

ZONING BYLAW

TOWN OF SHREWSBURY, MASSACHUSETTS



A True Copy
Attest:

AMENDMENTS THROUGH
MAY 19, 2004

Ann M. Dagle
Town Clerk

**ZONING BYLAW
TOWN OF SHREWSBURY, MASSACHUSETTS**

**Adopted by vote of the Town
on June 19, 1967**

**Approved by the Attorney General
on July 26, 1967**

**Voted May 22, 1978
that the Town accept
the provisions of
Chapter 808 of the Acts of 1975
as amended**

**A TRUE COPY
ATTEST:**

**AMENDMENTS THROUGH
MAY 19, 2004**

**ANN M. DAGLE
TOWN CLERK**

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SECTION 1 - PURPOSES

The purposes of this Zoning Bylaw are, among other purposes, to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to encourage housing for persons of all income levels; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, water supplies, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town of Shrewsbury; and to preserve and increase its amenities.

SECTION II - DEFINITIONS

For the purpose of this Bylaw certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory; the word "building" includes the word "structure", the word "lot" includes the word "plot", and the word "land" includes the words "marsh" and "water". Definitions included in the Building Code of the Town of Shrewsbury are applicable, unless otherwise designated.

Accessory Building:

A detached building, the use of which is customarily incidental and subordinate to that of the main building, and which is located on the same lot as that occupied by the main building.

Accessory Use:

A use accessory or subordinate to a main use of a structure or lot or a use not the main use which is located on the same lot as the main structure.

Adult Bookstore:

An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c.272 §31.

Adult Motion Picture Theater:

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c.272 §31.

Adult Paraphernalia Store:

An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. c.272 §31.

Adult Video Store:

An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c.272 §31.

Animals, Domestic:

Any of the various animals domesticated by man so as to live and breed in a tame condition including horses, sheep, cattle, swine, etc.

Assisted Living Residence:

A residential development subject to certification under G.L. Chapter 19D, which provides room and board; provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and collects payments or third party reimbursement from or on behalf of residents to pay for the provision of assistance with the activities of daily living.

Basement: (amended 5/22/1985)

A portion of the building with less than one-half (1/2) its height measured from the finished floor to the ceiling, below the average grade of the adjoining ground and, except for one and two-family dwellings, will be considered a story.

Bed and Breakfast: (amended 11/13/01)

A private, owner-occupied residence with accommodations for overnight guests for a fee, which includes breakfast, provided that no more than five rooms in any building may be used for such accommodations.

Boarding or Rooming House:

A building or premises, other than a hotel, inn, motel, tourist court or lodging house, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests, in contra-distinction to hotels, restaurants and tourist homes, open to transients.

Body Art Establishment: (amended 11/13/2001)

A business where the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which procedures are prohibited.

Building:

A combination of any materials, whether portable or fixed, having a roof and enclosed within exterior walls or fire walls, built to form a structure for shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering.

Building Area:

The ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions.

Building, Attached:

A building having any portion of one or more walls in common with adjoining buildings, with said walls being firewalls.

Building, Detached:

A building having open space on all sides.

Building Height:

The vertical distance from the average finished grade within ten (10) feet of the front wall of the building to the highest point of a flat or mansard roof, including the top of a parapet or to the mean level between the eaves and ridge for gable, hip or gambrel roofs.

Building Inspector:

Building Inspector shall mean the Building Official or other designated authority or his duly authorized representative serving under the Building Code and charged with the enforcement of this Bylaw.

Building Lot:

A building lot is that area of land described in an application for a building permit or an application to the Board of Appeals for a permit or a variance or otherwise defined as the area on which a structure is to be constructed or a certain use is to be carried on. A building lot shall not include any part of a street which is relied upon to qualify the lot as to frontage, any water area, any abutting land not under common ownership, or any leased land. The boundaries of a building lot shall conform to those recorded by plan on deed in the Worcester County Registry of Deeds.

Building Materials Salesroom:

An area set aside for display and retail sale of building materials to the general public within facilities whose primary function is wholesale of merchandise to retailers, contractors, or industrial users. The area set aside for such uses shall not exceed twenty-five percent (25%) of the floor area devoted to the primary use.

Cellar: (amended 5/22/1985)

A portion of the building with more than one-half (1/2) its height measured from finished floor to finished ceiling below the average grade of the adjoining ground and not considered a story when used exclusively for building storage, services, mechanical equipment and utilities.

Club:

An association of persons which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose whose activities are confined to the members and guests and are not generally extended to the general public and include the establishment so operated.

Commercial Vehicle:

A vehicle which is commercially registered, or owned by a business, or which is used primarily for business activities.

Continuing/Continuum Care Retirement Community:

A multi-family residential complex for persons 62 years of age or older. Said complex shall be associated with and located within close proximity to a nursing home and shall contain a minimum of common and/or shared facilities such as dining, recreational areas, etc. equal to 15% of the gross floor area of the complex. The community may also contain other accessory uses such as retail and service facilities which provide goods and/or services exclusively to the residents thereof.

Coop:

See Kennel.

Country Club:

A membership club used primarily for outdoor recreation activities, such as golf, tennis, and swimming, and which may include a club house for dining and social events of its members.

Court:

An unoccupied open space, other than a yard, on the same lot with a building which is bounded on three (3) or more sides by walls of such building or wall erected in continuance with the building walls. An outer court extends to a street line or opens upon a front, side or rear yard. An inner court is enclosed on all sides by the walls of a building.

Drive-in Establishment:

The term "drive-in" includes drive-in eating establishments where food is purchased from a building on the lot but is consumed in the vehicle or off the lot; and drive-in service establishments such as banks or the like.

Dwelling:

(one-family): A building arranged for the use of one (1) family unit in which provisions may be made for not more than five (5) lodgers or boarders.

(two-family): A building arranged for the use of two (2) family units in which provisions may be made for not more than five (5) lodgers or boarders per family.

(multi-family) (apartment house): A building arranged for the use of more than two (2) family units.

(in-law apartment): A portion of a dwelling providing a separate housekeeping unit to be occupied by not more than three (3) persons related (by blood or marriage) to the principal resident. (amended 5/22/1985)

Establishment Which Displays Live Nudity for its Patrons:

Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in M.G.L. c.272 §31.

Exposure:

The face of an exterior wall which is unenclosed and uncovered facing a rear, side or front yard or court.

Family:

Any number of persons related by blood or marriage living in the same dwelling, or not more than five (5) persons unrelated by blood or marriage living together as a single housekeeping unit, but not including a group occupying a boarding house, club, fraternity or hotel.

Farm:

Any parcel of land which is used primarily for the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used.

Floor Area:

(net floor area): The interior floor area of a dwelling unit exclusive of basements, stairwells, halls, bathrooms, corridors, attics, walls, partitions and attached accessory buildings.

(gross floor area): The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics and penthouses as measured about the exterior face of the exterior walls.

Food Court:

An area within a structure having a gross floor area in excess of 500,000 square feet where food is prepared and consumed in a common seating area served by multiple vendors.

Garage, Private:

Covered space for the housing of motor vehicles, but not for commercial storage or rental of more than two (2) stalls.

Garage, Public or Storage:

A building or part thereof, other than a private garage, for the storage of motor vehicles and in which repairs or service station activities are or may be carried on.

Gasoline Service Stations with Related Uses: (amended 3/24/2003)

A building or use in which gasoline sales, automotive related sales and service activities are conducted including the incidental sale of non automotive goods.

General Laws:

The General Laws of the Commonwealth of Massachusetts.

Gross Vehicle Weight:

Total weight of a loaded vehicle, including chassis, body, and payload.

Home Occupation: (amended 11/13/2001)

An accessory use which is carried on by the permanent residents of a dwelling unit. Occupations such as preserving or home cooking, repair of portable equipment or appliances, computer and Internet-related occupations, real estate agent, craft manufacturing, giving private music or dancing lessons, but not including a beauty parlor, barber shop, convalescent or nursing home, or similar establishment offering services to the general public.

Hotel:

A building or a group of buildings under the same management in which there are more than fifteen (15) sleeping accommodations for hire, primarily used by transients, lodged with or without meals, whether designated as a hotel, inn, club, motel or by any similar name. So-called apartment hotels shall be classified as hotels.

Inn, Motel, Tourist Court or Lodging House:

A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the more or less temporary occupancy of more than five (5) individuals who are lodged, with or without meals and in which major provisions for cooking may be made in a central kitchen but may not be in the individual rooms or suites.

Junk:

Any worn out, castoff or discarded article or material which is ready for destruction, or has been collected or stored for salvage or conversion to some other use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

Junk Yard:

The use of more than one hundred (100) square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that joins any street for the storage, keeping or abandonment of junk.

