	YES	YES	YES	YES	YES	YES
<u>Recreational Uses</u>						
12. Golf, tennis, swimming, or skiing or sportsmen's club, livery or riding stable or other open space recreational use of similar character.	SPS	SPS	SPS	SPS	SPS	SPS
13. Summer camp for children or family-type camp grounds established and operated under the State Sanitary Code Articles IV and VIII.	SPS	SPS	SPS	SPS	SPS	SPS
14. Private club, as defined in this Bylaw.	SPS	SPS	SPS	SPS	SPS	SPS
15. Boat house for rental of boats and canoes	SPS	SPS	SPS	SPS	SPS	SPS

A. PRINCIPAL USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
<u>Business, Industrial and Other Uses</u>						
16. Hotel or restaurant where food is served primarily for consumption within the building.	NO	NO	NO	NO	SPS	SPS
17. Tavern/Bar.	NO	NO	NO	NO	NO	NO
18. Boutique.	NO	NO	NO	NO	SPP	SPP
19. Commercial garage.	NO	NO	NO	NO	SPS	SPS
20. Place of amusement or assembly not otherwise provided for.	NO	NO	NO	NO	SPS	SPS
21. Sale or storage of feed, fuel, lumber or building supplies	NO	NO	NO	NO	SPS	SPS
22. Research laboratory or light manufacturing activity where the major portion of the product is retailed on the premises or by mail	NO	NO	NO	NO	SPS	SPS
23. The removal of sand, gravel, rock, loam, topsoil or other earth material as regulated in the Earth Removal Bylaw.	SPS	SPS	SPS	SPS	SPS	SPS
24. Office, bank, retail business or consumer service establishment, unless specifically otherwise regulated in this Bylaw.	NO	NO	NO	NO	YES	YES
25. Any lawful industrial, manufacturing, warehouse or utility use, including processing, fabrication, assembly or storage unless specifically otherwise regulated in this Bylaw. ^(a) Subject to the provisions of Section 6.3.12.	NO	NO	NO	NO	NO	SPS ^(a)
26. Commercial greenhouse, nursery, or landscape gardening.	NO	NO	NO	NO	YES	YES
27. The use of land or structures for the primary purpose of agriculture, viticulture, horticulture or floriculture provided that:						
a. Any structures used as shelters for livestock or poultry are at least 100 feet from any lot boundary;						
b. All grounds used for pasturing or other purposes involving unrestrained animals are properly fenced;						
c. The area of land under any such activity is at least five acres. For such purposes land divided by a public or private way or a waterway shall be construed as one parcel.	YES	YES	YES	YES	YES	YES

A. PRINCIPAL USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
28. Kennel or veterinary hospital	SPS	SPS	SPS	NO	NO	SPS
29. Cemetery	SPS	SPS	SPS	SPS	SPS	SPS
30. Funeral home	NO	NO	NO	SPP	SPP	NO
31. Junk yards, commercial race tracks, drive-in theaters, mobile home parks, billboards or off-premises signs, commercial gambling establishments.	NO	NO	NO	NO	NO	NO
32. Used car lots or other automobile establishments where vehicles for sale are stored outdoors.	NO	NO	NO	NO	NO	NO
33. Dump or other area for the disposal of rubbish, except officially designated areas for such purposes by the Town.	NO	NO	NO	NO	NO	NO
34. Penal institutions	NO	NO	NO	NO	NO	NO
35. Fast Food establishments	NO	NO	NO	NO	NO	NO
36. Adaptive re-use or rehabilitation of the principal buildings, associated outbuildings and structures, amenities or grounds of a Cottage Era Estate and the construction of improvements at a Cottage Era Estate, subject to the requirements of section 6.6.	SPS	SPS	NO	NO	NO	NO
37. Adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity for its patrons, or other form of adult business as described in <i>M.G.L. c.40A, §9A</i> , subject to the requirements of Section 6.26.	NO	NO	NO	NO	NO	SPS
38. Body Art Establishment holding a valid permit from the Tri-Town Health Department, subject to the requirements of Section 6.27.	NO	NO	NO	NO	NO	SPS
B. ACCESSORY USES						
	R-4	R-2	R-1	R-C	B	M
1. Use of the upper story or stories of a building, whose principal use is commercial, for residential purposes.	NO	NO	NO	NO	YES	NO
2. Home Occupations not otherwise provided for in Section 4.11.B.						
a. Type I (See Section 6.19.3)	YES	YES	YES	YES	YES	YES
b. Type II (See Section 6.19.4)	SPP	SPP	SPP	SPP	YES	YES
c. Type III (See Section 6.19.5)	YES	YES	YES	YES	YES	YES

B. ACCESSORY USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
3. Bed and Breakfast, provided that no kitchen facilities are maintained in the rooms; the accessory use is for the purpose of overnight lodging and breakfast by registered guest-occupants exclusively; and the premises shall not be commercially offered for meetings, luncheons, banquets, parties, weddings, fund-raising activities or similar functions or events.	YES	YES	YES	YES	YES	YES
3.1 A structure accessory to a one-family or two-family dwelling that has been occupied without significant interruption as a dwelling since January 1, 1978, and has not been the subject of enforcement pursuant to Section 8.1 of this bylaw during this time.	SPP	SPP	SPP	SPP	SPP	SPP
4. Roadside farm stand serving agricultural, viticultural, horticultural, or floricultural products raised on the premises, provided that no products are displayed for sale within 20 feet of the street.	YES	YES	YES	YES	YES	YES
5. Greenhouse, tennis court, private garage, swimming pool, <i>boathouse</i> or any such other accessory facility not for commercial purposes.	YES	YES	YES	YES	YES	YES
6. The removal of earth materials, including stripping of topsoil, only when incidental to or required in connection with any of the following operations: a. The erection of a building or structure on the lot for which a building permit has been properly issued, and the construction of a private driveway. b. Any accessory use incidental to a permitted use, including cultivation, planting, or drainage of land, or landscaping. c. The construction of a private street in a subdivision approved by the Planning Board under the Subdivision Control Law. d. Municipal or governmental construction or operation.	YES	YES	YES	YES	YES	YES
7. The display of a sign or signs pertaining to a permitted use as regulated in Section 6.8 of this Bylaw.	YES	YES	YES	YES	YES	YES
8. The raising or keeping of domestic animals for use by the residents of the premises, not as a commercial venture, subject to the regulations of the Board of Health, provided all grounds used for pasturing or other purposes involving unrestrained animals shall be properly fenced.	YES	YES	YES	YES	YES	YES

B. ACCESSORY USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
9. The raising or keeping of household pets by the residents of the premises not as a commercial venture.	YES	YES	YES	YES	YES	YES
10. Temporary use of a mobile home for living purposes while a permanent dwelling is actively under construction on the same lot, for a period not exceeding six months, subject to the approval of the Board of Health, provided off-street parking requirements and yard requirements are met.	SPS	SPS	SPS	SPS	SPS	SPS
11. Mobile home of a type intended only for camping purposes, stored within sight of a public way in excess of 30 days in any calendar year provide it is not for living purposes.	SPS	SPS	SPS	SPS	SPS	SPS
12. Any accessory use to a by-right use, whether or not on the same parcel, which is necessary in connection with scientific research and development or related production, provided the Planning Board finds that the proposed accessory use does not substantially derogate from the public good.	SPS	SPS	SPS	SPS	SPS	SPS
13. Off-street parking for residential vehicles registered on the premises.	YES	YES	YES	YES	YES	YES
14. Off-street parking - See regulations in Section 6.2.	YES	YES	YES	YES	YES	YES
15. Satellite dishes as regulated in Section 6.5 of this Bylaw.	YES	YES	YES	YES	YES	YES
16. Driveway with a maximum grade of ten (10) percent or less for any portion of its length as regulated by Section 6.16 of this Bylaw.	YES	YES	YES	YES	YES	YES
17. Driveway with a maximum grade of more than ten (10) percent for any portion of its length as regulated by Section 6.17 of this Bylaw.	SPP	SPP	SPP	SPP	SPP	SPP
18. Common driveway serving not more than two (2) lots with a maximum grade of ten (10) percent or less or any portion of its length as regulated by Section 6.16 of this Bylaw.	YES	YES	YES	YES	YES	YES
19. Common driveway serving more than two (2) lots but not more than size (6) lots as regulated by Section 6.17 of this Bylaw.	SPP	SPP	SPP	SPP	SPP	SPP

B. ACCESSORY USES	DISTRICTS					
	R-4	R-2	R-1	R-C	B	M
20. Temporary construction trailer to be used by workers on large projects.	SPS	SPS	SPS	SPS	SPS	SPS
21. Wireless telecommunications base station and any tower, equipment, accessory structure, fencing, access roadways and/or landscaping as regulated in Section 6.25 of this Bylaw. (a) Except if the proposed location is in the Wireless Telecommunications Overlay District, then a Special Permit is required from the Board of Selectmen.	N(a)	N(a)	N(a)	N(a)	N(a)	N(a)
22. Wireless telecommunications repeater and any accessory screening or camouflage as regulated in Section 6.25 of this Bylaw.	SPS	SPS	SPS	SPS	SPS	SPS
<u>23. Temporary Structures erected for a period of less than 180 days</u>	SPP	SPP	SPP	SPP	SPP	SPP

SECTION 5: INTENSITY REGULATIONS

- 5.1** Any building used for dwelling purposes, and any building or structure housing a principal permitted use, including any use authorized by a special permit, shall be so constructed and located on a lot as to meet the minimum requirements for lot area, frontage, the required front, side and rear yards, and the maximum height and maximum lot coverage by buildings as set forth in the Table of Dimensional Requirements, Section 5.5 herein, except as otherwise specifically provided in this Bylaw.
- 5.2** The land and yard space required for any new building or structure, or use, shall not include any lot area, frontage or yard area required by any other building, structure or use to meet the minimum requirements of this Bylaw.
- 5.3** No lot, nor any building or structure thereon shall be changed in size so as to violate lot area, frontage or yard requirements of this Bylaw.
- 5.4** The height regulations of buildings and structures shall not apply to agricultural buildings and structures, churches, spires, chimneys, antennas, or other appurtenances usually required to be placed above roof level and not intended for human occupancy. Satellite television antennae shall conform with requirements in Section 6.15. Wireless telecommunications antennas and any associated structures shall conform with requirements in Section 6.25.

5.5 Table of Dimensional Requirements

District	<u>Minimum Lot</u>		<u>Min. Yards (ft.)</u>			<u>Maximum Bldg. Height</u>		<u>Max. Lot Coverage %</u>
	<u>Area</u> (Sq.ft.)	<u>Width and Frontage</u> (feet)	Front	Side	Rear	Stories	Feet	by Building
Residence R-4 (c) (d) (f) (h) (i)	174,240	300	50	50	50	2 1/2	35	10
Residence R-2 (c) (d) (f) (h) (i)	87,120	250	40	35	35	2 1/2	35	10
Residence R-1 (c) (d) (f) (h) (i)	43,560	175	40	35	35	2 1/2	35	10
Residence R-C (c) (d) (f) (i)	20,000	125	30	15	15	2 1/2	35	25
Business B (a) (b) (c) (d) (e) (i)	----	----	10	15	15	2 1/2	35	50
Manufacturing M (a) (b) (c) (d)	43,560	200	100	15	50	3	50	25

FOOTNOTES

- (a) All dimensional requirements prescribed for R-1 Districts shall also apply to dwellings hereafter erected in B or M Districts.
- (b) Side yards and/or rear yards shall be at least fifty (50) feet when adjacent to a Residence District.
- (c) Detached accessory buildings and garages shall conform to the setback requirements as set forth herein.
- (d) When a side or rear yard borders on a street, the minimum distance between the street and any type of building shall be as follows: R-1 - 40 feet, R-2 - 40 feet, R-4 - 50 feet, R-C - 30 feet, B - 10 feet and M- 100 feet.
- (e) Except that newly constructed building(s), except dwellings, in the Business Zone can only occupy thirty-five (35) percent coverage of the lot.
- (f) There will a 100-foot setback from the mean high-water line of Lake Averic, Lily Pond, Lake Mohawk and Lake Agawam for a structure, other than docks. There will be a 150-foot setback from the mean high-water line of the Stockbridge Bowl for a structure other than docks. Docks are not to extend into the lake more than twenty-five (25) feet from the mean high water line. Docks shall be a minimum of twenty (20) feet from any adjoining property and shall not exceed 200 sq. ft. in area.
- (g) An accessory building shall not exceed thirty (30) feet in building height or be larger in floor area than the ground floor area of the principal building; provided, however, that the Planning Board may, by Special Permit, authorize an accessory building not to exceed thirty-five (35) feet in building height.
- (h) The ratio of the combined floor areas of all buildings or structures on a lot to the area of the lot on which they are located shall not exceed 20%. Floor areas shall not include uninhabitable basement utility space but shall include porches and deck space.
- (i) In the event that a building is less than six (6) feet from a creek, river, stream, pond, or lake, the maximum building height shall be two and one half stories but not more than 25 feet maximum.

SECTION 6: SPECIAL PROVISIONS

6.1 Nonconforming Structures, Uses and Lots

6.1.1 Exemptions

Except as herein provided this Bylaw shall not apply to:

- a. Structures and uses lawfully in existence prior to the effective date of this Bylaw.
- b. A structure lawfully begun under a building permit or special permit issued before the first publication of notice of the required public hearing by the Planning Board on the applicable zoning bylaw or amendment.
- c. Any alteration, reconstruction, extension, or structural change to a one-family or two-family structure provided this does not increase the non-conforming nature of such structure. In the following circumstances an alteration, reconstruction, extension or structural change to a one-family or two-family structure shall not be considered an increase in the non-conforming nature of the structure and shall be permitted under zoning as by right.
 - 1) An alteration, reconstruction, extension or structural change which would comply with all current yard dimensional requirements, maximum building height, and percent lot coverage as regulated in Table 5.5 Table of Dimensional Requirements.
- d. The expansion or reconstruction of existing structures for the primary purpose of agriculture, horticulture, viticulture or floriculture.
- e. Nonconforming lots on record and lots shown on a plan endorsed by the Planning Board under the Subdivision Control Law are exempt from the provisions of this Bylaw to the extent as provided in Section 6, Chapter 40A of the General Laws.

6.1.2 Requirements for Extension, Reconstruction or Change In Use

The Board of Selectmen may authorize by special permit, any change, extension, alteration or reconstruction of a pre-existing nonconforming structure or use 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, if such change, extension, alteration or reconstruction will not be in greater nonconformity with open space, yard and off-street parking requirements or any other requirement of this bylaw, provided that the Selectmen find in accordance with Chapter 40A of the General Laws, that such extension, alteration, reconstruction will not be more detrimental than the pre-existing nonconforming structure or use to the neighborhood. A special permit issued pursuant to this section may authorize the reconstruction of a pre-existing nonconforming structure that has been voluntarily or intentionally damaged or demolished only if such special permit is issued prior to such

damage or demolition. For purposes of this subsection, the following examples shall be deemed not to be in greater nonconformity with open space and yard requirements:

- a. Enclosure up to a height of one story of a pre-existing deck, porch or comparable part of a pre-existing nonconforming structure provided that the structure's footprint does not change.
- b. Addition of a second story to a pre-existing nonconforming structure provided that the structure's footprint does not change.
- c. An extension, alteration or reconstruction that increases the footprint of a pre-existing nonconforming structure if said extension, alteration or reconstruction is no closer to the lot line than the closest point of the existing structure and the resulting structure complies with the applicable maximum lot coverage requirement set forth in Section 5.5.

6.1.3 Reconstruction of Structures Damaged by Fire, Explosion or Other Catastrophe

A nonconforming structure damaged by fire, explosion or any other catastrophe may be rebuilt provided such rebuilding, reconstruction or restoration shall be undertaken within two (2) years of such catastrophe and the structure as rebuilt or restored shall not be in greater nonconformity with the provisions of this Bylaw. Such rebuilt, reconstructed or restored structure may be enlarged or changed in use only in accordance with the provisions of Section 6.1.2 herein.

6.1.4 Maintenance, Repair and Reconstruction of Unsafe Structure

Nothing in this Bylaw shall be deemed to restrict the normal maintenance and repair on nonconforming structures or prevent reconstruction to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6.1.5 Abandonment

Any nonconforming use which has been abandoned or not used for two (2) years or more shall not be reestablished, and any future use of such premises shall conform to the provisions of this Bylaw.

6.1.6 Conditions, Safeguards and Limitations

The Board of Selectmen may impose reasonable conditions, safeguards or limitations on applications for special permits under this section, designed to lessen any possible adverse impact on adjacent uses or neighborhood, whenever a nonconforming use is authorized to enlarge, expand, extend or convert to another nonconforming use under the provisions of this section.

6.2 Off-Street Parking Requirements

- 6.2.1 Off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new use or any change in an existing use, in accordance with the following schedule:
- a. Hotel – two (2) parking spaces, plus one (1) parking space for each sleeping room.
 - b. Accessory Home Occupation, Office or Roadside Stand -- one (1) space for each non-resident employee plus adequate off-street parking for clients or customers.
 - c. Business District -- one (1) parking space for each 500 feet of gross floor area plus adequate space for employees, service and supply vehicles.
 - d. Manufacturing or Wholesale Establishments -- one (1) parking space for each four (4) employees plus adequate space for customers, service and supply vehicles.
 - e. Multi-Family Dwelling -- one and a half (1 1/2) parking spaces for each dwelling unit and adequate space for service and supply vehicles.
 - f. Eating Establishments -- one (1) space for each three (3) seats based on the legal capacity of the facility plus two (2) spaces for each three (3) employees.
 - g. Religious Uses -- one (1) space for every three (3) seats or fifty (50) square feet of seating area where fixed seating is not provided.
 - h. Educational Uses -- one (1) space for every twelve (12) classroom seats or one (1) space for every three (3) auditorium seats, whichever is greater.
 - i. Library/Museum -- one (1) space for each three hundred (300) square feet of gross floor area plus one (1) space per employee.
 - j. Non-Residential Health Care Facilities -- five (5) spaces for each professional on duty plus one space per employee.
 - k. Residential Health Care Facilities -- one (1) space for every two (2) beds.
 - l. Funeral Home -- one (1) space for each one hundred (100) square feet of gross floor area plus one (1) space per employee.
 - m. Bed & Breakfasts -- two (2) parking spaces plus one (1) for each guest room.

For uses not specifically listed, the special permit granting authority, or, if no special permit is required, the building inspector, shall determine the number of spaces required based upon the most similar use(s) that is(are) listed and the most recent edition of the ITE Parking Generation Manual. In all cases, sufficient parking shall be provided to accommodate all visitors, patrons and customers on an average peak day.

- 6.2.2 The minimum number of required off-street parking spaces as set forth in Section 6.2.1. may be reduced by special permit from the Planning Board upon determination that special circumstances render a lesser provision adequate for the parking needs in any particular case.
- 6.2.3 In cases when two (2) or more uses are in close proximity to a parking area capable of accommodating parking demand in terms of numbers and use patterns, shared parking may be approved by the special permit granting authority, or, if no special permit is required, the building inspector, conditioned on permission of the parking lot owners, evidence of sufficient parking, legal documentation establishing an operations and maintenance agreement, and such other documentation that the special permit granting authority or, if no special permit is required, the building inspector, determines is needed to demonstrate that the shared parking can be accomplished safely and without adverse impact to the public convenience.
- 6.2.4 An area of 162 square feet (9' x 18') shall be considered as one (1) off-street parking space.
- 6.2.5 All required parking spaces shall be provided with unobstructed access to and from a street and shall be properly maintained in such manner as to permit them to be used at all times.
- 6.2.6 Any parking area of more than five (5) parking spaces shall be located to the rear of the building setback line and at least fifty (50) feet from any side or rear property line, unless specifically otherwise authorized by special permit from the Planning Board. Such parking area shall be suitably screened on any property line which abuts upon a residential district or a site in residential use.

6.3 Special Permits

6.3.1 Special Permit Granting Authority

Any board designated as the special permit granting authority in this Bylaw may hear and decide applications for special permits upon which such board is specifically authorized to act under this Bylaw in accordance with the provisions of Section 9, Chapter 40A of the General Laws.

6.3.2 Sketch Plan Review

The purpose of sketch plan review is to give the special permit granting authority, or, if no special permit is required, the building inspector, and the applicant an opportunity to discuss the proposed project prior to the submission of a formal application and a significant commitment of time and money on the part of the applicant.

The Town Clerk, upon receipt of sketch plan materials, shall forward them to the appropriate permit granting authority. The permit granting authority shall place the

proposed project on its next available meeting agenda at which time the project shall be discussed.

At a minimum, the applicant shall submit:

- * a map showing the important existing natural and manmade features in and around the site; and
- * a sketch plan showing the major features of the proposal.

6.3.3 Required Hearing and Notice

Special permits may only be issued following public hearings held within sixty-five (65) days after filing of an application with the special permit granting authority. Notice of public hearing shall be given by the Board holding the hearing by publication in a newspaper of general circulation in the town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to “Parties in Interest” as provided in Section 11, Chapter 40A (G.L.) which include the petitioner, abutters, owners of land directly opposite any public or private street or way and abutters to abutters within 300 feet of the property line, all as they appear on the most recent applicable tax list, the Planning Board, and the Planning Board of every abutting municipality.

6.3.4 Review By Other Boards and Agencies

The special permit granting authority shall within five (5) days after receipt of an application for a special permit transmit a copy thereof for review to the Board of Health, Board of Selectmen (if applicable), the Planning Board (if applicable), the Conservation Commission, the Sewer and Water Commission, and any other municipal board or agency, at the discretion of the special permit granting authority, by placing a copy of the application in the Board’s mail box. At the same time, the special permit granting authority shall send notice to the chairman of each board at his or home address (1) indicating that the application has been so transmitted and (2) notifying the chairman of the date of the public hearing on the application. The public hearing shall be held at least thirty-five (35) days after the application has been transmitted to the boards. Any board not ready with its recommendations by the date of the public hearing may request prior to the hearing or at it that the special permit granting authority continue the hearing for the purpose of receiving that board’s recommendations. In the event that any such board or agency fails to make recommendations within thirty-five (35) days of receipt by such board or agency of the petition or fails to request additional time as provided above, its failure to respond shall be deemed lack of opposition thereto.

6.3.5 Review by Town Departments

Within five (5) days of receipt of an application for a special permit, the special permit granting authority may refer an application for a special permit to any municipal

department for review and comment. Such review and comment shall be made within thirty five (35) days of receipt by the department of the special permit application. In the event that any such municipal department fails to comment within thirty-five (35) days of receipt by such municipal department of the application, its failure to respond shall be deemed to constitute lack of opposition to the special permit.

6.3.6 Findings Required

Before granting a special permit for any use requiring such permit under the provisions of this Bylaw, the special permit granting authority shall find that the proposed use:

- a. Is in compliance with all provisions and requirements of this Bylaw, and in harmony with its general intent and purpose;
- b. Is essential or desirable to the public convenience or welfare at the proposed location;
- c. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;
- d. Will not create undue traffic congestion or unduly impair pedestrian safety;
- e. Will not overload any public water, drainage, or sewer system or any other municipal facility to such an extent that the proposed use of any existing use in the immediate area or in any other area of the town will be unduly subjected to the hazards affecting public health, safety or general welfare.

6.3.7 Conditions, Safeguards and Limitations

Special permits may be issued subject to such conditions, safeguards or limitations as the special permit granting authority may impose for the protection of neighboring uses or otherwise serving the purposes of this Bylaw. Such conditions, safeguards or limitations may include, but are not limited to, the following:

- a. Front, side and rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences or walls as specified by the Authority;
- b. Limitations upon the size, number of occupants, method and time of operation, time duration of the permit, or extent of facilities;
- c. Regulations of number and location of driveways, or other traffic features; and off-street parking or loading, or other special features beyond the minimum required by this Bylaw.

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

6.3.8 Site Plan Required

A site plan is required for any principal non-residential use in a residential zoning district.

Applicants will submit application on forms established by the Board of Selectmen to the appropriate special permit granting authority and Town Clerk. The site plan prepared by a registered professional engineer or registered landscape architect on a 1" = 40', scale shall clearly illustrate the following:

- a. Grading and drainage plan showing existing and proposed contours. Two (2) foot contour intervals shall be required on areas proposed for development and five (5) foot contours shall be required elsewhere on the property. Drainage shall be analyzed utilizing either the TR-20 or TR-55 method and the plan shall show compliance with the Commonwealth of Massachusetts Stormwater Management Policy.
- b. Location, size and height of all proposed and existing structures and buildings together with schematic elevations;
- c. Location, size and height of all signs;
- d. Complete proposed landscaping plan;
- e. Location and extent of all open space;
- f. Location, size and type of all utilities and sewage disposal systems, including soil and percolation tests demonstrating the suitability of a specific location(s) for sub-surface sewage disposal in compliance with the State Sanitary Code.
- g. Test well results or other data suitable to demonstrate the presence of an adequate water supply.
- h. Location, size and number of parking spaces of parking lot, of entrances, exits, aisles, circulation patterns and directional signage; and
 1. A written statement describing in detail the parking generating characteristics of the land use.
 2. A plan drawn to scale showing the various uses within respective floor areas of the building or structure.
 3. The number of employees during the largest work shift.
 4. The number of customers, patrons or other visitors expected to be served.
 5. Any other statements to show the actual extent of off-street parking space required or generated by particular use.

- i. Location, size, number and type of all lights.
- j. Every plan for a proposed new, altered, or expanded use which provides for a total of thirty-five (35) or more parking spaces shall indicate thereon the location of and provision for:
 - 1. Parking spaces and access routes
 - 2. Curbing and wheel stops
 - 3. Pavement markings
 - 4. Surfacing
 - 5. Screening and landscaping
 - 6. Lighting
 - 7. Drainage
 - 8. Loading areas/facilities
 - 9. Other pertinent data reasonably required by the special permit granting authority or its designee.
- k. Any land use involving a fleet of vehicles for operation of the use shall be required to provide information demonstrating provision of space for such fleet before issuance of an occupancy permit for said use.
- l. In addition, applicants shall submit reports to the special permit granting authority regarding off-site and on-site traffic generation and levels of service during construction and projections for such generations and levels of service for two (2), five (5), ten (10) years after completion of a project, prepared by qualified engineers.

An application for special permit review shall be accompanied by a fee in an amount which shall be established by the Board of Selectmen and posted in the Town Hall.

Any application for a special permit which does not require a site plan as set forth above shall be accompanied by a plan drawn to scale indicating the location, size and height of proposed buildings, site improvements, and containing such other information as may be required by the special permit granting authority.

6.3.9 Decisions and Vote Requirements

The special permit granting authority shall act within ninety (90) days following the date of public hearing. Failure to take final action upon an application for special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

A special permit issued by a special permit granting authority shall require a two-third vote of boards with more than five (5) members, a vote of at least four (4) members of a five (5) member board and a unanimous vote of a three (3) member board.

6.3.10 Expiration of a Special Permit

The rights granted by any special permit granting authority shall not take effect until the notice of decision filed with the Town Clerk has been recorded in the Registry of Deeds, as required in MGL 40A Section 11. A special permit shall lapse two (2) years from the date of decision if a substantial use or construction has not begun under the permit by such date, except for good cause as determined by the special permit granting authority.

6.3.11 Performance Guarantees

The special permit granting authority may, in appropriate cases, require an applicant to furnish a financial guarantee for performance of any conditions set forth in the special permit. The special permit granting authority may adopt rules and regulations governing standards and procedures for approving and releasing such financial guarantees.

6.3.12 Whereas section 4.11(A)(26) of this Bylaw provides for the use of land for wireless telecommunications towers, antennae, panels and appurtenant structures (collectively, “wireless telecommunication facilities”) by special permit in the Manufacturing District: and

Whereas, the Town of Stockbridge has undertaken a comprehensive study with respect to regulating the use of land for wireless telecommunication facilities: and

Whereas, it is desired to protect the Town from ill-advised and unwanted development of wireless telecommunication facilities pending a thorough review and the formulation of a zoning amendment:

Now, therefore, no wireless telecommunication facility shall be permitted to be constructed in the Town of Stockbridge nor any special permit for such a facility issued before September 16, 1997.