Kennel, Coop, Pen or Barn:

Accessory building or enclosure for keeping of domestic pets, animals or birds for use of or pleasure of residents limited to litters, and three (3) or less such pets or animals three (3) months or older in age and to two dozen (24) birds.

Loading Space, Off-street:

An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material which has access to a street, alley or other appropriate means of ingress and egress.

Lot, Corner:

A lot at the point of intersection of and abutting on two or more intersecting streets. The interior angle of intersection of the street lot lines or in case of a curved street, extended lot lines, shall not be more than one hundred thirty-five (135) degrees.

Lot, Coverage:

The total horizontal area of the lot occupied by structures and outside storage. Paved parking areas and drives will not be considered as lot coverage.

Lot, Frontage of:

The horizontal distance measured along the front lot line between the points of intersection of the side lot lines or an intersecting street lot line of a corner lot with the front lot line. The minimum required lot frontage shall be provided along one street lot line and cannot be accumulated along two (2) or more streets.

Lot Line, Front or Street:

The property line defining the lot from the street right of way. On a corner lot all property lines defining a lot from the street or right of way shall be considered a front lot line.

Lot Line, Rear: (amended 5/22/1985)

The lot line opposite and furthest removed from the front lot line except on a corner lot where there shall not be a rear lot line. Corner lots will have only front and side lot lines.

Lot Line, Side:

Any lot line not a front or rear lot line.

Main Use:

The main or primary purpose for which a structure or lot is designated, arranged or intended, or for which it should be used, occupied or maintained under this Bylaw. Any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this Bylaw shall be considered an accessory use.

Membership Club:

Buildings or facilities owned or operated by a non-profit corporation, association, or persons, to which membership is limited or controlled, for a social, educational, civic, charitable, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

Mobile Home:

Any structure provided with wheels or designed for the attachment of wheels, enabling it to be conveyed upon the public streets or highways, and is duly licensed as a vehicle, and is designed and constructed in such a manner as to permit occupancy thereof as a dwelling or a sleeping place for one or more persons and is equipped with bath facilities, flush toilet and designed to be connected to a water supply and to a sewage disposal system.

Non-conforming Use:

Non-conforming use of land or building is a lawfully existing use which does not conform to the regulations for the district in which such use of land or building exists and which existed at the time of adoption of the regulations to which it does not conform.

Nursing or Convalescent Home:

Any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for the purpose of nursing or convalescent care.

Open Space:

Any space on a lot not occupied by a structure or pavement and devoted to recreational use or conservation of vegetation. Grassed areas shall be considered open space.

Parking Area:

Any open space used for parking motor vehicles exclusively, and in which no gasoline or fuel or motor vehicle accessories are sold or no other business is conducted.

Premises:

That portion of a lot, structure or building actually in use for the specific purpose or use under consideration.

Professional Occupation:

Any recognized profession, such as a doctor, lawyer or dentist.

Public Utility:

Any activity which provides or offers to provide services, such as water, sewerage, sewage treatment, electricity, communications, power or transportation to its members or to the public.

Restaurant:

A place where the primary function is the serving of food and beverages.

Salesroom for Agricultural and Construction Equipment, Recreation Vehicles, Motor Homes, Trucks and Boats: (amended 3/24/2003)

A building or use designed for the sale or rental of farm and construction equipment, recreation vehicles, motor homes, trucks, boats, marine supplies, and other similar products.

Salesroom for Automobiles and Motor Cycles: (amended 3/24/2003)

A building or use designed for the sale of passenger vehicles and motorcycles including all terrain vehicles, all trucks with a gross vehicle weight of 14,000 pounds or less, but not including agricultural, construction equipment and motor homes/recreation vehicles greater than twenty feet in length as defined by this bylaw.

Senior Housing: (amended 5/22/2002)

A lot under single ownership containing not less than five (5) acres to be used for the placement of owner-occupied homes by persons who must be fifty-five (55) years of age or over commencing occupancy, provided, however, that no more than one of the persons occupying any unit may be under fifty-five (55) years of age, exclusive of nurses or other persons licensed to provide health care services to the elderly occupants of said unit.

Sign:

Any permanent or temporary structure, device, letter, word, banner, pennant, insignia, trade flag, streamer or emblem which is in the form of an advertisement or announcement which is designed to attract the eye and visible from a street.

Sign, Area of:

For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with the background on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.

For a sign consisting of individual unconnected letters, designs or symbols attached to or painted onto a surface, building wall, or window without an isolated background, the area shall be considered to be that of the smallest quadrangle which encompasses each individual letter, design or symbol.

For a sign consisting of connected letters, designs and symbols attached to or painted onto a surface, building wall or window without an isolated background, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

For a sign consisting of letters, designs or symbols attached to or painted onto a surface, building wall or window, with an isolated background, the area shall be considered to be that of the background.

For two-faced free-standing signs the area shall be considered to be that of one face only.

For signs consisting of three (3) or more faces and not having plane faces, the aggregate area shall be computed as the sum total of all surfaces visible from a street. Signs located within a building will not be included in area computations.

Sign, Identification:

A sign used simply to identify the name, address and title of an individual, family or firm occupying the premises upon which the sign is located.

Sign, Outdoor Advertising:

A permanent sign advertising an activity not undertaken on the premises on which the sign is located.

Special Permit Granting Authority:

Shall mean the Zoning Board of Appeals and the Planning Board.

Story: (Notwithstanding any definition in the Town of Shrewsbury Building Code)

That portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered an additional story for each fourteen (14) feet or fraction thereof. One-half (1/2) story means any story or space situated wholly or partly in the roof, so designed, arranged or built to be used for storage or habitation.

Street:

A way which the Town Clerk certifies is maintained and used as a public way or a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law or a way in existence when the Subdivision Control Law became effective in Shrewsbury having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure:

A combination of materials assembled at a fixed location to give support or shelter such as a building framework, carport, tent, deck, bin, fence, sign, flagpole, mast for radio antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

Tourist Home – Deleted 11/13/2001

Tourist Camps or Camp Sites: (amended 11/13/2001)

Land used or intended to be used, let or rented for occupancy by campers traveling by automobile or otherwise; or for occupancy by house trailers, tents or movable temporary dwellings; rooms or sleeping quarters of any kind.

Town:

Town of Shrewsbury, Massachusetts.

Trailer or Mobile Home:

Trailer or mobile home shall mean any vehicle or object on wheels so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundations and shall include the type of vehicle commonly known as a mobile home, which shall be defined to mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

Trucking Terminal:

A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored. The terminal may include areas for the fueling and repair of trucks associated with the terminal and similar ancillary activities.

Use:

The purpose for which land or building is occupied, maintained, arranged, designed or intended.

Utility Structure:

Public utility buildings, telephone exchanges, sewage pumping stations, gas, water and electrical substations, and similar facilities located on a specific site and necessary for the operation of a public utility, but not including administrative offices and power plants.

Warehousing and Distribution: (amended 3/24/2003)

A building or use designed for the storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Wireless Communications Antenna: (amended 11/1/1999)

A device used to transmit or receive wireless telecommunication signals.

Wireless Telecommunication Tower:

A facility for the provision of wireless communications services, including but not limited to, a freestanding or ground mounted structure with antenna(s) or other devices, if any, together with

any guy wires and accessory structures, which shall not include a service yard, a garage, or the outside storage of equipment and vehicles.

Yard, Front:

An open space extending across the full width of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line measured at right angles to the front line of the lot.

Yard, Rear:

An open space extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of the rear yard shall be at the minimum distance between the building and rear lot line measured at right angles to the rear line of the lot.

Yard, Side:

An open space between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or the rear lot lines as the case may be. The width of a side yard shall be the minimum distance between the building and the side lot line measured at right angles to the side line of the lot.

Zoning:

As defined in the Massachusetts General Laws, Chapter 40A, Section 1.

SECTION III - DISTRICTS

A. Establishment of Districts:

For the purpose of this Bylaw, the Town is divided into the following types of districts:

- | | |
|---------------------------|---|
| 1. Rural A District | 8. Limited Business District |
| 2. Rural B District | 9. Commercial-Business District |
| 3. Residence A District | 10. Limited Industrial District |
| 4. Residence B-1 District | 11. Neighborhood Business District |
| 5. Residence B-2 District | 12. Office-Research District |
| 6. MF-1 District | 12A. Limited Office-Research District |
| 6a. MF-2 District | 13. Aquifer Protection Overlay District |
| 7. Apartment District | |

B. Location of Districts:

Said districts are hereby established as shown, located, defined and bounded on a map entitled "Zoning Map of the Town of Shrewsbury, Massachusetts," dated February 14, 1967 and on file in the office of the Town Clerk. The Zoning Map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

C. Location of Boundaries of Districts:

1. Where the boundary lines are shown upon said map within the street lines of public and private ways, or utility transmission lines, the center lines of such ways or lines shall be the boundary lines, unless otherwise indicated.
2. Boundary lines located outside of such street lines or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such transmission lines are the distances in feet of such boundary lines from the center line of such lines, such distances being measured at right angles to such lines unless otherwise indicated.
3. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
4. In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of said

map.

D. Use Beyond a Boundary Line:

Where a district boundary line divides any lot of record existing at the time such line is adopted, any building or use permitted in either district shall be permitted for said lot within a distance not exceeding thirty (30) feet beyond the boundary.

E. Town of Shrewsbury:

Upon the granting of a Special Permit by the Board of Appeals, as provided in Section IX, the provisions of this bylaw shall not apply to the Town of Shrewsbury in the carrying out of any of its functions if the use for a specific location is voted by a town meeting.

The dimensional requirements of the zoning bylaw shall not apply to any lot owned by the Town of Shrewsbury and created by a transfer by the Town severing such lot from a larger tract of land owned by the Town, which transfer was authorized by a two-thirds majority vote at town meeting. (12/9/1991)

SECTION IV - CONTINUANCE OF EXISTING USES

A non-conforming use may continue, provided that:

- A. This Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun or to a building or special permit issued before the first publication of notice of the public hearing concerning the adoption of this Bylaw or any amendment thereto.
- B. Upon the issuance of a Special Permit by the Board of Appeals as provided in Section IX, non-conforming uses, buildings or structures may be altered, reconstructed, expanded, enlarged or changed provided that:
 - 1. In Rural, Residential and Apartment Districts the extent of the non-conforming use of a structure shall not be increased more than fifty (50) percent of the gross floor area, nor shall the non-conforming use of land be increased more than fifty (50) percent of the area in use at the time of passage of this Bylaw. In the event the use involves both structure and land, each may be increased no greater than fifty (50) percent. All increases must be confined to the lot as it existed on the date of the adoption of this Bylaw, and shall be subject to all other provisions of the applicable district.
 - 2. In the Limited Business, Commercial-Business and Limited Industrial Districts the extent of non-conforming uses may be increased insofar as they are confined to the lot as it existed on the date of the adoption of this Bylaw, and shall be subject to all other provisions of the applicable districts.
 - 3. A non-conforming use may only be changed to a similar use or a less restricted use.
 - 4. Any such change, alteration, reconstruction, expansion or enlargement may be permitted only upon the finding by the Board of Appeals that such change, alteration, reconstruction, expansion or enlargement is not substantially more detrimental to the neighborhood or public welfare.
- C. If the non-conforming use is discontinued for a period of more than two (2) years or is abandoned, it shall not be re-established, and any future use shall be in conformance with this Bylaw.
- D. A building destroyed or damaged by fire, explosion or other catastrophe may be rebuilt or restored at the same location and again used as previously, provided that said owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe, and reconstruction is completed and occupancy begun within two (2) years, and further provided that the building as restored shall not be greater in volume or gross floor area than provided in Section IV A and shall be constructed in accordance with the Building Code in effect at the time of the application.

SECTION V - NEW CONSTRUCTION AND NEW USES

- A. For the purposes of this Bylaw, any lawful building or structure or use of a building, structure or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which does not violate any section of this Bylaw or any of the provisions of the Bylaws of the Town. Any use not permitted shall be prohibited.
(amended 5/20/1980)
- B. For safety and the general welfare, all principal buildings designed or intended for residence purposes hereafter erected shall be on a building lot which fronts upon a street as defined by this Bylaw.
- C. Requirements respecting minimum lot size and frontage provided in this Bylaw or amendments thereto shall be subject to exemptions provided by Section 6 of Chapter 40A of the General Laws. Lots in excess of 5,000 square feet in area and having 50 feet of frontage recorded by deed or plan at the Worcester District Registry of Deeds prior to the adoption of this Bylaw, August 2, 1967, and not held in common ownership with adjoining land at the time or thereafter may be used for any permitted use within the zoning district in which it is located provided all other conditions and requirements of the district are met.
- D. A lot on which there existed at the time of the adoption of this Bylaw two (2) or more dwelling houses may be divided into as many lots as there were dwelling houses thereon, notwithstanding any requirements respecting lot size and frontage, providing the lot is divided in such manner that the resulting lots shall conform as nearly as possible to area and frontage requirements.
- E. No provisions of this Bylaw shall be contrary to Section 3 of Chapter 40A of the General Laws.
- F. Only one (1) one-family or one (1) two-family dwelling building shall be constructed on a lot of record used for one-family or two-family residential purposes.
- G. To permit in a Commercial-Business district, as of right, the erection of an addition to a building upon an adjoining lot which was acquired after October 1, 1991, and is owned by the same party as the abutting lot if the building area of such addition (if the addition was standing alone as a separate building) would otherwise meet the dimensional requirements of Table II except for side and/or rear yard requirements. (amended 12/9/1991)

SECTION VI - USE REGULATIONS

A. District Intent: (5/20/1998)

- A. The Rural A District is intended as a residential district for typical rural uses with which one-family homes are compatible.
- B. The Rural B District is intended as a district for low density uses with which one-family homes are compatible.
- C. The Residence A, B-1, and B-2 Districts are intended as districts for rural, residential and non-commercial uses.
- D. The Multi-Family MF-1 and MF-2 Residential Districts are intended for low density multi-family residential uses.
- E. The Apartment District is intended for high density multi-family residential uses.
- F. The Limited Business (LB) District is intended to provide consumer goods and services.
- G. The Commercial-Business (CB) District is intended to provide goods and services for transients or tourists and non-consumer goods and services.
- H. The Limited Industrial (LI) District is intended for use by research laboratories, office buildings and light industries.
- I. The Neighborhood Business District is intended to provide consumer goods and services under highly controlled conditions so as not to be disruptive to adjacent residential properties.
- J. The Office-Research District is intended for use by research laboratories and office buildings which would be compatible with rural residential neighborhoods.
- K. The Limited Office-Research District is intended for use by specialized biomedical, pharmaceutical, research and development, and production facilities.

In Table I, the letters “Y”, “N”, “SP”, “SP-PB”, shall indicate the following:

- Y A use permitted by right. Section VII F may also require site plan review for certain uses that are permitted by right:
- N A use not permitted.
- SP A use permitted upon the issuance of a special permit by the Board of Appeals, as provided in Section IX.
- SP-PB A use permitted upon the issuance of a special permit by the Planning Board, as provided in Section IX.

Table I
Use Regulation Schedule (amended 5/20/1998)

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Residential Uses														
One family detached dwellings. (amended 3/24/2003)	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	N
Two family dwellings	N	N	N	N	Y	Y	Y	Y	Y	N	N	Y	N	N
Boarding houses or rooming houses for rental to not more than four (4) persons, provided that the house is also occupied as a private residence.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N
Conversion of a one-family dwelling, existing at the time of the original adoption of this Section of the Bylaw, into a two-family dwelling, provided that the exterior appearance is not altered. (3)	SP	SP	SP	SP	Y	Y	Y	Y	Y	N	N	N	N	N
In-law apartments	SP	SP	SP	SP	SP	SP-PB	SP-PB	SP	Y	Y	N	N	N	N
Continuing/Continuum Care Retirement Community subject to the following: (4)	N	N	N	SP	N	N	N	N	N	N	N	N	N	N
Senior Housing (amended 5/22/2002)	SP-PB (23)	SP-PB (23)	SP-PB (23)	SP-PB (23)	SP-PB (23)	SP-PB (5)	SP-PB (6)	SP-PB (7)	SP-PB (24)	SP-PB (24)	N	N	N	N
MF-1 -- Multi-family garden-type apartments (5)	N	N	N	N	N	SP-PB	N	SP	N	N	N	N	N	N