This section shall not apply to amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower shall be removed upon loss or termination of such FCC license.

6.4 Conservancy Districts

F-P Flood Plain Districts

G-A Groundwater Recharge Areas: Primary, Secondary

6.4.1 Purpose of Conservancy Districts

- a. To provide that lands in the town subject to seasonal or periodic flooding and groundwater recharge areas shall not be used for residence or other purposes in such a manner as to endanger the health, safety, or welfare of the occupants thereof or of the public;

- b. To protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies, and to protect both surface and groundwater quality for public health, safety and welfare;
- c. To assure the continuation of the natural flow pattern of the water courses within the town in order to provide adequate and safe flood water storage capacity, to protect persons and property against the hazards of flood inundation.

6.4.2 Regulations and Restrictions

- a. Any person desiring to establish, change or expand any permitted use, make alterations on a river (stream) course, or to make alterations to the landscape in a Flood Plain District involving or requiring: the erection of new structures or alterations of or moving of existing structures; the dumping, filling, transfer, relocation or excavation of earth materials; the outdoor storage of materials or equipment or the construction of roadways, shall submit an application for a special permit to the Board of Selectmen describing in detail the proposed use of the property and work to be performed, accompanied by plans showing:
 - 1. The location, boundaries and dimensions of the lot, water courses, drainage easements, primary groundwater recharge areas, existing and proposed drainage and sewer disposal facilities; if the land is in a Flood Plain District, the plan shall show the specific location of the lot in relationship to the floodway and/or base flood level.
 - 2. Mean sea level elevation, with two (2) feet or less contour separation of the existing and proposed land surface of the cellar and first floors.
- b. Copies of the application and plans shall be delivered by the applicant to the Building Inspector, Planning Board, Board of Health and the Conservation Commission, all of whom shall report back to the Board of Selectmen within thirty (30) days of receipt of application and plans.
- c. The Board of Selectmen may issue a special permit under this section if it finds compliance with all applicable laws, regulations and provisions of this Bylaw, and that the proposed use will not interfere with the general purpose for which conservancy districts have been established. The burden of proving that the proposed use will not significantly interfere with such purposes shall rest upon the applicant who shall submit such engineering and hydrological data and cite specific studies, depending on the character, size or intensity of the proposed development, as may be found necessary by the Board. If the land is in a Flood Plain District, the Board shall utilize the latest flood data and reports.

Without limiting the generality of the foregoing, the Board shall ensure compliance with the following protective measures, if applicable:

1. That the carrying capacity of any altered watercourse is maintained;
 2. That the proposed development, including public utilities and facilities, is so designed as to provide adequate drainage and minimize any potential flood damage. Any new and replacement water and sewer systems shall be so located and designed as to avoid impairment from flood waters;
 3. That all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level, and that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level;
 4. That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural storage or increase storm water runoff so that water levels on other land are substantially raised or danger from flooding increased;
 5. That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding;
 6. That the proposed drainage and sewage disposal systems and the cumulative effect of any potential development or method of operation, including road construction, impervious surfacing, and maintenance, will not significantly adversely affect any surface or groundwater quality or supplies, or otherwise endanger the health, safety or welfare of occupants or public;
 7. That the proposed use is in compliance with the State Environmental Code and Board of Health requirements;
 8. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall produce any already existing, reasonable, base flood elevation data, and it shall be used to meet the requirements listed above;
 9. Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify to the Building Inspector that the methods used are adequate to withstand the flood depths, pressure and velocities, impact and uplift forces and other factors associated with the 100-year flood.
- d. In the floodway, designated on the Flood Boundary and Floodway map, the following provisions shall apply: Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided by the applicant

demonstrating the encroachments shall not result in any increase in flood levels during that occurrence of the 100-year flood.

- e. Any proposed use in Groundwater Recharge Areas shall be subject to land use guidelines as recommended for such areas in the Upper Housatonic “208” Water Quality Management Plan, which guidelines are filed with the Town Clerk. The Board may, however, exempt any regulated proposed use in these areas from the provisions of this section if the Board determines that because of the soil or topographic conditions, the proposed use although within Groundwater Recharge Areas as shown on the map, will not significantly adversely affect the quality or supply of the surface or groundwater.
- f. A special permit may be issued subject to such conditions, safeguards and limitations on use as the Board may impose for the protection of surface or groundwater quality or supply, or otherwise serving the purposes of this section.
- g. A special permit issued under this section shall take effect only after all necessary permits have been received from those governmental agencies from which approval is required by federal and state law, and a copy of each such permit has been filed with the board. No building permit shall be issued and no fill shall be put in place until the special permit has been issued under this section or until ninety (90) days have elapsed following the public hearing by the special permit granting authority without action thereon.
- h. Granting of a special permit by the Board of Selectmen does not indicate in any way compliance with the Wetlands Protection Act, Chapter 131, Section 40 (G.L.) or with any order by the Conservation Commission. In riverine situations the Conservation Commission shall notify adjacent communities and the Mass. Division of Water Resources prior to any alterations or relocation of a water course and submit copies of such notifications to the Flood Insurance Administration.
- i. The Building Inspector shall obtain and maintain records of elevations and flood proofing levels for all new or substantially improved structures as provided in the State Building Code, and keep records whether elevated structures contain a basement or not.
- j. Exceptions: The requirements of this section are not intended to govern the normal customary grading in the area of an existing or newly constructed building, including but not limited to, the preparation and construction of sidewalks, driveways and patios. Such grading and earth moving shall be approved by the Building Inspector at the time of the issuance of the building permits, providing that a plan showing proper drainage and protection of adjoining property has been submitted.

6.5 Lake and Pond Overlay District (LPOD)

6.5.1 Purpose

The Lake and Pond Overlay District (LPOD) is intended to protect and enhance the principal lakefronts and shorelines of the Town of Stockbridge; to maintain safe and healthful conditions; to prevent and control water pollution; and to preserve habitat, vegetative cover and natural beauty.

6.5.2 Description

This LPOD shall include:

- The lakefront of the Stockbridge Bowl, Lily Pond, Echo Lake, Mohawk Lake and Agawam Lake and one hundred fifty (150) feet back from the high water mark of these waterbodies;
- The shoreline of the Housatonic River and its permanent tributaries and one hundred fifty (150) feet back from the high water mark of the River and its permanent tributaries; and
- Kampoosa Bog, which shall include all the contiguous or hydrologically connected Wetland Resources Areas as defined under the Massachusetts Wetland Protection Act and Regulations (310 CMR 10), draining ultimately into Kampoosa Brook, upstream of the earthen berm that extends easterly from Route 7 shown on Stockbridge tax map #26, lot #49 and one hundred fifty (150) feet back from their boundaries.

6.5.3 Relation to Other Districts

The LPOD is an overlay district mapped over other districts. Where there is an inconsistency between the requirements of Section 6.5 and the regulations otherwise applicable in such other districts, the more restrictive provision shall be deemed to apply.

6.5.4 Applicability

a. Jurisdictional Activities

Except as otherwise provided in Section 6.5, no building, structure or land use activity shall be permitted except pursuant to a special permit issued by the Planning Board pursuant to the requirements of Sections 6.3 and 6.5.

For the purposes of Section 6.5, “land use activity” shall mean any significant change in the physical characteristics of land or the physical or chemical characteristics of the wastewater produced from a building or structure, but excluding any exempt uses listed in paragraph b of this subsection. Except as otherwise provided in said paragraph b, “land use activity” shall include, but not be limited to: any extension or alteration of an existing structure; any removal of vegetation; any road or driveway;

any excavation for the purpose of removing earth materials off-site; and any facility designed to prevent or mitigate the impacts of stormwater or associated drainage.

b. Exempt Activities

The following activities do not require a special permit, but must nevertheless comply with the requirements of subsection 6.5.9:

- Any principal or accessory use, otherwise permitted by this Bylaw, to be located within an existing structure, provided that any extension or alteration of such structure does not increase the height of the structure and is no closer to the high water mark than the existing structure; the resulting structure complies with applicable yard, lot coverage and floor area requirements of Section 5.5; and the chemical characteristics of any wastewater produced from such use are not significantly changed;
- Ordinary repair or maintenance of, or interior alterations to, existing structures;
- Removal of dead, diseased or dying trees and vegetation;
- Ordinary pruning or maintenance of shrubs or trees;
- Other gardening uses that do not involve the cutting of shrubs or trees;
- Structures under one hundred (100) square feet in footprint area; and
- Recreational, municipal or governmental uses that, by their nature, must be located within the LPOD.

6.5.5 Prohibited Activities

The following activities shall be prohibited within the LPOD:

- The storage or dumping of any waste material, junk, refuse, or other debris;
- The discharge or application of wastewater or any pollutant except as specifically permitted by the Board of Health; and
- The relocation of perennial or intermittent watercourses, the filling or reclaiming of wetlands and watercourses, the mining or off-site removal of topsoil, subsoil, clay, peat, gravel, sand, shale or other similar materials.
- The painting of a dock with creosote or oil-based paint.

6.5.6 Required Findings

The Planning Board shall approve a special permit for any building, structure or land use activity within the LPOD if it finds that the building, structure or land use activity meets all application and site plan requirements set forth in Section 6.3 and subsection 6.5.8 and all applicable land use and development standards set forth in subsection 6.5.9.

6.5.7 Procedure

The procedure for review and approval under this section shall be as set forth in Sections 6.3 and 6.5.

A Site Plan satisfying the requirements of subsections 6.3.7 and 6.5.8 is required for any proposed building, structure or land use activity within the LPOD for which a special permit is required.

Special permit applications and site plans shall be submitted to the Board of Selectmen for its review and comment to the Planning Board.

6.5.8 Application and Site Plan Requirements

In addition to the application and site plan data required by Section 6.3, an Applicant for a special permit pursuant to Section 6.5 shall submit the following information to the Planning Board for its review:

- Boundaries of the property plotted to scale;
- Existing watercourses;
- A grading and drainage plan, showing existing and proposed contours at a two (2) foot contour in the area of activities for which a special permit under section 6.5 is being sought, and a five (5) foot contour elsewhere;
- The location and description of existing and proposed features;
- The location, design, and construction materials of all driveway, parking and loading areas;
- The location of all stormwater drainage areas (catchments) for each distinct receiving water/wetland area within and/or downgradient of activities for which a special permit under section 6.5 is being sought;
- Soils-based stormwater infiltration rates using the following table:

Texture Class	NRCS Hydrologic Soil Group	Design Infiltration Rate (inches per hour)
Sand	A	8.27
Loamy Sand	A	2.41
Sandy Loam	B	1.02
Loam	B	0.52
Silt Loam	C	0.27
Sandy Clay Loam	C	0.17
Clay Loam	D	0.09
Silty Clay Loam	D	0.06
Sandy Clay	D	0.05
Silty Clay	D	0.04
Clay	D	0.02

- Plans and specifications for soil erosion and sedimentation control measures;
- A timing schedule indicating anticipated starting and completion dates, the sequence of anticipated tasks, and the duration of exposure of each disturbed area prior to the completion of effective erosion and sediment control measures;
- For any land use activity involving the construction or expansion of a building or structure, the paving of roads, or the creation of driveway, parking and loading area, the results of a pollutant loading model demonstrating that stormwater flow on or from the site will not result in a discharge of any pollutant in violation of subsection 6.5.5. Such model shall evaluate the loadings of nutrients (nitrogen and phosphorus), bacteria, metals and total suspended solids, the expected removal rates associated with any stormwater treatment facility and the resulting loads to the LPOD.

The site plan shall be developed subsequent to, and in accordance with an existing natural resources conditions inventory that shows topography including steep slopes (greater than 10%), severe slopes (greater than 20%), soils limitations (constraints related to septic system suitability and erosive characteristics as mapped by the USDA, Natural Resources Conservation Service) and vegetation.

6.5.9 Land Use and Development Standards

All buildings, structures and land use activities shall comply with the following standards:

a. Development of Lots

- The minimum setback from the high water mark for buildings and structures shall be one hundred (100) feet.
- The maximum lot coverage by buildings, structures and impermeable surfaces within the LPOD shall be fifteen (15) percent of the total lot area within the LPOD.

- All driveway, parking and loading areas shall be constructed of permeable materials.

b. Erosion and Sedimentation Control

- Natural vegetation shall be maintained on at least seventy-five percent (75%) of the total lot area within the LPOD.
- Grading shall not result in the creation of slopes greater than twenty percent (20%) within the LPOD.
- Activities that result in slopes exceeding ten percent (10%) shall incorporate the use of staked haybales, siltation fences, sedimentation basins and silt traps to control sedimentation and erosion during construction. Such practices shall be implemented within twenty-four (24) hours of clearing and excavation and shall be maintained until completion of all such activities.
- All activities shall be completed within 90 days from original clearing and excavation, except as otherwise authorized by the Building Inspector, in order to minimize exposure to sedimentation and erosion.
- In cleared areas surrounding the creation of new impermeable surfaces, temporary or permanent vegetative landscaping shall be employed within seven (7) days of initial clearing and excavation.
- Stockpiled soils or other erodible materials shall be securely covered and/or vegetated to avoid erosion and sedimentation during construction.

c. Stormwater Management

- Upon completion of activities for which a special permit under Section 6.5 has been granted, stormwater runoff rates shall match pre-development (natural) conditions for the two-, twenty-five- and one-hundred- (2-, 25- and 100-) year events in each catchment area.
- Upon completion of activities for which a special permit under Section 6.5 has been granted, annual groundwater recharge rates shall match pre-development (natural) conditions to preserve groundwater supplies and to protect baseflow to downgradient streams, lakes and wetlands.
- Upon completion of activities for which a special permit under Section 6.5 has been granted, additional stormwater recharge shall be provided in an amount equal to the total volume of consumptive uses of groundwater withdrawals, such as drinking water and irrigation, on the site.