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
MF-2 -- Multi-family townhouse-type structures (6)	N	N	N	N	N	SP-PB	SP-PB	SP	N	N	N	N	N	N
Structures for dwelling units containing not more than eight (8) stories, provided that: (7)	N	N	N	N	N	N	N	SP	N	N	N	N	N	N
Agriculture, Conservation and Recreation Uses														
Conservation areas for water supply, plants and wildlife and dams necessary for achieving this purpose.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Picnic areas, provided that there are adequate provisions for disposal of waste products and for parking. (3)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fields, pastures, woodlots, orchards, nurseries, greenhouses, farming and horticulture, including raising, harvesting, and storing crops, truck gardening, grazing and poultry raising, except commercial piggeries and fur farms, on parcels greater than (5) acres. (1)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Fields, pastures, woodlots, orchards, nurseries, greenhouses, farming and horticulture, including raising, harvesting, and storing crops, truck gardening, grazing and poultry raising, except commercial piggeries and fur farms, on parcels less than five acres. (1)	Y	Y	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
On parcels less than five (5) acres, facilities for the display and sale or offering for sale by the owner or resident of the land of farm produce, provided that the major portion of the produce is raised on the premises, and provided that no stand for such sale exceeds two hundred (200) square feet in area, and provision is made for off-street parking in accord with Section VII D.	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N
Day camps, overnight camps and camp sites where tents are used for shelter. Buildings used in connection with the operation of these uses shall be subject to the same restrictions which apply to the location of farm buildings. (3)	SP	SP	N	N	N	N	N	N	N	N	N	N	N	N
Country clubs, provided that any buildings in connection therewith are located subject to the same conditions as apply to farm buildings. (3)	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Recreation, including golf courses, ski runs, parks (but not an amusement park), boating, commercial or club fishing and hunting (where legally permitted), and any non-commercial open-air recreation use. Storage uses shall be located subject to the same provisions which apply to farm buildings. (3)	SP	SP	SP	SP	SP	SP-PB	SP-BP	SP	Y	Y	N	N	N	N
Veterinary hospitals, stables and kennels used for commercial purposes, raising or breeding animals for sale, and boarding animals subject to the same conditions applicable to the location of farm buildings and to the grazing of farm animals.	SP	SP	N	N	N	N	N	N	Y	Y	Y	N	N	N
Institutional Uses														
Public and parochial schools, playgrounds, churches or parish houses.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
For-profit schools, nursery schools and kindergartens, and colleges with or without dormitory facilities, including dance and music studios, provided adequate off-street parking areas in accord with Section VII D are provided, there is no external change of appearance of any dwelling converted for such use, and that no activity is carried on which results in objectionable noise audible off the premises. (Ed. Note: This line combines § VI.B.2.b. and VI.C.2.a.).	N	SP	SP	SP	SP	N	N	N	Y	Y	N	N	N	N
Museums (14)	SP	SP	SP	SP	SP	SP	SP	SP	Y	Y	N	N	N	N
Cemeteries	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N
Hospitals and sanitariums.	SP	SP	SP	SP	SP	N	N	N	N	Y	SP	N	N	N
Nursing homes	SP	SP	SP	SP	SP	N	N	N	Y	Y	N	N	N	N
Assisted living residence (20)	SP	SP	SP	SP	SP	N	N	N	Y	Y	N	N	N	N
Medical buildings, charitable institutions, and non-profit research laboratories and accessory uses thereto.	N	SP	SP	SP	SP	N	N	N	Y	Y	N	N	N	N

Business Uses

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.	N	N	N	N	N	N	N	N	Y	Y	N	SP (13)	N	N
Gift shops and places for display or sale of handcrafts.	N	N	N	N	N	N	N	N	Y	Y	N	SP	N	N
Business or professional offices	N	SP (14)	N	N	N	N	N	N	Y	Y	Y	N	Y	Y
Banks	N	N	N	N	N	N	N	N	Y	Y	Y	SP	SP	SP
Banking machines, where public access is only available from within a building and is operated in connection with other uses in the same building.	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
Banking machines, as stand-alone structures, or where public access is available via drive-up windows or from outside a building. (amended 5/19/2004)	N	N	N	N	N	N	N	N	SP (27)	SP (27)	SP	SP	SP	SP
Restaurants or other places for serving food within the structure.	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N
Restaurants or other places for serving food not confined to service within the structure. (amended 5/19/04)	N	N	N	N	N	N	N	N	N	SP (27)	N	N	N	N
Membership clubs	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Gasoline stations (9)	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Gasoline Service Stations with Related Uses (9) (amended 3/24/2003)	N	N	N	N	N	N	N	N	N	SP	SP (26)	N	N	N
Garages and repair shops (9)	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Salesrooms for Automobiles and Motor Cycles (amended 3/24/2003)	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Salesroom for Agricultural, Construction, Large Recreation, Trucks and Boating Sales and Equipment (amended 3/24/2003)	N	N	N	N	N	N	N	N	N	N	SP	N	N	N
Hotels, motels or lodging houses (amended 11/13/2001, 9/9/2002, 3/24/2003)	N	N	N	N	N	N	N	N	N	Y	Y	N	SP (25)	N
Bed and Breakfast (amended 11/13/2001)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
Funeral homes	N	N	SP	SP	SP	N	N	N	Y	SP	N	N	N	N
Mortuaries or crematories	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Marinas	N	N	N	N	N	SP-PB	SP-PB	SP	N	N	N	N	N	N
Bowling alleys	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Auditoriums, athletic facilities, health clubs, and other places of amusement or public assembly where activities take place <i>inside</i> the building.	N	N	N	N	N	N	N	N	N	Y	N	N	SP	SP

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Auditoriums, skating rinks, clubs and other places of amusement or assembly where activities are conducted <i>outside</i> the structure.	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Theaters	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Passenger depots	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, or establishment which displays live nudity for its patrons (16) (amended 5/19/04)	N	N	N	N	N	N	N	N	N	SP (27)	N	N	N	N
Body Art Establishment (amended 11/13/2001)	N	N	N	N	N	N	N	N	N	SP (22)	N	N	N	N
Research and Industrial Uses														
Manufacturing enterprises (11)	N	N	N	N	N	N	N	N	N	N	Y	N	N	N
Research laboratories and accessory uses thereto including incidental assembly or testing	N	SP (15)	N	N	N	N	N	N	N	Y	Y	N	Y	Y
Photographic, medical, scientific and research laboratories	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Basic and applied research and development in the pharmaceutical, biotechnology and biomedical field, production and product assembly, laboratory testing and bioprocessing, and related uses.	N	N	N	N	N	N	N	N	N	N	Y	N	Y	Y
Basic and applied research and development in the electronic, computer, instrumentation, photonics, and communication field, production and product assembly, laboratory testing, and related uses. (amended 9/9/2002, 3/24/2003)	N	N	N	N	N	N	N	N	N	N	SP	N	Y	N
Contractors' yards and storage yards provided all materials and equipment are stored away from view from public ways or abutting properties.	N	N	N	N	N	N	N	N	N	SP	Y	N	N	N
Trucking terminals (amended 11/13/2001, 3/24/2003)	N	N	N	N	N	N	N	N	N	N	SP (12)	N	N	N
Warehousing and Distribution (amended 3/24/2003)	N	N	N	N	N	N	N	N	N	N	Y (12)	N	N	N
Utility structures greater than two hundred (200) square feet (17)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Y	SP	SP	SP
Wireless Telecommunications Towers (18)	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Wireless Communications Antenna (21) (amended 11/1/1999)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Parcel distribution centers and wholesale distribution plants	N	N	N	N	N	N	N	N	N	N	Y (12)	N	N	N
Building materials salesrooms (12)	N	N	N	N	N	N	N	N	SP	Y	Y	N	N	N
Printing or publishing establishments, photo-graphic processing studios, medical or dental laboratories. (11), (12)	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N
The construction or siting of hazardous waste facilities, as defined in M.G.L. Chapter 111, Section 150A and 310 CMR 16.00 and 19.00 See Section VI. C.	N	N	N	N	N	N	N	N	N	N	SP-PB	N	N	N
Health care and educational facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	SP

Accessory Uses

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Accessory uses, including such normal accessory uses as private garages, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, summer houses and a structure approved by Civil Defense authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory and used for shelter from natural disaster or war, and detached fireplaces. (Ed. Note: This line combines § VI.A.1.g. and VI.C.1.b.).	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Overnight storage, parking, or garaging of commercial vehicles of more than 14,000 pounds gross vehicle weight. (19)	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
The keeping of domestic animals, other than customary household pets, for the exclusive use of, or pleasure of residents.	SP	SP	SP	SP	SP	SP-PB	SP-PB	SP	Y	Y	N	N	N	N
Professional office or customary home occupation. (2), (3)	SP	SP	SP	SP	SP	SP-PB	SP-PB	SP	Y	Y	N	N	N	N
Restaurants, provided that their use is in connection with a permitted use and that adequate parking areas are provided, as required in Section VII D, and further provided that any such building be located subject to the same conditions as apply to farm buildings. (1), (3)	SP	SP	N	N	N	N	N	N	N	N	N	N	N	N

	Rur A	Rur B	Res A	Res B-1	Res B-2	MF-1	MF-2	Apt	LB	CB	LI (8)	NB	O-R	LO-R
Cafeterias for employees and other normal accessory uses when contained in the same structure as a permitted use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Dwelling unit for a watchman or caretaker when contained in the same structure as a permitted use.	N	N	N	N	N	N	N	N	N	SP	Y	N	N	N
Accessory manufacturing	N	N	N	N	N	N	N	N	N	N	Y	N	SP	SP
Heliport	N	N	N	N	N	N	N	N	N	N	N	N	SP	N
Signs are permitted subject to the provisions of § VII. E.														

Footnotes to Table I: (amended 5/20/1998)

- (1)
 1. No buildings are located within one hundred (100) feet of a district boundary line.
 2. Animals permitted to graze closer than one hundred (100) feet of a district boundary line are enclosed by fencing.
 3. Logging equipment, spraying equipment, vehicles or other equipment necessary for these uses is stored in an enclosure subject to the provisions of 1. above.
 4. Repair of vehicles and equipment permitted in (3) above is conducted within an enclosure except for emergency repairs.
- (2)
 1. The profession or customary home occupation is conducted by a resident of the premises.
 2. The use is clearly incidental to and secondary to the use as a residence and not in excess of twenty-five (25) percent of the floor area of any one floor.
 3. Not more than two (2) persons, other than residents of the premises are regularly employed in connection with such use.
- (3) Such uses are permitted provided that :
 1. No noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which is discernible from other properties.
 2. There is no public display of goods or wares and no signs except as permitted in Section VII E.
 3. There is no exterior storage of material or equipment and no exterior evidence of a non-residential use of the premises, except signs as permitted in Section VII E.
 4. There is adequate off-street parking for any employee or visitors in connection with such use in accord with Section VII D.
- (4)
 1. A nursing home facility either exists on the premises or is located within 800 feet thereof.
 2. Notwithstanding the maximum and minimum conditions set forth in Section VII, Table II:
 - a. No building shall exceed three (3) stories in height.
 - b. The maximum lot coverage of a lot occupied exclusively by either a continuing/continuum care retirement community or a nursing home associated shall not exceed 20% of the lot area.

- c. When attached to a nursing home, the minimum side and rear yard requirements shall not apply to those lot lines located between a continuing/continuum care retirement community and the nursing home associated therewith when located upon separate contiguous lots.
- (5) MF-1 -- Multi-family structures in accordance with the provisions of Table II provided that each dwelling unit has two (2) exterior exposures; each structure contains not more than twelve (12) dwelling units unless each unit has a ground level floor in which case the structure shall contain not more than eight (8) dwelling units; multiple structures shall be separated by a minimum distance of fifty (50) feet excluding detached accessory structures; and provided further that:
- 1. All off-street parking areas as required under Section VII D shall be provided, none of which shall be in the required yards.
 - 2. On-site recreational facilities shall be provided in an amount and type compatible with the proposed size of the development.
 - 3. Single developments shall not exceed 125 living units.
 - 4. Site development shall be in accordance with the applicable provisions of the Planning Board's current Subdivision Rules and Regulations regarding utilities, drainage, parking areas and roadways.
 - 5. Due consideration is given to reducing the impact of the development on abutting properties with respect to traffic, lighting, location of recreational facilities, yard requirements and screening.
 - 6. All access ways to and from the site shall be privately maintained.
 - 7. A site plan has been prepared in accordance with the provisions of Section VII F.
 - 8. Final development plans are substantially consistent with the proposals presented to the Town at the time of rezoning
- (6) MF-2 -- Multi-family townhouse-type structures in accordance with the provisions of Table II provided each living unit has a ground level floor, front and rear exposures and the connected living units do not exceed 8 in any one building. Buildings shall be separated by at least 50 feet excluding detached accessory structures and provided further that:
- 1. Conditions 1 through 8 for MF-1 are met.
 - 2. Density of development shall not exceed 1 living unit/10,000 square feet of land area.
- (7) 1. Each dwelling unit shall have at least one (1) exposure.

2. All off-street parking areas as required under Section VII D shall be at the side of, rear of or beneath buildings.
 3. A site plan has been prepared in accordance with the provisions of Section VII F.
 4. When more than one (1) structure is to be constructed, the allocation of land for buildings and site improvements shall be in accordance with the Planning Board's Subdivision Rules and Regulations in effect at that time.
- (8) Uses shall comply with Section VI B, Conditions for Approval in the Limited Industrial District.
- (9)
1. Repairs shall be limited to minor repairs and adjustments unless conducted in a building.
 2. There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or in an enclosed structure or area.
 3. No vehicular entrance or exit to the premises used for such purposes shall be within five hundred (500) feet of a lot used for a school, church, hospital, public library, public playground or park, providing such uses are used on a regular basis at least eight (8) months a year.
- (10) Deleted November 13, 2001
- (11) Provided that such activities will not be offensive, injurious or noxious because of sewerage and refuse, vibration, smoke or gas, fumes, dust or dirt, odors, danger of combustion or unsightliness.
- (12) Providing that all loading and unloading is done at the rear or side of the building.
- (13)
1. An open space area shall be provided about the perimeter of the lot at least 10 feet in width excluding entrances and exits. Contiguous residential properties shall be screened by a solid fence 5 feet high or a dense planting of evergreens which are 4 feet in height at the time of planting.
 2. Only one (1) means of entrance or exit shall be provided on any one (1) street. Combined entrances and exits shall not exceed 30 feet in width, and isolated entrances/exits shall not exceed 15 feet in width.
 3. Hours of business operation shall be limited and all business must be conducted within the building.
 4. All mechanical equipment accessory to the building shall be fully enclosed within the building, and all noise generators shall be muffled or silenced to cause the least amount of inconvenience to abutting residents.

5. The building shall house one business only.
 6. All exterior lighting shall be directed onto the lot and away from abutting properties.
 7. Whenever the use changes, a new permit must be obtained from the Board of Appeals.
- (14) In Non-residential districts, and where otherwise indicated, uses permitted by right as designated by the letter “Y” require submission of a site plan as provided in Section VII F.
- (15) Subject to all conditions for approval required of uses in a Limited Industrial District, Section VI B.
- (16) No special permit may be granted for any Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons, unless the following conditions are satisfied:
1. No Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons may be located less than one thousand (1,000) feet from a school, library, church or other religious use, child care facility, park, playground, or recreational area, nor shall any such establishment be located less than two thousand (2,000) feet from another such establishment or less than two hundred (200) feet from a residence in a residential district. Distance shall be measured as the shortest distance between buildings, or as the shortest distance between the building of the adult use and the lot line of a park, playground, or recreational area.
 2. Any existing Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Establishment Which Displays Live Nudity for its Patrons shall apply for such special permit as a condition of its continued operation at such location within ninety (90) days following the adoption of this by-law.
 3. No special permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, § 63 or M.G.L. c. 272, § 28.
 4. Any pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Establishment Which Displays Live Nudity for its Patrons, or are erotic, prurient or related to violence, sadism or sexual exploitation, shall neither be displayed in the windows of, or on the building of any Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Establishment Which Displays Live Nudity for its Patrons, nor be visible to the public from pedestrian sidewalks or walkways, or from other areas, public or semi-public, outside such establishments.
 5. These provisions are adopted pursuant to the powers granted municipalities in M.G.L. c. 40A §9A.

- (17) Utility structures of two hundred (200) square feet or less are permitted by right in all districts.
- (18) Wireless Telecommunications Towers shall be no higher than one hundred fifty (150) feet above the surrounding grade.
- (19) This provision shall not apply to property used for municipal purposes, to properties that are legally occupied for business purposes or by recreational or institutional uses, and to farm vehicles, recreational vehicles, recreational trailers, or motor homes.
- (20) Assisted living residences shall have no more than ten percent (10%) lot coverage and shall maintain at least seventy percent (70%) of the lot area as open space. Single developments shall not exceed 60 living units. All other requirements of Table II shall apply.
- (21) Wireless communications antennae shall only be attached to an existing building or structure, including but not limited to buildings, cupolas, water towers, smoke stacks, church spires, electrical transmission towers, sign pylons, and other similar features. Such devices shall include their ancillary cables and equipment shelters.
- (22) No special permit shall be granted for any Body Art Establishment, unless the following conditions are satisfied: (amended 11/13/2001)
- Body art shall neither be displayed in the windows of, or on the building of any such establishment, nor be visible to the public from pedestrian sidewalks or walkways, or from other areas, public or semi-public, outside such establishments.
- (23) Senior Housing – Single family, Two-family or Multi-family townhouse-type structures in accordance with the provisions of Table II Multi-Family Residential MF-1 provided each living unit has a ground level floor, front and rear exposures and the connected living units do not exceed 6 in any one building. Buildings shall be separated by at least 50 feet excluding detached accessory structures and provided further that: (amended 5/22/2002)
1. Conditions 1 through 7 of Footnote 5 shall be satisfied.
 2. Density of development shall not exceed 1 living unit/10,000 square feet of land area.
- (24) Senior Housing – Two-family or Multi-family structures in accordance with the provisions of Table 11 Multi-Family Residential MF-1 provided that each dwelling unit has two (2) exterior exposures; each structure contains not more than twelve (12) dwelling units unless each unit has a ground level floor in which case the structure shall contain not more than six (6) dwelling units; multiple structures shall be separated by a minimum distance of fifty (50) feet excluding detached accessory structures; and provided further that: (amended 5/22/2002)
1. Conditions 1 through 7 of Footnote 5 shall be satisfied.
- (25) Hotels, motels, and lodging houses, are not permitted in the Office Research District unless they have direct access to Route 9, Route 20, Route 140, or Interstate 290, and are situated on parcels not more than 500 feet from said roadways. (amended 9/9/2002, 3/24/2003)