- Stormwater treatment using bioretention areas, constructed wetlands or organic filters shall be provided for the first flush (one-inch) rainstorm from roads, other paved areas and metallic roofs prior to infiltration/recharge. Stormwater treatment facilities may be designed to include both static storage and dynamic infiltration (infiltration that occurs during the peak 2 hours of the design storm event).
- Pollutant loading shall be less than the following receiving water standards:

a. Phosphorus	0.08 mg/liter
b. Bacteria	200 colonies/100 milliliters
c. Metals	applicable federal and state drinking water standards

d. Cutting

- Except as otherwise permitted by this subsection, no vegetation may be removed within thirty-five (35) feet extending inland from any point along the high water mark. This area shall be maintained as an undisturbed natural buffer strip.
- For the purpose of water access, a contiguous clear-cut opening in the buffer strip, not to exceed thirty-five (35) feet in width or twenty percent (20%) of the lot's frontage along the water, whichever is less, shall be permitted. Such opening shall not be less than thirty (30) degrees from perpendicular to the water's edge.

e. Docks

- All docks shall be kept in good repair and free from defects that might cause a hazard to person or watercraft.

6.6 Cottage Era Estate Adaptive Re-Use or Rehabilitation

6.6.1 Purpose

The purpose of this section is to authorize the Board of Selectmen to permit, by Special Permit, the adaptive re-use or rehabilitation of certain Cottage Era Estates in the R-4 and R-2 Districts, while encouraging the preservation, restoration or improvement of the original features and character of their principal buildings, associated outbuildings and structures, open spaces, views, landscape features, gardens and recreational facilities. Any Special Permit issued pursuant to this section may authorize new construction, provided that such construction is harmonious with such original features of the Cottage Era Estate.

6.6.2 Applicability

The Board of Selectmen may issue a Special Permit pursuant to this section to authorize any, or a combination of, the following uses as part of an adaptive re-use or rehabilitation of a Cottage Era Estate, whether or not such uses are otherwise permitted under section 4.11:

- a. One-family dwelling, as provided in section 4.11.A.1.
- b. Open space recreational use, as provided in section 4.11.A.12.
- c. Hotel or restaurant where food is served primarily for consumption within the building, as provided in section 4.11.A.16.
- d. Commercial greenhouse, nursery, or landscape gardening, as provided in section 4.11.A.27.
- e. Agriculture, viticulture, horticulture or floriculture satisfying the requirements of section 4.11.A.28.
- f. Conference and retreat facilities, including facilities for private parties and weddings.
- g. Studio where artists can work and display their art.

6.6.3 Procedure

- a. The procedure for review and approval of a Special Permit under this section shall be as set forth in this section and section 6.3.
- b. An applicant seeking a Special Permit pursuant to this section shall be required to submit to the Board of Selectmen a site plan for any proposed use to be authorized by Special Permit pursuant to this section. In addition to the application and site plan data required for a Special Permit by other sections of this Bylaw, the applicant shall submit the following information, if applicable, to the Board of Selectmen for its review:
 - Except when the re-use or rehabilitation involves only minor changes in architectural features, a site plan shall contain property lines, the buildings' footprints, significant site features such as fences, masonry walls, walkways, driveways and other accessory uses;
 - All adaptive re-use or rehabilitation involving (i) new construction at a Cottage Era Estate, or (ii) a change to the exterior of a building, shall require a façade elevation drawing for every façade elevation that is being changed or re-designed, showing such proposed changes or new designs. Each change or new element and all new materials shall be clearly identified on the elevation.

- c. Any Special Permit issued pursuant to this section may contain conditions, safeguards or limitations, pursuant to section 6.3.7, restricting the number of persons who may be on the premises at any one time.

6.6.4 Required Findings

The Board of Selectmen may issue a Special Permit pursuant to this section only if it finds that:

- a. The property qualifies as a Cottage Era Estate, as defined in section 2.2;
- b. The Lot on which the proposed use(s) will be located is at least 75 percent of the total combined area of all contiguous land held in common ownership with the Lot on the effective date of this section and has at least 75 percent of the total combined frontage of all contiguous land held in common ownership within the Lot on the effective date of this section;
- c. No new structures will be erected in the area between the two shortest lines beginning at a point on either side of the principal building closest to its respective side lot line and extending to a street upon which the lot has frontage;
- d. The proposed use will alter existing buildings, structures, or grounds to the least extent practicable;
- e. The distinguishing original qualities or character of the principal building will not be destroyed; and the removal or alteration of stylistic features or examples of skilled craftsmanship that characterize a building or structure or the grounds will be treated with sensitivity;
- f. Except as specifically authorized by the Special Permit, no historic material or distinctive architectural features will be removed or altered;
- g. Except as specifically authorized by the Special Permit, deteriorated architectural features will be repaired rather than replaced; and, in the event replacement is authorized, the new material will match the material being replaced in composition, design, color, texture, and other visual qualities;
- h. Repair or replacement of missing architectural features will be based to the extent practicable on accurate duplications of features, substantiated by historic, physical, or pictorial evidence;
- i. All off-street parking will be screened from abutters and adjoining streets;
- j. Unless required by the Building Code, no new detached structures will be erected within two hundred (200) feet of the principal building on the Lot, except for minor accessory structures, the function of which cannot be practicably achieved outside such two hundred (200) foot area;

k. Outdoor lighting will be kept to the minimum intensity needed. All outdoor lighting fixtures or lamps will be shielded in such a manner that:

- The edge of the lamp shield is below the light source;
- Direct radiation (glare) from the light source is confined within the boundaries of the property;
- Direct radiation is prevented from escaping toward the sky; and
- No high intensity discharge lighting will be used; and

l. The proposed use(s) will meet all applicable standards set forth elsewhere in this Bylaw.

6.6A Wireless Telecommunications Overlay District (WTOD):

6.6A.1 Purpose

The Wireless Telecommunications Overlay District (WTOD) is intended to protect the scenic, historic, natural and other resources of the Town of Stockbridge, while allowing adequate Wireless Telecommunications to be developed

6.6A.2 Description

This District includes the properties listed below. These properties are included by reason of their potential to provide technically feasible and accessible locations for the siting of facilities which can provide adequate wireless telecommunications services to the Town of Stockbridge. The Overlay District is defined, delineated and mapped on the Map entitled “Wireless Telecommunications Overlay District Map, Town of Stockbridge, MA”, and incorporated by this reference herein.

	Address	Assessors’ Map & Parcel #
44.01	Route 102 Route 7 Off Cherry Hill Rd.	Map 3, Lot 2 Map 23, Lots 1& 2 Map 8, Lots 44 &
	Off Cherry Hill Rd.	Map 8, Lot 48.01

6.6A.3 Relations to Other Districts

The WTOD is an overlay district mapped over other districts. It modifies and where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

6.6A.4 Applicability

Any use of lands within the WTOD for purposes of placement, construction, modification or removal of Personal Wireless Services Facilities and/or Towers shall be subject to the requirements of Section 6.25 of this Bylaw

6.7 Stream, Pond and Lake Protection

Hereafter no on-lot sewage disposal system such as septic tank or cesspool or leaching field, or the drainage system for waste water from showers, sinks, etc., shall be installed or constructed within 150 feet of the high water shore line of man-made pond or lake exceeding two (2) acres in area or of the natural waterways as included on the map prepared by Robert G. Brown & Associates, Inc., entitled, "Delineation and Description of the Housatonic River Flood Plains and the Inland Wetlands in the Town of Stockbridge, Massachusetts," which map is a part of this Bylaw. In the case of a lot duly recorded prior to the effective date of this Bylaw, the Board of Health may authorize construction or installation of such disposal systems at a reduced distance not less than the minimum standards in the State Environmental Code, Title 5, if the Board determines that, because of the size or shape of the lot, compliance with requirements of this section would cause undue hardship, and that the proposed disposal system would provide adequate protection to water quality in the aforementioned water bodies.

On-lot sewage disposal systems in existence at the effective date of this Bylaw which are located within 100 feet of the high water shorelines on the above referenced map shall be brought into compliance with the minimum standards in the State Environmental Code Title 5, unless such compliance is specifically waived by the Board of Health.

6.8 Sign Regulations

6.8.1 General Regulations

- a. No sign shall be illuminated by other than shaded or indirect white incandescent light of constant intensity, and no sign shall be illuminated by flashing, intermittent, rotating or moving light or lights, or have any visibly moving parts or noise-making devices. In no event shall an illuminated sign or lighting device be so placed or directed or beamed upon a public way or adjacent premises as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- b. No sign shall be placed on the roof of any building or erected so as to obstruct traffic sight lines for drivers or pedestrians.
- c. No sign shall use such words as "stop", "danger", or any other word, symbol, color, or character which might be misconstrued as a public safety warning or traffic sign.
- d. A free-standing sign may not exceed ten (10) feet in height above grade or be closer to the front property line than one-half (1/2) of the depth of the required front yard.
- e. Temporary signs which do not comply with this Bylaw may be authorized for a period of not over ten (10) days by the Board of Selectmen for special events, such as an opening of a new business or industry, or announcing a public event sponsored by a civic, fraternal, social or religious organization. The Board of

Selectmen may at their discretion require the posting of a bond or cash deposit large enough to cover the cost of removal of temporary signs if such signs are not removed promptly after expiration of the permit.

- f. Any sign which has been abandoned or advertises any product, business or activity which is no longer sold or carried on, must be removed within thirty (30) days by the owner of the premises after notice to that effect from the Board of Selectmen.
- g. Accessory signs legally erected before the adoption of this Bylaw which do not conform to the provisions of this Bylaw may continue to be maintained without a permit, provided, however, that no such sign shall be permitted if, after the adoption of this Bylaw, it is enlarged, reworded, redesigned or altered in any substantial way, except to conform to the requirements of this Bylaw.

6.8.2 The following signs may be displayed in any district subject to regulations contained in the Bylaw:

- a. At a single, detached, one-family house, one sign not over two (2) square feet in area, showing the name of the occupants.
- b. At religious, educational or philanthropic institutions, library, museum, art gallery or building or area for municipal or government use or service one sign not over four (4) square feet in area at each entrance.
- c. A temporary, unlighted sign not over six (6) square feet in area pertaining to lease or sale of the property on which it is displayed.
- d. One temporary sign, to be displayed on the premises for not more than one (1) week, not exceeding ten (10) square feet in area, advertising or announcing a sale, entertainment or other activity open to the public, being conducted by a religious, philanthropic, social, or other non-profit organization.

6.8.3 The following signs may be displayed with a permit from the Board of Selectmen and reviewed by the Planning Board:

- a. At each entrance to a farm orchard, commercial greenhouse, nursery, truck garden, woodlot, or roadside farm stand permitted or authorized under this Bylaw, one sign not over four (4) square feet in area.
- b. For permitted use on residential property, one sign not over two (2) square feet in area.
- c. On property in a Residence District devoted to a use authorized by special permit, one sign not over four (4) square feet in area.
- d. Business Districts:

1. Single business use on lot: Where a single business use is made on a lot in single ownership, there are permitted no more than three (3) signs, not to exceed thirty (30) square feet in total combined area, attached flat against the wall of the building, advertising the name of the firm or goods or services available or produced on the premises. No sign shall project over a parapet wall or over a public way owned or maintained by the Town.
2. Multiple business uses on lot: Where more than one business use is made on a lot in single ownership, including business uses made on a lot subjected to the provisions of F.G.L. c 183A, there is permitted one (1) sign, not to exceed sixteen (16) square feet in area, for each separate business establishment, attached flat against the wall of the building, advertising the name of the firm or goods or services available or produced at the establishment. No sign shall project over a parapet wall or over a public way owned or maintained by the Town.

On multiple business use lots, including those subjected to the provisions of M.G.L. c 183A, there is permitted one (1) directory sign per lot not exceeding sixteen (16) square feet in area for all business establishments or uses on the lot, and not exceeding four (4) square feet for any one business establishment or use on the lot, which directory sign may be a free-standing sign.

3. On either single business use lots or multiple business use lots, in the case of privately owned alleys or lanes, where a sign flat against the wall of the building would not be readily visible from a public way, one sign for each establishment, not exceeding four (4) square feet in area, is permitted to project over the private way, provided that its lowest point is at least seven (7) feet above the surface of the way and provided further that the town Building Inspector determines that it poses no threat or danger to the public or the use made of the way.
- e. In Manufacturing District, no more than three (3) signs, not to exceed 100 square feet in total combined area, attached flat against the wall or placed on the roof of the principal building, are permitted. Said signs may advertise only the name of the firm and/or goods or services available or produced on the premises. No sign shall project more than six (6) feet above a parapet wall.
 - f. In Manufacturing District, one (1) or two (2) signs, not attached flat against a building, advertising the name of the firm and/or goods or services available or produced on the premises, are permitted provided they do not exceed sixteen (16) square feet in total combined area.

6.8.4 Billboards and Other Non-Accessory Signs Are Not Permitted.

6.8.5 Unsafe and Unlawful Signs

If the Building Inspector shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this section, he shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within ten (10) days after such notice, such sign or other advertising structure shall be removed or altered to comply with the Building Inspector at the expense of the permittee or owner of the property upon which it is located. The Building Inspector shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Building Inspector, in addition to exercising any and all other remedies provided for in this Bylaw for a violation hereof, may, in addition, cause any sign or other advertising structure which is an immediate peril to the health or safety of persons or property to be removed summarily and without notice by town employees. Any expense incident thereto shall be paid by the owner of the building, structure or lot to which such sign is attached.

6.9 A Multi-Family Development

6.9.1 Any multi-family development shall conform to the following special requirements:

Development Standards

a. The minimum lot area, in square feet, shall be as follows:

District	Area Per Unit Column A	For Developments Providing Affordable Housing - Area required is that in Column A plus the following for each unit over one
R-4 District	174,240	87,120
R-2 District	87,120	43,560
R-1 District	43,560	21,780
R-C District	20,000	10,000

b. The required front, side and rear yard dimensions shall be twice the minimum requirements for the district.

c. No more than six (6) dwelling units shall be provided for each such development. The maximum number of units shall be 9 where affordable housing is provided (see Definitions).

d. The minimum area of developed playgrounds, recreational areas or other usable, suitably landscaped open space shall be at the rate of 1,000 square feet per bedroom. This requirement is reduced to 400 square feet per bedroom if the

development is “affordable housing” and in R-C or R-1 district (see definition in Sec. 2.2.).