- (26) In no instance shall the non-gasoline sales function of the property have a gross floor area that exceeds 3,500 square feet. (amended 3/24/2003)
- (27) Banking machines, as stand-alone structures; Restaurants or other places for serving food via drive through window; and Adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, or establishment which displays live nudity for its patrons shall be prohibited within the Commercial Business (CB) and Limited Business (LB) districts identified on the map included in section VII, Subsection M – Lakeway Overlay District, Entitled “LAKEWAY OVERLAY DISTRICT, TOWN OF SHREWSBURY”. (5/19/2004)

B. Conditions for Approval in the Limited Industrial District

a. Building construction:

All buildings shall be of a construction prescribed by the Commonwealth of Massachusetts State Building Code.

b. Odor, dust and smoke:

No such emissions shall be discernible beyond the property line or, in the case of an industrial park development or a multiple use of the property, beyond one hundred (100) feet of the building generating the emission, except that in no case shall the discharge from any source exceed the following limits:

- (1) Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U. S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three (3) minutes in any one (1) hour.
- (2) Lime dust, as CaO, measured at the property line of any lot on which the activity creates such dust, shall not exceed ten (10) micrograms per cubic meter of air.
- (3) Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the lot.
- (4) All measurements of air pollution shall be by the procedures, and with equipment approved by the Building Inspector, which procedures and equipment shall be of the latest generally recognized development and design readily available.
- (5) No open burning is permitted.

c. Noise:

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness at any time of the day or night. When measured at the zoning district lines dividing the residential and non-residential zones, a facility shall not increase noise greater

than ten (10) dba above the ambient sound level between 7:00 P.M. and 7:00 A.M., local time. If the lot line of the lot in question extend into the residential zones, then the measurements shall be taken on the lot lines. In making this determination, the Zoning Enforcement Officer shall follow guidelines established by the Massachusetts Department of Environmental Protection.

d. Heat, glare, vibration and radiation:

No heat, glare or vibration shall be discernible from the outside of any structure, and all radiation shall be contained within a structure unless otherwise licensed by the Commonwealth of Massachusetts.

e. Exterior lighting:

No exterior lighting, other than street lighting approved by the Selectmen, shall shine on adjacent properties or towards any street.

f. Storage:

All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties.

g. Waste disposal and water supply:

Regulations of the Massachusetts Department of Environmental Quality Engineering shall be met and shall be indicated on the approved site plan.

h. Screening, surfacing, parking and signs:

As provided in Section VII of this Bylaw.

C. Construction or Siting of Hazardous Waste Facilities:

- a. The construction or siting of facilities, as defined in M.G.L. Chapter 111, Section 150A and 310 CMR 16.00 and 19.00, as each may be amended from time to time, for the storage, transfer, processing, treatment or disposal of solid waste; and the construction and siting of facilities as defined in M.G.L. Chapter 111, Section 150B, and M.G.L. Chapters 21C and 21D, and 310 CMR 30.00, as each may be amended from time to time, for the storage, treatment, dewatering, refining, incineration, reclamation, stabilization, solidification, disposal or recycling of hazardous waste, including those wastes defined in 310 CMR 30.200, as amended from time to time.

1. Procedures for the issuance of special permits:

Each application for a special permit under this section shall be filed with the Office of the Shrewsbury Town Clerk who shall forthwith transmit it to the Special Permit

Granting Authority (Shrewsbury Planning Board). Each application shall be accompanied by nine (9) copies of all required and/or supporting information and plans concerning the proposed use. The application for the special permit shall include the following:

- a. A site plan, prepared by a Massachusetts Registered Professional Engineer and/or Professional Land Surveyor, showing the following:
 1. Existing property boundaries within 500 ft. of the property lines showing existing structures and uses, surface water bodies, wetland and flood plains, wells, septic systems and sewer and water lines.
 2. Existing and proposed topography within 500 ft. of the proposed site and the maximum seasonal groundwater elevation on the proposed site.
 3. Existing and proposed structures and buildings on the proposed site.
 4. All impervious areas and those left in a natural state.
 5. All facilities and means for the control and discharge of surface water, subsurface water and waste water.
 6. A detailed description of the proposed facility, its proposed uses, processes and equipment is to be provided along with the qualifications and experience of the applicant in managing and operating such a facility, including a listing of all similar facilities operated or closed by the applicant within the past 10 years.
 7. A detailed description of the plan for the closure of the facility at the end of its operating life and a plan for its post-closure maintenance.
 8. The results of baseline environmental sampling for the parameters listed in 310 CMR 19.132 as well as noise and odor.
 9. A complete list of all hazardous materials and/or hazardous wastes to be stored, transferred, processed, treated, disposed or recycled at the facility and a description of the measures proposed for the protection of the facility and the on-site hazardous material/waste from vandalism, corrosion, leakage or fire.

The list shall identify hazardous materials and/or hazardous waste by hazardous constituent, quantities anticipated to be maintained on the site and the estimated through-put quantity of the facility on an annual basis.

Procedures for preventing or containing spills, discharges and explosions and emergency medical procedures in the event of an accident or accidental discharge, shall also be submitted.

10. A Plan for vector control.

- b. An environmental impact report shall be submitted with the application. The report shall address the impact that the proposed facility will have upon the following: environment, traffic, public services and utilities, adjoining properties, public health, noise, odors, environmentally sensitive areas such as aquifers for existing or potential public or private water supplies, surface water bodies, air and soil.

The report shall be prepared by a qualified environmental firm with proven experience in those areas and shall fully demonstrate that the proposed facility meets all current applicable rules and regulations of the Department of Environmental Protection. The Planning Board may, at the expense of the applicant, submit the impact report to a qualified independent environmental firm for analysis to ensure a fair, proper and complete review and assessment of the proposal.

2. Prior to the issuance of a special permit under this section, the applicant shall provide to the Planning Board evidence of insurance demonstrating the existence of Environmental Impairment Liability insurance (for third-party liability); First Party Remediation insurance (for first-party non-polluter coverage) and Finite Risk Plan insurance (for first-party polluter coverage) in such amounts in each case as the Planning Board may reasonably require or such other evidence as the Planning Board may accept. A special permit holder shall at all times be obligated to maintain financial resources adequate to comply with all the provisions of the special permit, including closure of all or a portion of the facility, as well as the post-closure maintenance costs. In addition, the holder shall annually submit to the Planning Board an estimate of the fair market cost of having the closure plan and post-closure maintenance plan fully implemented by a third party respondent. The Planning Board may, at the expense of the applicant, submit the annual estimate for implementing the closure plan to a qualified, independent firm for analysis of its adequacy.

The Planning Board shall require assurance of such financial resources by use of one or more of the approved financial assurance mechanisms set forth in 310 CMR 19.051 (12) and 30.904 (1-6), including but not limited to a trust fund, surety or performance bond or an irrevocable standby letter of credit or such other assurance that is adequate to cover the cost of closure.

The approved financial assurance mechanism shall be structured so that the Town of Shrewsbury shall be a party to said mechanism to the extent that it shall have the right to obtain exclusive direction and control over the transfer, use and disbursement of the secured funds, or performance benefits, upon or after the default of the permit holder. The Town shall use the funds to implement the approved closure plan or to undertake post-closure maintenance or as reimbursement for costs incurred for performing closure and/or post-closure maintenance work upon its determination that the owner or operator has failed in whole or in part to meet closure or post-closure requirements in accordance with the provisions of the special permit.

A special permit holder who is required to provide such financial assurances to the Massachusetts Department of Environmental Protection shall be exempt from providing

the same assurance to the Town of Shrewsbury. However, the special permit holder shall be required to furnish proof to the Planning Board that such financial assurance has been provided to the Department of Environmental Protection.

3. The Planning Board shall refer copies of the special permit application and any supporting materials to the Building Inspector, Board of Health, Conservation Commission, Town Engineer, Water Department, Fire Department and any other Board or Department deemed appropriate.

These persons and boards shall review the application and shall submit their comments and recommendations to the Planning Board, in writing, within thirty-five days of receipt of said application and materials.

4. After the required notice and public hearing and after consideration of the reports and recommendations of the town boards and departments, the Planning Board may grant a special permit provided that it determines that the proposed use:
 - a. Is in harmony with the purpose and intent of this bylaw.
 - b. Is appropriate to the natural topography, soils, air, water and other characteristics of the site to be developed.
 - c. Will not, during construction or thereafter, have a significant environmental impact and/or public health risk.
 - d. Will not be detrimental to the public good.
 - e. Will not be detrimental to the neighborhood.
 - f. Will not be a hazard or harmful, or a potential hazard or danger, because of toxic or corrosive fumes, smoke, gas, odors or liquids, because of offensive liquids or gas, because of objectionable effluent or emissions, because of dust, smoke, gas, vibration or other reasons which may affect or impair the normal use and enjoyment of any property.

In making such determination, the Planning Board shall give consideration to the reliability and feasibility of the environmental control measures proposed and the degree of threat to the environment and public health which would result if the control measures failed.

5. In granting a special permit, the Planning Board may attach such conditions as they deem reasonable in maintaining and enforcing the purpose and intent of the bylaw, such as the installation of monitoring wells with a periodic sampling program, a site evaluation conducted at the time of the closure of the facility that compares initial baseline sampling to the conditions existing at the time of closure, conservation easements, performance bonds, etc.

6. Any use allowed in this section shall be subject to all other provisions of this bylaw and no building permit or occupancy permit shall be granted or the facility allowed to be operated until all necessary permits have been granted and the use or structure complies with all state and local requirements, including but not limited to, applicable site assignment requirements.
7. Notwithstanding the provisions of Section IV of this bylaw, any use that is rendered nonconforming by adoption of this section may continue provided, however, that any change, alteration, reconstruction, expansion or enlargement of such nonconforming use is subject to the issuance of a special permit by the Planning Board.

In considering such special permit applications under this section, the Planning Board shall not grant approval unless it finds that the proposed change, alteration, reconstruction, expansion or enlargement of such nonconforming use will not be substantially more detrimental to the neighborhood than the existing non-conforming use.

D. Aquifer Protection Overlay District:

1. Purpose

The purpose of this section is:

to promote and protect the public health, safety and welfare by protecting aquifers and recharge areas serving an existing or potential public water supply from contamination.

2. Applicability

For the purposes of this By-law, there are hereby established within the Town an Aquifer Protection Overlay District, consisting of aquifers and/or aquifer recharge areas, which is delineated on a map titled "Shrewsbury Aquifer Protection Overlay District" and dated February 21, 1988, prepared by Geologic Services Corporation. This map is hereby made a part of the Town of Shrewsbury's Zoning By-law and is on file in the Town Clerk's office.

The Aquifer Protection Overlay District shall be considered as overlying other zoning districts. Any area within the Aquifer Protection Overlay District is subject to the more restrictive designation of either the overlay district or the underlying district. Uses not permitted in the underlying districts shall not be permitted in the overlay districts. The criteria for the location and extent of Zones 1, 2, and 3 of the Aquifer Protection Overlay District are as follows: Zone 1 - that area within a 400-foot radius of an existing or potential municipal wellsite; Zone 2 - that area surrounding existing or potential municipal wells which is affected by a projected cone of influence that would develop by pumping the wells continuously (24 hours a day) for 180 days, and those areas of stratified drift upgradient of the cone of influence; Zone 3 - that land which contributes surface water and/or groundwater to Zone 2 and/or Zone 1.

Where the bounds of the Aquifer Protection Overlay District are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located, based on the criteria stated above. Resolution of boundary disputes shall be through a Special Permit application to the Planning Board. At their own expense, property owners may engage a hydrogeologist or other qualified professional to determine more accurately the location and extent of an aquifer or recharge area. In all cases, the determination of the location and extent of the Aquifer Protection Overlay District shall be based upon the criteria in this section. For parcels partially located in an Aquifer Protection Overlay District or split between two Zones, the provisions of Section III.D. of this By-law shall apply.

3. **Definitions**

"Aquifer" - A geologic formation that can store and transmit significant amounts of potable water.

"Disposal" - The deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

"Groundwater" - All the water beneath the surface of the ground.

"Hazardous Materials" - Any substance or combination of substances, including liquid petroleum products, that, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of, into, or on any land or water in this Town.

"Hazardous Waste" - Those substances listed in M.G.L. Ch 21C.

"Impervious Area" - Surface covered by materials or structures on or above the ground that severely limit the amount of precipitation that infiltrates the underlying soil, including but not limited to, asphalt, roofed buildings, etc.

"Process or Non-Sanitary Wastewater" - All non-sanitary wastewater, disposed on-site, other than stormwater runoff, including, but not limited to, any liquid wastes resulting from any process of industry or business.

"Recharge Area" - Any area of porous, permeable geologic deposits, especially, but not exclusively, deposits of stratified sand and gravel, through which water from any source drains into an aquifer, and includes any wetland or body of surface water surrounded or adjacent to such area, together with the watershed of any wetland or body of surface water adjacent to such area.

"Sanitary Wastewater" - Water carrying putrescible waste arising from ordinary water use as from toilets, sinks, baths, dishwashers, washing machines etc. and containing such

concentrations and types of pollutants as to be considered normal wastes as regulated by 310 CMR 15.00.

4. Permitted Uses

a) The following uses shall be permitted by right in Zone 1:

1. Conservation of soil, water, plants and wildlife.
2. Outdoor recreation, including boating, fishing, nature study and hunting where legally permitted.
3. Foot, bicycle and horse paths.
4. Normal operation, maintenance, expansion and treatment of existing water bodies and dams, splash boards, public water utilities and other water control, conservation devices, and the use and storage of chemicals accessory to said supply, or utilities.
5. Farming, gardening, nursery, forestry, harvesting and grazing use.
6. Repairs to septic systems made in accordance with a permit from the Board of Health.

b) The following uses shall be permitted by right in Zone 2:

1. All uses permitted in Zone 1, listed in Section 4 (a) 1-5.
2. Any residential or non-residential use permitted in the underlying zoning district, unless otherwise regulated by the provisions of this Section VI(K), provided that no more than thirty percent (30%) of the lot area is rendered impervious.
3. The alteration or expansion of residential uses existing on the effective date of this By-law, provided that such alteration or expansion shall not increase the total amount of impervious area to more than thirty percent (30%) of the lot.
4. Installation or expansion of a septic system for disposal of sanitary wastes provided the required flows do not exceed 660 gallons per day on a lot. Greater flows shall require a land area of 10,000 square feet per 110 gallons of daily wastewater flow.

Repairs to septic systems made at the order of the Board of Health shall not be subject to the land area requirement unless there is an expansion of the system required by a greater flow.

c) The following uses shall be permitted by right in Zone 3:

1. All uses permitted in Zone 1, listed in Section 4 (a), 1 to 5.

residential rendered 2. Uses permitted in Zone 2, listed in Section 4 (b) 2 and 3, provided that for and non-residential uses no more than thirty percent (30%) of the lot area is impervious.

3. Installation, expansion or repair of a septic system for disposal of sanitary wastes, subject to the normal requirements of the Board of Health.

5. Special Permit Uses

The following uses shall be permitted with the issuance of a Special Permit. The Special Permit Granting Authority for uses under this section shall be the Planning Board.

a) The following uses are permitted with the issuance of a Special Permit in Zone 1:

1. Filling, stockpiling or placement of earthen materials, whether for temporary storage or permanent use.

b) The following uses are permitted with the issuance of a Special Permit in Zone 2:

1. New residential uses with an impervious area exceeding thirty percent (30%) of lot area, or expansion of existing residential uses resulting in an impervious area exceeding thirty percent (30%) of lot area.

2. Non-residential uses, permitted in the underlying zoning district, which involve the above ground storage or use of hazardous materials.

3. Filling, stockpiling or placement of earthen materials covering greater than 5,000 square feet of land area, or 500 cubic yards.