- e. Front yard and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
- f. Any driveway within the development shall be set back from any side or rear property line not less than fifty (50) feet.
- g. Off-street parking space shall be located to the rear of the building setback line and at least fifty (50) feet from any side or rear property line, and shall conform to the standards set forth in section 6.2 of this Bylaw.

6.9.2 Site Plan Review

Any multi-family development authorized under this section shall be subject to the site plan review as provided in Section 6.3.7. and approved by the Planning Board.

6.9.3 Bonding

Unless the installation of all required improvements has been completed, no certificate of occupancy shall be issued by the Building Inspector until the applicant shall have filed in the Office of the Town Clerk a bond with surety satisfactory to the Board of Selectmen and approved as to form and legality by the Town Counsel. Such bond shall be in the amount sufficient in the judgment of the Board of Selectmen to secure the completions of such work in compliance with all applicable statutes, ordinances, and regulations, and in accordance with the approved site plan.

6.10 Conversion Of An Existing One or Two-Family Dwelling Into Multi-Family Dwelling Or Other Use

The conversion of a one or two-family dwelling existing on January 1, 1976, and containing 4,000 square feet or more of livable floor area, may be authorized into a multi-family dwelling or any use which may be authorized under this Bylaw by special permit in the district, or any combination of such uses, subject to the following special requirements if applicable.

- a. The minimum lot area requirements per dwelling unit shall be as follows, unless specifically otherwise authorized under special permit:

R-4 District	85,000 square feet
R-2 District	50,000 square feet
R-1 District	20,000 square feet
R-C District	10,000 square feet

- b. The livable floor area of such dwelling shall not be increased and no exterior changes made which would alter the residential character of the building. There

shall be no change in the exterior dimensions of the building at ground level, including supporting structures but not including fire escapes.

- c. The required yards and off-street parking space shall be in compliance with the provisions of this Bylaw.
- d. The Planning Board may impose such additional reasonable conditions as it finds necessary for the protection of neighboring uses, including fencing, screening and the maintenance of existing ground improvements and landscaping.

6.10.1 Conversion of an Existing One or Two-Family Dwelling into Multi-Family Dwelling Providing Affordable Housing

The conversion of a one or two-family dwelling existing on January 1, 1990, into a multi-family dwelling meeting the criteria for affordable housing (see definition in Sec. 2.2.) may be authorized if the building contains at least 800 square feet average livable area per proposed unit subject to the following requirements.

- a. The minimum lot area in square feet shall be as follows:

R-4 District	85,000 plus 42,000 per unit over one
R-2 District	50,000 plus 25,000 per unit over one
R-1 District	20,000 plus 10,000 per unit over one
R-C District	10,000 plus 5,000 per unit over one

- b. It must meet the requirements of 6.10.b., c., and d. above.

6.11 Performance Standards

6.11.1 Hereafter, no land, building or structure in any district shall be used or occupied for manufacturing or other non-residential purposes in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard or noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare, or any other dangerous or objectionable substance, condition or element in such amount as to affect adversely the surrounding area or premises or groundwater supply.

6.11.2 The determination of the existence of any dangerous or objectionable elements shall be made at or beyond the property lines of the use creating such elements, wherever the effect is greatest. Any use already established on the effective date of this Bylaw shall not be so altered or modified as to conflict with, or further conflict with, these performance standards.

6.11.3 No materials or wastes shall be deposited or stored upon a lot in such form or manner that they may be transferred off the lot or into the ground by natural causes or forces.

- a. All materials or wastes which constitute a fire hazard or which may be edible by or attractive to rodents or insects, or which may pollute groundwater supply shall be stored outdoors only in closed containers.
- b. No discharge at any point into any public sewer, private sewage disposal system, or stream, lake or pond, or into the ground of any material of such nature or temperature as can contaminate any water supply, or cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with standards approved by the Massachusetts Department of Environmental Protection and in accordance with Town's Board of Health regulations.

6.11.4 Agricultural uses are exempt from the provisions of this section.

6.12 Outdoor Display

The outdoor display of merchandise is prohibited in all zones with these exceptions:

- a. In the Business Zone, newspapers in racks, seeds in racks and plants in containers.
- b. At roadside farmstands, as permitted under 4.11.B.5., the products permitted for sale.

6.13 Non-Profit Art Museum

6.13.1 Only an entity incorporated under Chapter 180 of Massachusetts General Laws and exempt from taxation under Section 501(c)(3) of the Internal Revenue Code shall qualify as "non profit" within the meaning of "non-profit art museum."

6.13.2 The minimum lot area shall be 35 acres.

6.13.3 The minimum frontage on a public road or roads shall be 2500 feet.

6.13.4 New building construction, excluding basement square footage, shall not exceed 12,000 square feet.

6.13.5 Parking for more than 100 cars and for more than ten (10) buses shall not be permitted.

6.13.6 Restaurant facilities shall not be allowed as an accessory use.

6.13.7 The conditions of 6.13.4., 6.13.5 and 6.13.6 may be waived by a special permit of the Selectmen in accordance with Section 6.3.

6.14 Educational or Religious Use

Any non-municipal educational use or any religious use is subject to the following regulations:

- a. Maximum building height – two and one-half (2.5) stories and fifty (50) feet.
- b. Major access roads and major parking areas subject to frequent use day or night shall be paved. Major roads are to be eighteen (18) feet wide and shall not exceed a 7 1/2 percent grade.
- c. Parking requirements shall be as provided in Section 6.2.

6.15 Satellite Dishes

The following regulations pertain only to satellite dishes in excess of 24 inches in diameter. Satellite dishes 24 inches in diameter or less are exempt from these regulations.

- a. No more than one (1) dish antenna shall be erected, constructed, installed or maintained on a single lot or premises.
- b. All dish antennae shall be affixed directly to the ground.
- c. No dish antenna shall be located on any mobile home or portable device.
- d. No dish antenna shall be connected to or placed upon any roof, building or part thereof; however, if no other site is available for reason(s) of accessibility, reception, or code requirements, said dish antenna may be connected to or placed upon any roof, building, or part thereof upon a licensed engineer's certification of said antenna's structural soundness.
- e. Except otherwise permitted by this section, dish antennae shall be located in rear yards. When a rear yard is not accessible, does not get reception, or does not meet building specifications and a side yard meets the building code, a dish antenna may be located there. If said yard borders on a street, a screen of foliage shall be provided so as to shield said satellite antenna from the street and adjoining properties during the entire year.
- f. The color of the satellite dish and screening materials shall be in solid earth tones, so as to reduce or eliminate aesthetic concerns of the adjoining properties insofar as possible and that said color tones shall be maintained in such character during the usage of said satellite antenna. The colors shall be solid and in black, brown, green, beige, or similar muted colors, including solid mesh construction.
- g. A dish antenna shall not at any point, nor shall any part of the antenna including any platform or structure upon which it is mounted or affixed, be elevated to or reach a height of more than ten (10) feet above the natural grade of the subject premises. In no event shall the natural grade be changed by any means in order to increase the elevation of the dish antenna.

6.16 All Driveways and Common Driveways Serving Two Lots

- 6.16.1 The maximum length of any common driveway shall not exceed 500 feet, unless in the opinion of the permit granting authority, a greater length is necessitated by topography or other local conditions.
- 6.16.2 Common driveways can never be used to satisfy zoning frontage requirements. Each lot served shall have frontage on ways which serve to satisfy frontage requirements under this Bylaw.
- 6.16.3 Common driveways shall provide access to the lots from the way on which the lots served have their frontage.
- 6.16.4 Entrances on state highways shall conform to Massachusetts Department of Public Works Standards and Regulations.
- 6.16.5 Any adjacent disturbed areas shall be stabilized and planted with ground cover returned to a useable state after construction is completed.
- 6.16.6 No driveway shall be approved at an intersection because of potential safety hazards. No common driveway shall be located within 100 feet of an intersection.

6.17 Common Driveways Serving More Than Two Lots But Not More Than Six Lots And Any Driveway With A Maximum Grade Of More Than Ten Percent.

- 6.17.1 All of the requirements of Section 6.16, if applicable, shall be satisfied.
- 6.17.2 The design of the common driveways shall, in the opinion of the Planning Board, assure adequate safety for emergency vehicles, including fire and police vehicles.
- 6.17.3 All common driveways serving more than two (2) lots shall meet the following design requirements:
 - a. The Planning Board shall consider the requirements of the State DPW Manual on Uniform Traffic Control Devices, but shall modify these to accord with:
 - 1. local conditions;
 - 2. compatibility with local road design; and
 - 3. size of the proposed project.
 - b. Driveways shall be located to the best advantage with regard to alignments with the way, profile, sight distance conditions and the like.
 - c. Culverts taking the place of roadside ditches shall have a diameter of not less than fifteen (15) inches. A larger diameter may be required.

- d. The elevation of driveways at the point of entry into the public right of way should be not more than the elevation of the shoulder of the road.
- e. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.
- f. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.
- g. Individual driveways should not be less than eight (8) feet nor more than sixteen (16) feet in width within the town right of way. Any curb at the entrance shall be rounded off with a radius of three (3) feet.
- h. Wherever possible, driveways should be pitched downward from the roadway. However, where topography prevents the driveway from being pitched downward in its entirety, the driveway must be constructed on a downgrade from the road surface to the sideline of the town right of way with a pitch of at least one-quarter (1/4) inch per foot. From the sideline the driveway may be pitched toward the roadway; however, in no instance shall a driveway have a pitch toward the roadway of greater than one (1) inch per foot, unless adequate provisions have been made and approved by the Highway Superintendent for the diversion of driveway surface runoff away from the roadway. The Highway Superintendent may require methods of diversions for driveways having a pitch of less than one (1) inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way.
- i. Driveways should be located to the best advantage to alignment with the way, profile, sight distance conditions and the like. In no instance shall the driveway intersect the way at less than a sixty (60) degree angle. Unless there is no other alternative, a driveway should not be located within a required side yard.

All work shall be inspected during and after construction. The Planning Board may halt any work not done in accordance with the permit.

6.17.4 In addition to the granting of a special permit, the Planning Board shall endorse its approval on a plan of land showing the location of the common driveway, which plan shall be recorded in the Registry of Deeds.

6.17.5 A covenant shall be entered into between the owner or developer and the Town in a form acceptable to the Planning Board of the Town of Stockbridge prohibiting the sale of lots and erection of buildings except for lots approved and/or buildings erected prior to the adoption of this Bylaw, until such time as the common driveways have been constructed in accordance with the approved plan.

6.17.6 The Planning Board may consult the Highway Superintendent for advice on any part of Section 6.17.

6.18 Fences and Walls

- a. Chain link and wire mesh fences are prohibited in all but the Manufacturing District unless said fence is visually screened from adjacent properties, including roadways, throughout the entire year.
- b. The side of the fence or wall designed to be viewed shall face outward, away from the area/use being enclosed.
- c. In all districts but the Manufacturing District, no fence or wall shall exceed four (4) feet in height when erected in the front yard nor exceed six (6) feet in height when erected in rear or side yards.
- d. Snow fences shall be prohibited, except that temporary snow fences conforming to the height requirements of this section shall be permitted between November 15 and April 15.

6.19 Home Occupations

The conduct of home occupations may be permitted under the provisions of this section. It is the intent of this section to:

- a. Ensure the compatibility of home occupations with other uses permitted in the Town;
- b. Maintain and preserve the character of residential neighborhoods and areas; and
- c. Provide peace, quiet, and domestic tranquillity within all residential neighborhoods or areas, and guarantee to all residents freedom from excessive noise and traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.

6.19.1 General Information

- a. A home occupation shall be incidental and secondary to the lot's residential purpose. It shall be conducted in a manner which does not give outward appearance of a business.
- b. The maximum number of home occupations permitted is one (1) per [property] resident family member.

6.19.2 Specific Information

For the purposes of this Bylaw, there are three (3) types of home occupations in Stockbridge: Type I, Type II, and Type III.

6.19.3 Type I

a. The following home occupations are permitted in all districts provided they are carried on in a manner which complies with the standards in subsection (b) of this Section.

- (1) home crafts including ceramics with kiln up to six (6) cubic feet;
- (2) art restoration;
- (3) telephone answering, switchboard, and call forwarding;
- (4) typing; word processing;
- (5) writing; computer programming

b. The home occupation is to be conducted only by members of the family residing in or maintaining the dwelling unit plus no more than two (2) non-resident employees.

It shall not involve the on-premise sale of goods or services or public exhibits or displays.

There shall be no external evidence of the conduct of such occupation

The home occupation, shall occupy no more than 25% of the gross floor area of the structure or five hundred (500) square feet, whichever is more restrictive.

6.19.4 Type II

The following home occupations shall occur only in the principal dwelling and, when located in the R-4, R-2, R-1 or R-C district, require special permit review by the Planning Board.

1. The home occupations listed in 6.19.3.a., above, when the on-premise provision of services or sale of products, articles, or goods is involved.
2. The office of a person who is engaged in a recognized profession and who is offering skilled services to clients but not engaged in the purchase or sale of economic goods
3. Instrument lessons and training

There shall be no external evidence of the conduct of such business or occupation except the permitted sign as regulated in Section 6.8. of this Bylaw.

6.19.5 Type III

Those involved in trades, including carpenters, electricians, plumbers and painters, may use their premises for incidental work in connection with an off-premise occupation provided that:

- no manufacturing or business requiring substantially continuous employment may be carried on;
- storage of materials, commercial vehicles or equipment shall be within the principal or an accessory building on the rear portion of the lot and properly screened from view from the street and adjoining properties.

6.20 Tent Sales

Each individual, commercial enterprise and not-for-profit organization in the Town of Stockbridge is permitted to hold no more than two (2) tent sales per year, with each sale extending no more than three (3) consecutive days. A tent sale must be held on premises which are owned or occupied by the person or entity holding the sale. A tent or other temporary structure associated with such sale may be erected no longer than one (1) day prior to the sale and must be removed within one (1) day of conclusion of the sale.

6.21 Outdoor Lighting

Outdoor lighting shall be kept to the minimum intensity needed for ground and entryway lighting. All outdoor lighting facilities or lamps shall be shielded in such a manner that: a) the edge of the lamp shield is below the light source; b) direct radiation (glare) from the light source is confined within the boundaries of the property; and c) direct radiation is prevented from escaping toward the sky. (For the purposes of these provisions, light sources include any refractor, reflector, bulb, tube, or globe.) High intensity discharge lighting is prohibited. Any outdoor lighting fixture already installed on the effective date of this section shall be brought into compliance with these provisions within one (1) year of the effective date.

6.22 Noise

Within the Town of Stockbridge, no land use shall produce a day time (7:00 a.m. - 7:00 p.m.) average sound level greater than 65dBa, as measured over an eight (8) hour period or a night time (7:00 p.m. - 7:00 a.m.) average sound level greater than 50 dBa, as measured over an eight (8) hour period when measured at the property line.

This provision does not apply to uses directly related to the operation of a farm, musical events at facilities, permitted or to temporary construction projects. When applicable,

noise level reduction measures shall be instituted to mitigate any noise-related impacts of construction projects and incorporated into the design and construction of structures.

6.24 Cluster Subdivisions

6.24.1 Intent

The intent of this section is to permit variation in conjunction with a proposed subdivision plat in lot size in suitable areas in order to encourage flexibility of design and enable land to be developed in such a manner as to promote its most appropriate use. It is further the intent of this section to promote energy conservation, harmonize architectural design, better use of existing topography and natural features, conservation of open spaces, recreational development, solar access and design, and to provide for economies inherent with cluster development.

6.24.2 Application

If the applicant makes written application for the use of this procedure it may be followed at the discretion of the Planning Board, if in the Board's judgment, its application would benefit the Town.

Clustering shall only apply to single family residential developments within the R-2 and R-4 zoning districts.

6.24.3 Permitted Density

Density of dwelling units shall not exceed that permitted in the district in which the subdivision is located. For purposes of computing the permitted density, the following computations shall apply:

- a. Compute total area of development in square feet.
- b. Subtract 15 percent of total area for roads and utilities.
- c. Subtract land that is unsuitable for building such as wetlands, flood plains and slopes greater than 15 percent.
- d. Divide the remaining area by the minimum lot area permitted in the pertinent district for single family dwellings to obtain the maximum number of dwellings permitted.

6.24.4 Area Requirement

The minimum area requirement to qualify for a cluster residential development shall be ten (10) contiguous acres of land.

6.24.5 Conventional Plat Required

The Planning Board shall require the submittal of a plat-showing the subdivision of the property in both clustered and conventional fashion.

6.24.6 Procedure

The procedure for reviewing the application should be the same as for a conventional subdivision.

6.24.7 Open Space Requirements

The development shall have dedicated, as a minimum, for open space purposes the same percentage of the entire tract as that by which the lots have on an average been reduced. The area dedicated for open space purposes, including playgrounds and parks, shall be in a location and shape approved by the Planning Board during subdivision review. In addition, the Planning Board, as a condition of approval, may establish such conditions on the ownership, use and maintenance of such open space lands as it deems necessary to assure the preservation of such lands for their intended purpose.

6.25 Personal Wireless Service Facilities, Towers and Repeaters

6.25.1 Purposes:

The purposes of this Personal Wireless Service Facilities, Towers and Repeaters Bylaw are to:

- A. Preserve the character and appearance of the Town while simultaneously allowing Adequate Personal Wireless Services to be developed.
- B. Protect the scenic, historic, environmental, and natural or man-made resources of the community.
- C. Provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of Personal Wireless Service Facilities and Repeaters.
- D. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify Personal Wireless Service Facilities and Repeaters.
- E. Preserve property values.
- F. Locate Towers so that they do not have negative impacts, such as, but not limited to, visual blight, attractive nuisance, noise and falling objects, on the general safety, welfare and quality of life of the community.
- G. Require owners of Personal Wireless Service Facilities, Towers and Repeaters to configure them so as to minimize and mitigate the adverse visual impact of the Facilities, Towers, and Repeaters.
- H. Require the clustering and camouflaging of Personal Wireless Service Facilities.

6.25.2 Consistency with Federal Law:

These regulations are intended to be consistent with The Telecommunications Act of 1996-in that: a) they do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent Services; c) they do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.

6.25.3 Definitions:

ACT - The Telecommunications Act of 1996.

ADEQUATE COVERAGE - Coverage is considered to be "adequate" within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal for at least 75% of the covered area is greater than -95 dbm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ADEQUATE CAPACITY - Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for a worst case day in a preceding month, based on the Erlang B Tables, prior to the date of Application; or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

ANTENNA - A device which is attached to a Tower, or other structure for transmitting and receiving electromagnetic waves.

BASE STATION - The primary sending and receiving site in a wireless telecommunications network.

CHANNEL - The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

COMMUNICATION EQUIPMENT SHELTER - A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EMF - Electromagnetic Frequency Radiation

FACILITY SITE - The location within a Wireless Telecommunications Overlay District leased by one or more Personal Wireless Service Providers and upon which one or more Personal Wireless Service Facility(s) and required landscaping are located.

FACILITY/TOWER SPECIAL PERMIT (F/TSP) - The Special Permit required to be obtained in order to install any Tower or Personal Wireless Service Facility or for any Major Modification Of An Existing Facility within the Wireless Telecommunications Overlay District.

FCC - Federal Communications Commission. The Government agency responsible for regulating telecommunications in the United States.

FCC 96-326 - A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated transmitters. This Report And Order is now contained within Title 47 Regulations, Section 1, §1.1307.

GHZ - Gigahertz: One billion hertz.

GRADE OF SERVICE - A measure of the percentage of 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.

HERTZ - One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY - Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit. Also any increase, or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

MAJOR MODIFICATION OF AN EXISTING REPEATER - Any removal of or change in location of any Repeater(s) from the Repeater Site(s) for which a Repeater Special Permit has been received.

MHZ - Megahertz: One million hertz.

MONITORING - The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual Personal Wireless Service Facilities, Towers, Antennas or Repeaters.

MONITORING PROTOCOL - The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new Personal Wireless Service Facilities

and Repeaters upon adoption of this Article. The SPGA may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Board of Selectmen and the Town Clerk.

MONOPOLE - A single self-supporting vertical pole with below grade foundations.

PERSONAL WIRELESS SERVICES - Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

PERSONAL WIRELESS SERVICE FACILITY - All equipment (excluding any Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICE PROVIDER - An entity, licensed by the FCC to provide Personal Wireless Services to individuals or institutions.

RADIATION PROPAGATION STUDIES OR RADIAL PLOTS - Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the Personal Wireless Service Facility proposed for that Site.

REPEATER - A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

REPEATER SITE - The location within the Town of Stockbridge leased by one or more Personal Wireless Service Providers and upon which one or more Repeater(s) and required camouflage or screening are located.

REPEATER SPECIAL PERMIT (RSP) - The Special Permit required to be obtained in order to install any Repeater, or for Major Modification Of An Existing Repeater within the Town of Stockbridge.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) - The Board of Selectmen shall be the SPGA for this Article.

TELEPORT - A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

TOWER - A Monopole that is designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

WIRELESS TELECOMMUNICATIONS OVERLAY DISTRICT (WTOD) - Specific area(s), determined by engineering analysis to contain sites where Adequate Service may be provided to the Town of Stockbridge, which, at the same time, have the potential of reducing or mitigating negative impacts in accordance with § 6.25.1 of this bylaw. The Overlay District is defined in §6.6.A of this Bylaw.

6.25.4 Exempted Wireless Telecommunications Uses:

This Article specifically exempts the following wireless telecommunications facilities: police, fire, ambulance and other emergency dispatch; citizens band radio. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower shall be removed upon loss or termination of said FCC license. No Personal Wireless Service Facility or Repeater shall be considered exempt from this Article for any reason whether or not said Facility or Repeater is proposed to share a Tower or other structure with such exempt uses.

6.25.5 Provision of Independent Consultants:

- A. Upon submission of an Application for any Special Permit under this Article, the Applicant shall pay a review fee determined by the SPGA, consisting of reasonable costs to be incurred by the SPGA for the employment of independent consultants. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: a) telecommunications engineering, b) structural engineering, c) monitoring of electromagnetic fields, and, if determined necessary by the SPGA, d) others relevant fields of experience as determined by the SPGA.
- B. The SPGA shall select the Independent Consultant(s) after consultation with the Planning Board, the Board of Health, and the Conservation Commission, each of which shall propose a list of qualified candidates.

6.25.6 Prohibition of Teleports:

There shall be no Teleport(s) within the Town of Stockbridge.

6.25.7 Wireless Telecommunications Overlay Districts:

- A. Except as provided in section 6.25.12.C, Towers and Personal Wireless Service Facilities shall be located only within Wireless Telecommunications Overlay District(s) within the Town of Stockbridge. Repeaters may be located within these District(s), but are also allowed in the rest of the Town by Special Permit.
- B. Access shall be provided to the Tower or Facility or Repeater Site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by

the SPGA and the Chiefs of all emergency services in the Town to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and on steep slopes.

6.25.8 Application Requirements:

No Personal Wireless Service Facility, Tower, or Repeater shall be erected, constructed, or installed or undergo Major Modification without first obtaining a Special Permit from the SPGA in accordance with the requirements set forth herein. One or both of two kinds of Special Permits are required; a) A Facility/Tower Special Permit (henceforth F/TSP) for new Facility/Tower construction (or Major Modification Of An Existing Facility); b) A Repeater Special Permit (henceforth RSP) for Repeater(s) to be mounted on an existing, or newly permitted, Tower or structure (or Major Modification Of An Existing Repeater). If Applicant is applying for both Permits, they shall be submitted and examined concurrently.

- A. 1. For Personal Wireless Service Facilities or Towers a F/TSP is required. Applicant must submit all information required in §6.25.8 (B) & (C):
 - 2. For all Repeaters proposed for installation, an RSP is required. An RSP may be applied for by an Applicant who is currently applying for a F/TSP under this Article, or by an Applicant who has previously received a F/TSP under this Article or by an entity which is providing Personal Wireless Services to the Town of Stockbridge from a base station outside the Town. Applicant must submit all information required in §6.25.8 (D).
- B. Adequate Coverage, Adequate Capacity, and Justification of Need for F/TSP:
 - 1. Applicant shall provide written documentation of any Facility Site(s) in Stockbridge, and any sites in abutting towns located within eight miles of any boundary of the Town of Stockbridge, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town of Stockbridge. The documentation shall include, for each Facility Site listed:
 - a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
 - b) ground elevation above mean sea level at the Tower location,
 - c) height of Tower or structure,
 - d) type, manufacturer and model number of Antennas,
 - e) Antenna gain,
 - f) height of Antennas on Tower or structure,
 - g) output frequency,
 - h) number of channels,
 - i) power input and
 - j) maximum power output per channel.

Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.

2. Applicant shall demonstrate with written documentation that they have examined all existing Facility Sites located in Stockbridge and in any sites in abutting towns located within eight miles of any boundary of the Town of Stockbridge, in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise to determine whether those existing Facility Sites can be used to provide Adequate Coverage and/or Adequate Capacity to the Town of Stockbridge. The documentation shall include, for each existing Facility Site examined,

- a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
- b) ground elevation above mean sea level at the Tower location,
- c) height of Tower or structure,
- d) type, manufacturer and model number of proposed Antennas,
- e) proposed Antenna gain,
- f) height of proposed Antennas on Tower or structure,
- g) proposed output frequency,
- h) proposed number of channels,
- i) proposed power input and
- j) proposed maximum power output per channel

Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.

3. Applicant shall demonstrate with written documentation that they have analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites listed in compliance with § 6.25.8 (B) (1) & (2) (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Stockbridge. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.

C. Required Documentation for F/TSP:

The Applicant shall include reports prepared by one or more professional engineers, which shall demonstrate that the Personal Wireless Service Facility and Tower comply with all applicable standards of the Federal and State governments. Specifically:

1. Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.

2. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122 FIXED FACILITIES WHICH GENERATE ELECTROMAGNETIC FIELDS IN THE FREQUENCY RANGE OF 300 KHZ TO 100 GHZ AND MICROWAVE OVENS, or any revisions thereof as the Department of Public Health may, by written notice, create.

3. The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.

4. The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.

5. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Personal Wireless Service Facility and/or Tower shall be located, or of the owner(s) of the Tower or structure on which the proposed Personal Wireless Service Facility shall be located.

6. Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. (Note: survey plans shall also be stamped and signed by a Professional Land Surveyor registered in Massachusetts.) Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below in § 6.25.8 (C)(7)(a-d). Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.

7. Applicant shall, as part of its application, provide the SPGA with the following plans and maps:

a. Proposed Site Plans: Proposed Facility Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity within a 400' radius of the Tower site with topography drawn with a minimum of 2' (0.6 meter) contour interval.

i. Proposed Tower location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of the Overlay District and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements.

ii. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.

iii. Plans of proposed access driveway or roadway and parking area at the Facility Site. Include grading, drainage, travelled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.

- b. Proposed Tower and Appurtenances:
 - i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - ii. Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Dimension the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.
 - iii. Details of typical Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
 - iv. Detail proposed exterior finish and camouflage of the Tower.
 - v. Indicate relative height of the Tower to the tops of surrounding trees as they presently exist.
- c. Proposed Communications Equipment Shelter:
 - i. Floor Plans, elevations and cross sections at a scale of no smaller than 1/4" = 1' (1:48) of any proposed appurtenant structure.
 - ii. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
- d. Proposed Equipment Plan:
 - i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - ii. Number of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by Degrees, minutes and seconds of Latitude and Longitude.
 - iii. Mounting locations on Tower or structure, including height above ground.
 - iv. Antenna type(s), manufacturer(s), model number(s).
 - v. For each Antenna, the Antenna gain and Antenna radiation pattern.
 - vi. Number of channels per Antenna, projected and maximum.
 - vii. Power input to the Antenna(s).
 - viii. Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
 - ix. Output frequency of the Transmitter(s).

D. Application Requirements for RSP:

The use of Repeaters to assure Adequate Coverage, or to fill holes within areas of otherwise Adequate Coverage, while minimizing the number of required Towers is permitted and encouraged. An Applicant who has received, and is in compliance with a current F/TSP under

this Article, or an entity which is providing Personal Wireless Services to the Town of Stockbridge from a base station outside the Town, may apply for a RSP. Applicants shall provide the following information:

1.
 - a) the exact location (in Longitude and Latitude, to degrees, minutes, seconds), as well as by street address or Pole number (if applicable)
 - b) ground elevation,
 - c) type, manufacturer and model number of proposed Repeater,
 - d) height of proposed Repeater above ground,
 - e) proposed output frequency,
 - f) proposed number of channels,
 - g) proposed power input and
 - h) proposed maximum power output per channel

Radial Plots from any proposed Repeater(s), configured as documented above, shall be provided as part of the Application.

2. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Repeater shall be located, and of the owner(s) of the Tower or structure on which the proposed Repeater shall be located.
3. Proposed Repeater Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity within a 300' radius of the Repeater site with topography drawn with a minimum of 2' (0.6 meter) contour interval.
 - a) Proposed Repeater location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of abutters within 300' of the Repeater, and dimensions of all proposed improvements.
 - b) Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
 - c) Plans of any proposed access driveway or roadway and parking area at the Repeater site. Include grading, drainage, travelled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.

6.25.9 General Requirements for F/TSP(s):

- A. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not simultaneously installing a Personal Wireless Service Facility on the Tower, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. Said Provider shall provide all necessary data to comply with the terms of this Article, as a part of Applicant's application for a F/TSP or the Special Permit shall not be granted.
- B. Tower(s) shall minimize, to the extent feasible, adverse visual impacts on the environment. The SPGA may impose reasonable conditions to ensure this result,

including, but not limited to, requiring the use of camouflage, painting, lighting standards and screening.

- C. A vegetated buffer strip of undisturbed trees of at least 100' in depth (or less if determined by the SPGA to be sufficient), shall be retained as close to the Tower as possible, but in all cases there shall be no clearing at a distance in excess of 25 feet in radius from the base of the Tower except where the access drive is located.
- D. Fencing: The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security within an area no greater than 25 feet in radius from the base of the tower, and to a height of six feet, and gated. Use of razor wire is not permitted.
- E. Signs: There shall be no signs, except the following. A sign no greater than two (2) square feet indicating the name of the Personal Wireless Service Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs may be posted on the fence. All signs shall conform to the sign requirements of this bylaw, §6.8.
- F. Communication Equipment Shelters and Accessory Buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
- G. New Towers shall be the lesser of (a)105 feet or (b) the minimum height determined by the independent consultant(s) to provide the applicant Adequate Coverage from the Personal Wireless Service Facility(s) proposed for use on the Tower.
- H. Towers shall be located at least one and one half times their maximum structural height within the outer boundary of any Wireless Telecommunications Overlay District(s)
- I. Tower Finish: All Tower(s) within the Wireless Telecommunications Overlay District shall be constructed to resemble or mimic a native coniferous species of tree to minimize the adverse visual impact unless otherwise required by the SPGA.
- J. Tower(s) must be placed to minimize visual impacts. Within the Wireless Telecommunications Overlay District, Applicants shall place Towers on the side slope of terrain, so that, as much as possible, the top of the Tower does not protrude over the ridge line, as seen from public ways (excluding the Massachusetts Turnpike).
- K. To the extent feasible, all network interconnections to and from the telecommunications site and all power to the site shall be installed underground. At the initial construction of the access road to the site, sufficient conduit shall be laid to accommodate the maximum possible number of Personal Wireless Service Providers licensed to provide services to the Town of Stockbridge and surrounding areas.

- L. If primary coverage (greater than 50%) from proposed Personal Wireless Service Facility is outside Stockbridge, then the permit may be denied unless the Applicant demonstrates to the satisfaction of the SPGA that the Applicant is unable to locate within the Town which is primarily receiving service from the proposed Facility.
- M. Unless required by the Federal Aviation Administration, no night lighting of Towers, or the Personal Wireless Service Facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
- N. No Tower or Personal Wireless Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.
- O. No Tower or Personal Wireless Service Facility with the exception of Repeaters shall be located within any of the following prohibited areas:
 - 1. Outside of the Wireless Telecommunications Overlay District(s) except as provided in section 6.25.12.C;
 - 2. Massachusetts or federally regulated wetland;
 - 3. A Massachusetts Certified Vernal Pool;
 - 4. The habitat of any State-listed Rare or Endangered Wildlife or Rare Plant Species;
 - 5. Within 100' horizontally from any Massachusetts regulated wetland;
 - 6. Within 200' horizontally of the Outer Riparian Zone of any river or perennial stream;
 - 7. Within 500' horizontally from any Historic District or property listed or eligible to be listed on the state or federal Register of Historic Places;
 - 8. Within 500' horizontally from any known archaeological site.

6.25.10 General Requirements for RSP(s):

- A. No Repeater shall be located closer than 50' to an existing Dwelling Unit, nor less than 25' above ground.
- B. The SPGA may require the use of screening, painting or camouflage to reduce the visual impacts of Repeaters.
- C. Repeaters shall be located so as to have the least possible impact on the views of the residents of the Town of Stockbridge.

6.25.11 Evaluation by Independent Consultants.

- A. Upon submission of a complete Application for any Special Permit(s) under this Article, the SPGA shall provide its Independent Consultant(s) with the full Application(s) for their analysis and review.
- B. Applicants for any Special Permit(s) under this Article shall grant permission for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

6.25.12 Approval Criteria:

- A. In acting on any Special Permit Application pursuant to §6.25 of this Bylaw, the SPGA shall proceed in accordance with the procedures and timelines established for Special Permits in Article 6.3 of the Bylaw.
- B. Except as provided in section 6.25.12.C, In addition to the findings required by the Bylaw in §6.3.6, the SPGA shall, in consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit, as follows:
 - 1. That Applicant is proposing to locate its Personal Wireless Service Facility or Tower within a Wireless Telecommunications Overlay District; and
 - 2. That Applicant is not able to use Existing Towers/Facility Sites in or around the Town of Stockbridge, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town of Stockbridge; and
 - 3. That proposed Personal Wireless Service Facility/Tower or Repeater will not have an undue adverse impact on historic resources, scenic views, residential property values, natural or man-made resources; and
 - 4. That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Towers and Facilities; and
 - 5. That the proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.
- C. Notwithstanding any requirement of section 6.25, the SPGA may issue a Special Permit authorizing the construction and operation of a Personal Wireless Service Facility, Tower or Repeater pursuant to this subsection if it determines that the literal enforcement of such requirement would have the effect of prohibiting the provision of personal wireless services in violation of section 704 of the Telecommunications Act of 1996, 47 U.S.C. Sect. 332 c.(7).
 - 1. In addition to the Application Requirements set forth in section 6.25.8, an Applicant for a Special Permit pursuant to this subsection shall provide the SPGA with the following:
 - a. Documentation identifying the location, magnitude, use and other relevant characteristics of any area in which the provision of personal wireless services is effectively prohibited, including but not limited to:
 - 1) The results of a test in which an antenna is raised to the proposed height of the Personal Wireless Service Facility, Tower or Repeater, including data showing actual signal strengths in the identified area; and
 - 2) Evidence that the Applicant's customers are experiencing premature termination of calls in the identified area;

b. Documentation demonstrating how literal enforcement of the particular requirement of section 6.25 would have the effect of prohibiting the provision of personal wireless services in the identified area;

c. A discussion of the feasibility of providing personal wireless services in the identified area utilizing a Personal Wireless Service Facility, Tower or Repeater located on Town-owned property;

d. Evidence that personal wireless services cannot be provided in the identified area utilizing technology that will intrude upon the Town, the District and neighborhood in which it is proposed to be located, and adjoining properties to a lesser degree than the proposed Personal Wireless Service Facility, Tower or Repeater;

e. For any proposed free-standing Personal Wireless Service Facility, Tower or Repeater:

1) Evidence that providing personal wireless services in such area cannot be accomplished utilizing the Personal Wireless Service Facility, Tower or Repeater that is not free-standing; and

2) Evidence that a crane, balloon, or other temporary representation of the height of the proposed Personal Wireless Service Facility, Tower or Repeater has been brought to the site and kept in place for not less than 72 consecutive hours, together with photographs of such representation taken from a sufficient number of locations suitable for evaluating the visual impact of the proposed Personal Wireless Service Facility, Tower or Repeater on the Town, the District and neighborhood in which it is proposed to be located, and adjoining properties;

f. For any proposed Personal Wireless Service Facility, Tower or Repeater proposed to be mounted upon the roof of an existing structure, evidence that providing personal wireless services in such area cannot be accomplished utilizing a Personal Wireless Service Facility, Tower or Repeater that is mounted upon the façade or interior of an existing structure; and

g. For any proposed Personal Wireless Service Facility, Tower or Repeater to be mounted upon the façade of an existing structure, evidence that providing personal wireless services in such area cannot be accomplished utilizing a Personal Wireless Service Facility, Tower or Repeater that is mounted upon the interior of an existing structure.

2. A Special Permit may be issued pursuant to this subsection if the SPGA determines that:

a. The proposed Personal Wireless Service Facility, Tower or Repeater will satisfy all requirements of section 6.25 except those for which it finds that literal

enforcement would have the effect of prohibiting the provision of personal wireless services;

b. The proposed Personal Wireless Service Facility, Tower or Repeater is a necessary component of a comprehensive scheme to ensure the provision of personal wireless services in the affected area;

c. The proposed Personal Wireless Service Facility, Tower or Repeater is the means of providing personal wireless services in the affected area that will least intrude upon the Town, the District and neighborhood in which it is proposed to be located, and adjoining properties;

d. A good faith effort has been made to identify and evaluate less intrusive alternatives to the proposed Personal Wireless Service Facility, Tower or Repeater; and

e. The Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the proposed Personal Wireless Service Facility, Tower or Repeater on the Town, the District and neighborhood in which it is proposed to be located, and adjoining properties.

3. In making any Special Permit decision pursuant to this subsection, the SPGA shall, at a minimum, consider:

Repeater;

a. The height of the proposed Personal Wireless Service Facility, Tower or

b. Its proximity to residential structures;

c. The nature and uses of adjacent and nearby properties;

d. Surrounding topography including, in particular, features that affect the provision of personal wireless services;

e. Surrounding tree coverage and foliage;

f. The availability of existing structures so as to avoid the need for free-standing Personal Wireless Service Facilities, Towers or Repeaters;

g. The good faith efforts of the Applicant to locate the proposed Personal Wireless Service Facility, Tower or Repeater on an existing structure or to use a less visually obtrusive site or design;

h. The availability of alternative technology that will intrude upon, the Town, the District and neighborhood in which it is proposed to be located, and adjoining properties to a lesser degree than the proposed Personal Wireless Service Facility, Tower or Repeater;

i. Any personal wireless service benefits to the Town and its residents .

D. Any decision by the SPGA to deny an Application for a Special Permit under this Article shall be in conformance with SEC. 332 [47 U.S.C. 332] (7)(B)(ii),(iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

6.25.13 Monitoring and Evaluation of Compliance:

A. Initial Monitoring: It shall be a condition of any Special Permit granted under this bylaw that, in order to determine the Tower and Facility's or Repeater's radio frequency emissions and their compliance with FCC regulations, the Applicant shall, after the granting of a Special Permit and within 30 days of the date that Applicant's Personal Wireless Service Facility(s) or Repeater(s) begin(s) transmission, pay for an Independent Consultant, hired by the Town, to Monitor the levels of EMF radiation, around the proposed Facility and/or Repeater Site(s). The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the Board of Selectmen, the Planning Board, the Board of Health, the Town Engineer, the Building Inspector and the Town Clerk.

B. Ongoing Monitoring: It shall be a condition of any Special Permit granted under this bylaw that, in order to determine ongoing compliance with FCC regulations, after transmission begins, the owner(s) of any Personal Wireless Service Facility(s) or Repeater(s) located on any Facility or Repeater Site shall pay for an Independent Consultant, hired by the Town, to conduct testing and Monitoring of EMF radiation emitted from said Site, and to report results of said Monitoring, as follows:

1. There shall be routine annual Monitoring of emissions by the Independent Consultant using actual field measurement of radiation, utilizing the Monitoring Protocol. This Monitoring shall measure levels of EMF radiation from the Facility Site's primary Antennas as well as from Repeater Site(s) (if any). A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the Board of Selectmen, the Planning Board, the Board of Health, the Town Engineer, the Building Inspector and the Town Clerk.
2. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall be cause for new Monitoring in accordance with §6.25.13 (A) & (B)(1) above.

C. Excessive Emissions: Should the Monitoring of a Facility or Repeater Site reveal that the Site exceeds the FCC 96-326 standard, or any other applicable FCC standard, then the owner(s) of all Facilities utilizing that Site shall be so notified. The owner(s) shall submit to the SPGA and the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard and any and all other applicable FCC regulations within 10 business days of notification of non-compliance. That plan shall reduce emissions to the applicable FCC standard within 15 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the Special Permit and

subject to penalties and fines as specified in § 8.4 of the Bylaw. Such fines shall be payable by the owner(s) of the Personal Wireless Service Facilities with Antennas on the Facility Site, until compliance is achieved.

- D. Structural Inspection: It shall be a condition of the Special Permit that, Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Towers shall be inspected every five years. A report of the inspection results shall be prepared by the Independent Consultant and submitted to the Board of Selectmen, the Planning Board, the Board of Health, the Town Engineer, the Building Inspector, and the Town Clerk. Any Major Modification of Existing Facility which includes changes to Tower dimensions or antenna numbers or type shall require new structural inspection.
- E. Unsafe Structure: Should the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be taken. Within 10 business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to penalties and fines as specified in §8.4 of the Bylaw. Such fines shall be payable by the owner(s) of the Tower, until compliance is achieved.

6.25.14 Removal Requirements:

Any Personal Wireless Service Facility or Repeater which ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the Personal Wireless Service Facility or Repeater and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility or Repeater Site shall be remediated such that all Personal Wireless Service Facility or Repeater improvements which have ceased to operate are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Facility or Repeater Site, including any access road(s) which lead to that Facility or Repeater Site from the main access road, shall be revegetated. If all Facility or Repeater Sites have ceased to operate, the owner of the last Personal Wireless Service Facility or Repeater to leave the site shall revegetate the access road in its entirety. Existing trees shall only be removed with the written permission of the SPGA, and only if the SPGA determines such removal of trees to be necessary to complete the required removal of Personal Wireless Service Facility(s) or Repeater(s).

6.25.15 Performance Guarantees:

A. Applicant shall, as a condition of the Special Permit:

- 1. Post an initial cash bond in a reasonable amount determined and approved by the SPGA. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the clearing of the Site; and to cover the cost of

the removal of the Tower or Facility or Repeater from the Site, and remediation of the landscape, should the Facility or Repeater cease to operate.

2. Post a maintenance bond for the access road(s), site(s) and tower(s) in amounts approved by the SPGA.

6.25.16 Fees and Insurance:

- A. Towers, Personal Wireless Service Facilities and Repeaters shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance to the Selectmen's Office on an annual basis. For Towers, Facilities and Repeaters located on property owned by the Town of Stockbridge, the Town of Stockbridge shall be an additional named insured.
- B. A schedule of fees for Personal Wireless Service Facility, Tower and Repeater permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the SPGA pursuant to M.G.L. c. 40A, §9. This schedule may be amended from time to time.

6.25.17 Permit Expiration and Renewal:

- A. In accordance with §6.3.10 of the bylaw, any Special Permit granted under this section shall lapse if the Applicant fails to begin construction on the Facility or Tower or Repeater within a two year period of said grant.
- B. All Special Permits granted under this section shall be granted for five years with the SPGA retaining the option, at their discretion, to renew said Special Permit for additional five year period(s), if the SPGA determines that the Tower and/or Facility and/or Repeater so permitted shall have been and shall remain in compliance with all terms and conditions of this bylaw and of any conditions placed upon the original Special Permit at the time of granting.
- C. No Special Permit shall be renewed pursuant to section 6.25.17 until the SPGA has reviewed a report, prepared by an Independent Consultant selected by the SPGA, demonstrating that personal wireless services cannot be provided in substantially the same area served by the Personal Wireless Service Facility, Tower or Repeater for which renewal of the Special Permit is sought utilizing technology that will intrude upon the Town, the District and neighborhood in which the Personal Wireless Service Facility, Tower or Repeater is located, and adjoining properties to a lesser degree than such Personal Wireless Service Facility, Tower or Repeater. Prior to the issuance of any renewal of a Special Permit pursuant to section 6.25.17, the cost of any such report shall be paid by the holder of such Special Permit.

6.25.18 Severability Clause:

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

6.26 Adult Businesses

6.26.1 Definitions

The definitions of adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, and establishment that displays live nudity for its patrons shall be those provided in *M.G.L. c.40A, §9A*.

6.26.2 Special Permit Required

A Special Permit from the Board of Selectmen shall be required for any adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity for its patrons, or other form of adult business as described in *M.G.L. c.40A, §9A*.

6.26.3 Special Permit Applications

An application for a Special Permit pursuant to Section 6.26 shall comply with the rules pertaining thereto, adopted by the Board of Selectmen and kept on file in the office of the Town Clerk, as well as with the requirements of Section 6.3.

An application for a Special Permit pursuant to Section 6.26 shall include a site plan, which shall comply with the requirements of subsection 6.3.8.

6.26.4 Special Requirements

No Special Permit pursuant to Section 6.26 may issue to any person convicted of violating *M.G.L. c.119, §63* or *M.G.L. c.272, §28*.

6.26.5 Location

Notwithstanding any provision of Section 5 to the contrary, no adult motion picture theater, adult paraphernalia store, adult video store, establishment that displays live nudity to its patrons, or other form of adult business as described in *M.G.L. c.40A, §9A* may be located:

- a. Within one hundred (100) feet of a public or private way;
- b. Within one hundred (100) feet of an R-4, R-2, R-1 or R-C Zoning District or residential use;
- c. Within one thousand (1000) feet of another adult business for which a Special Permit has previously been issued pursuant to Section 6.26;
- d. Within one thousand (1000) feet of an establishment licensed pursuant to the provisions of *M.G.L. c.138, §12*; or
- e. Within five hundred (500) feet from the nearest property line of any church or religious facility, public or private school, child care facility, public playground, park

or conservation area in existence at the time of the application for a Special Permit pursuant to Section 6.26.

6.26.6 Adult Business Signs

No sign advertising an adult business shall be permitted unless each of the following standards is fully satisfied:

- a. No free-standing sign shall be permitted;
- b. A sign may be located only on a building in which there is an adult business operating under a Special Permit issued pursuant to Section 6.26;
- c. The size of the sign shall not exceed sixteen (16) square feet;
- d. No temporary signs and no window signs shall be permitted;
- e. No pictures, publications, videotapes, movies, covers, or other stock sold by, or advertising for material presented at an adult bookstore, adult motion picture theater, adult paraphernalia store, or establishment that displays live nudity to its patrons shall be displayed in the windows of, or on the building of, any adult use; and
- f. All requirements of Section 6.8 shall be satisfied.

6.26.7 Lapse of Special Permit

Notwithstanding any provision of Section 6.3 to the contrary, a Special Permit issued pursuant to Section 6.26 shall lapse one year from the date of its issuance if substantial use or construction pursuant to its terms has not commenced, except for good cause.

6.26.8 Conditions

The Board of Selectmen may impose reasonable conditions, safeguards and limitations on time or use of any Special Permit granted pursuant to Section 6.26. Any Special Permit granted pursuant to Section 6.26 shall be personal to the Applicant, shall not run with the land and shall expire upon sale, conveyance or transfer of the subject property.

6.26.9 Expiration of Special Permit

A Special Permit granted pursuant to Section 6.26 shall expire after a period of one calendar year from the date of its issuance. The Special Permit shall be renewable for successive two-year periods thereafter, provided that the holder of the Special Permit submits to the Board of Selectmen, prior to said expiration, a written request for renewal, and provided also that no objection to said renewal is made and sustained by the Board of Selectmen based upon the public safety factors applied at the time that the original Special Permit was granted.

6.26.10 Severability

If any provision of Section 6.26 shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Section shall be deemed to be

amended to the minimum extent necessary to provide the Town substantially the benefits set forth in Section 6.26.

6.27 Body Art Establishments

6.27.1 Special Permit Required

A Special Permit from the Board of Selectmen shall be required for any Body Art Establishment. An application for such Special Permit shall comply with the requirements of Section 6.3.

6.27.2 Location

Notwithstanding any provision of Section 5 to the contrary, no Body Art Establishment may be located:

- a. Within one thousand (1000) feet of an establishment licensed pursuant to the provisions of *M.G.L. c.138, §12*; or
- b. Within five hundred (500) feet from the nearest property line of any church or religious facility, public or private school, child care facility, public playground, park or conservation area in existence at the time of the application for a Special Permit pursuant to Section 6.27.

6.27.3 Conditions

The Board of Selectmen may impose reasonable conditions, safeguards and limitations on time or use of any Special Permit granted pursuant to Section 6.27.

6.27.4 Severability

If any provision of Section 6.27 shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Section shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in Section 6.27.

SECTION 7: ZONING BOARD OF APPEALS

7.1 Membership and Authority

There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members to be appointed by the Board of Selectmen as provided in Section 12, Chapter 40A of the General Laws. The Board shall act within its statutory powers as provided in Section 14, Chapter 40A (G.L.) and on matters within its jurisdiction under this Bylaw in a manner prescribed in Section 15, Chapter 40A (G.L.). This Board of Appeals shall also serve as the Board of Appeals under the Subdivision Control Law as provided in Chapter 41, Section 81-Z of the General Laws.

7.2 Statutory Powers Of The Zoning Board of Appeals

7.2.1 Appeals

The Board is authorized to hear and decide an appeal, as provided in Section 8, Chapter 40A (G.L.), taken by any person aggrieved by reason of his/her inability to obtain a permit for enforcement action from any administrative officer under the provisions of Chapter 40A (G.L.), by the Berkshire County Regional Planning Commission, or by any person including an officer or board of the Town of Stockbridge, or of an abutting town, aggrieved by an order of decision of the Building Inspector, or other administrative official, in violation of any provision of Chapter 40A (G.L.) or of this Bylaw. Any such appeal must be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a notice of appeal with the Town Clerk, as provided in Section 15, Chapter 40A (G.L.).

7.2.2 Variances

The Board may authorize upon appeal or upon petition with respect to a particular land or structure a variance from the terms of this Bylaw where the Board specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structure but not affecting generally the zoning district in which it is located, literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

7.2.2.1 No Use Variance

The Board shall not authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

7.2.2.2 Expiration of Variance

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, such rights shall lapse; provided, however, that the permit granting

authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six (6) months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one (1) year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application therefore, and upon the expiration of the original one (1) year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

7.3 Special Permits

The Board of Appeals may hear and decide applications for special permits upon which the Board of Appeals is specifically authorized to act under this Bylaw in accordance with all applicable provisions of Section 6.3 herein.

7.4 Conditions, Safeguards And Limitations

The Board of Appeals may impose conditions, safeguards or limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structure in question by the same person.

7.5 Appeals, Applications and Petitions To The Board Of Appeals

7.5.1 Required Public Hearing

The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it by the Town Clerk within sixty-five (65) days from the date of transmittal after having published, posted and sent a notice of such hearing to parties in interest as provided in Section 11, Chapter 40A (G.L.), and after having notified the town's Planning Board and the planning boards of adjacent cities and towns which may forward recommendations with respect to said matter for consideration of the Board of Appeals as provided in Section 15, Chapter 40A (G.L.).

7.6 Decisions By The Board Of Appeals

The decision of the Board of Appeals shall be made within 100 days after the date of the filing of an appeal, application or petition with the Town Clerk except in regard to special permits as provided in Section 6.3 of this Bylaw. Failure by the Board to act within said 100 days shall be deemed to be the grant of the relief, application or petition sought.

SECTION 8: ADMINISTRATION AND ENFORCEMENT

8.1 Enforcement By Building Inspector

This Bylaw shall be enforced by the Building Inspector appointed by the Board of Selectmen as provided in the State Building Code.

- 8.1.1 No permit shall be issued by the Building Inspector unless the application for a permit indicates compliance with this Bylaw and any other applicable town bylaws and regulations, the State Sanitary Code and the Board of Health regulations, the Planning Board's Subdivision Control Regulations, and the Wetlands Protection Act, if applicable.
- 8.1.2 No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this Bylaw.
- 8.1.3 The Building Inspector shall give reasonable notice to the owner(s) of his/her intent to examine or inspect any building or property and shall enter only with the permission of the owner. At such time, the Building Inspector shall have the right to enter upon, examine, and inspect, or cause to be entered, examined and inspected, any building or property for the purpose of carrying out his or her duties, and to determine the compliance with the provisions of this Bylaw. If such permission is denied, the Building Inspector shall contact the Town Counsel to pursue appropriate legal action necessary to gain entry for the purposes of examination and inspection of the building or property in question.

8.2 Construction And Use To Be As Provided In Permits

- 8.2.1 Special permits or building permits issued on the basis of plans and applications approved by the Board of Selectmen, Board of Health, Planning Board or the Board of Appeals authorized only the use, arrangement and construction as set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this Bylaw and punishable as provided herein.
- 8.2.2 Construction or operation under a building or special permit shall conform to any subsequent amendment of this Bylaw unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) 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.

8.3 Frontage Requirement For Building Lots

No building permit shall be issued by the Building Inspector unless the lot on which the construction is proposed has at least the required minimum frontage on an accepted public way, or on a way shown on an approved and recorded subdivision plan, or on a way otherwise qualifying or approved by the Planning Board under the Subdivision Control Law, or as exempt per Section 6.1.1.e. See definition of Lot Frontage.

8.4 Violation

8.4.1 If the Building Inspector is requested in writing to enforce this Bylaw against any person alleged in violation of it and the Building Inspector declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of receipt of such request.

8.4.2 Criminal Disposition

Whoever shall violate any provision of this Bylaw or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300.00 for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it deems necessary to prevent or remedy any violation.

8.4.3 Non-Criminal Disposition

In addition to the procedures for enforcement as described above, the provisions of this Zoning Bylaw, the conditions of any special permits granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, may also be enforced by the Inspector of Buildings, acting as the Zoning Enforcement Agent, by non-criminal complaint pursuant to the provisions of MGL Ch. 40 Section 21-D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provision of this law shall be \$50.00 for the first offense, \$100.00 for the second offense, \$200.00 for the third offense, and \$300.00 for the fourth offense and each subsequent offense.

SECTION 9: AMENDMENT AND VALIDITY

9.1 Amendment

- 9.1.1 This Bylaw may be amended from time to time in an annual or special town meeting in accordance with Chapter 40A, Section 5 of the General Laws.
- 9.1.2 No zoning bylaw or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon, for which a notice has been published, posted, and mailed as provided in MGL 40A Section 5, and a report with recommendations is sent to the Town Meeting, or twenty-one (21) days after the hearings has elapsed without submission of such report. If the town meeting fails to vote to adopt any proposed bylaw within six (6) months after the Planning Board meeting, no action shall be taken thereon until after a subsequent public hearing is held with notice and report provided.

9.2 Validity

- 9.2.1 In their interpretation and application, the provisions of this Bylaw shall be held to be the minimum requirements. Wherever the requirements of this Bylaw are at variance with the requirements of any other lawfully adopted regulations or Bylaws, or with deed restrictions or covenants, the most restrictive or the one imposing the higher standards, shall govern.
- 9.2.2 This Bylaw, or any amendment thereto, shall take effect on the date on which such adoption or amendment is voted by the town meeting.
- 9.2.3 This Bylaw repeals and replaces the Zoning Bylaw adopted originally on February 12, 1934, and any subsequent amendments made thereto.
- 9.2.4 The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

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