4. Non-residential uses resulting in an impervious area greater than 30% of the lot.

5. Marine related service, repair and storage.

c) The following uses are permitted with the issuance of a Special Permit in Zone 3:

1. Uses permitted by Special Permit in Zone 2, listed in Section 5 (b) 1-5.

2. Any use involving on-site disposal of process or non-sanitary wastes.

3. Underground storage of hazardous materials.

4. Auto-related service, repair and storage.

5. Manufacturing or use of hazardous materials.

6. Dumping of snow containing de-icing chemicals.

6. Prohibited Uses

a) The following uses are prohibited in Zone 1:

1. Disposal or processing of solid or hazardous waste, including, but not limited to, landfills, transfer stations, etc.
2. Junkyard/salvage yard.
3. Septage lagoon or wastewater treatment plant.
4. Any use involving the manufacture, storage or use of hazardous materials, including hazardous wastes.
5. On-site disposal of process or non-sanitary wastes except for installation or expansion of septic systems.
6. Underground storage of hazardous materials, including home heating fuel. No portion of a storage tank may be below the ground.
7. Application of road salt or other deicing chemicals to parking lots and travelways containing five (5) or more parking spaces.
8. Dumping of snow containing deicing chemicals.
9. Any commercial or industrial development.
10. Non-residential applications of pesticides, herbicides or fertilizer.
11. Commercial earth removal.

b) The following uses are prohibited in Zone 2:

1. Uses prohibited in Zone 1, listed in Section 6 (a) 1-3 and 6-8.
2. On-site disposal of process or non-sanitary wastewater.
3. Any use involving the manufacture of hazardous materials.

c) The following uses are prohibited in Zone 3:

1. Uses prohibited in Zone 1, listed in Section 6 (a) 2 and 3.
2. Underground storage of home heating fuel.
3. Disposal or processing of hazardous waste.

7. Design Criteria

All uses listed below, where permitted by this By-law, must meet the following standards when located within the Aquifer Protection Overlay District.

a) Earth Removal/Grading

Any earth removal or land disturbing activity within the overlay district may not be less than five feet above the maximum seasonal groundwater elevation, except in association with a valid building permit or disposal works construction permit. Such earth removal or grading must employ appropriate measures to control erosion and siltation.

b) Filling

All fill material must be clean and free from hazardous materials, construction debris, and other material whose leachate would be a potential contamination hazard to ground or surface waters. The source of all potential fill must be reported in the Special Permit application.

c) Hazardous Material Storage

Hazardous materials stored above ground must be located on an impervious, chemical-resistant surface. The storage area must be equipped with a secondary containment system designed to prevent the material from reaching groundwater in the event of a leak or spill. The containment system must be able to contain 125% of the tank's contents.

d) Impervious Areas

For uses with impervious areas greater than that specified by this By-law, appropriate measures must be taken to insure that the increase in stormwater runoff (over that amount generated by a lot with the specified impervious area) must be artificially recharged into the aquifer. This may be done through such methods as dry wells, infiltration trenches, retention basins, etc.

e) On-site Disposal of Non-Sanitary or Process Wastewater

Any use involving on-site non-sanitary waste water disposal may not result in the lowering of groundwater quality at the downgradient property line below Massachusetts drinking water standards (314 CMR 6.00). If the ambient groundwater quality is already below these standards, the proposed use may not result in further degradation of groundwater quality. The Planning Board may require, as a Special Permit condition, means such as monitoring wells to insure that these standards are met.

f) Stormwater Management

All stormwater management facilities must be designed for the twenty-five (25) year storm and designed to insure that the rate of runoff leaving the site does not exceed the rate of runoff in the predevelopment state. Runoff from paved areas over one acre in size shall include facilities for trapping oil, gas and other contaminants before recharge into the ground. These facilities shall be maintained by the owner on an annual basis.

g) Underground Storage Tanks

All underground storage tanks must be constructed and installed and maintained in a manner which prevents groundwater contamination. No underground tank may be installed unless such tank:

1. Will prevent leakage due to corrosion or structural failure for the operational life of the tank;
2. Is lined with a material compatible with the substance to be stored; and
3. Complies with all state and local requirements for the composition and installation of underground tanks.

8. Nonconforming Uses

Notwithstanding the provisions of Section IV of this By-law any use that is made nonconforming by the adoption of this Section may continue, provided, however, that any change, alteration, reconstruction, expansion or enlargement of such nonconforming use is subject to the issuance of a Special Permit by the Planning Board. Single and two-family dwellings are specifically exempt from the provisions of Section 8 Nonconforming Uses.

In considering Special Permit requests for expansion of nonconforming uses under this Section, the Planning Board shall not grant approval unless it finds that the proposed expansion will not be substantially more detrimental to groundwater supplies than the existing use.

9. Procedures for issuance of Special Permits

- a) Each application for a Special Permit under this Section shall be filed with the Town Clerk for transmittal to the Special Permit Granting Authority (Planning Board), and shall be accompanied by seven (7) copies of any supporting information and plans concerning the proposed use.
- b) The plan accompanying the Special Permit application shall be prepared by a Registered Professional Engineer and/or Professional Land Surveyor, as appropriate, and shall include:

existing property boundaries,
existing and proposed topography,
existing and proposed structures and buildings,
all facilities for surface drainage and erosion control,
all impervious areas, and those areas left in a natural state.

The following shall also be submitted:

A complete list of all potentially toxic or hazardous material to be used, generated or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect from vandalism, corrosion, leakage and spills.

Analysis of the site conditions and potential impact of the proposed project by a qualified hydrogeologist with proven experience in groundwater evaluation, if so required by the Planning Board.

- Board
- c) The Planning Board shall refer copies of the Special Permit application and any supporting materials to the Building Inspector, Board of Health, Conservation Commission, Town Engineer, Water Department, and any other Board or Department deemed appropriate. These persons and Boards shall review the application and submit their comments and recommendations to the Planning Board. Failure to respond in writing within thirty-five days of the referral of the application shall be deemed lack of opposition.
 - d) The Planning Board shall hold a public hearing on the application, in conformity with the provisions of M.G.L. Ch 40A, within sixty-five days of the filing of the application.
 - e) After the required notice and public hearing, and after consideration of the reports and recommendations of the Town Boards and Departments, the Planning Board may grant a Special Permit provided that it determines that the proposed use:
 - (i) is in harmony with the purpose and intent of this By-law and will promote the purposes of the Aquifer Protection Overlay District;
 - (ii) is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
 - (iii) will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and
 - (iv) will not adversely affect an existing or potential public water supply.

In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed.

- f) In granting a Special Permit, the Planning Board may attach such conditions as they deem reasonable and appropriate in maintaining and enforcing the purpose and intent of this By-law, such as a performance bond, monitoring wells, conservation easements, etc.
- g) The applicant, for one or two-family dwellings, or a professional engineer for all other uses, must certify in writing to the Building Inspector that any and all Special Permit conditions have been complied with prior to the issuance of an occupancy permit for the use or structure.

**SECTION VII - DEVELOPMENT OF SITES AND
LOCATION OF BUILDINGS AND STRUCTURES**

A. Height Regulations:

1. The height of any building or structure shall not exceed those specified on Table II in either feet or stories for the applicable districts.

No one (1) exposure of a building or structure is to contain more than the maximum height in feet or stories for the applicable district.

2. Limitations of height shall not apply to spires, domes, steeples, radio towers, chimneys, broadcasting and television antennae, bulkheads, cooling towers, ventilators and other appurtenances usually carried above the roof, or to farm buildings, churches, municipal or institutional buildings, provided that, if the use requires a permit, one has been granted.
3. Heights permitted in paragraphs 1 and 2 above shall not exceed the limits permitted by Chapter 90, Section 35 A-D of the General Laws and any more restrictive amendments thereto.

B. Area, Frontages, Yard and Lot Coverage Requirements:

No building or structure shall be erected upon a lot of land unless the lot area and frontage, yards and lot coverages to be provided are in conformity with the requirements on Table II.

1. Eaves, sills, steps, chimneys, bulkheads, cornices, belt cornices, fences or walls, and similar features may project into the specified yards.
2. On a corner lot, in order to provide visibility unobstructed at intersections, no sign, fence, wall, tree, hedge or other vegetation, and no building or other structure more than three (3) feet above the established street grades, measured from a plane through the curb grades on the height of the crown of the street, shall be erected, placed or maintained within the area formed by the intersecting street lot lines and a straight line joining said street lot lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lot line.
3. No yard, lot area or other open space required for a building by this Bylaw shall, during the existence of such building, be occupied by or counted as open space for another such building. No lot area shall be so reduced or diminished so that the yards or other open space shall be smaller than prescribed by this Bylaw.
4. No lot shall be created in violation of the Planning Board's Subdivision Rules and Regulations in effect at the time.

5. When more than one (1) main structure is built upon a single lot in the Multi-Family Residential, Apartment, Limited Business, Commercial-Business, or Limited Industrial Districts, they shall be separated by a distance of at least 20 feet. (amended 5/19/2004)
6. In Rural A, Rural B, and Residential A, B-1 and B-2 districts no lot shall be less than fifty (50) feet in width to a depth of one hundred (100) feet from the front lot line of the street along which the required frontage exists. (amended 5/20/1998, 11/1/1999)
7. Rear Lots (amended 5/20/1998, 11/1/1999)

In Rural A, Rural B, and Residential A, B-1 and B-2 districts, a minimum frontage of fifty (50) feet may be permitted, provided that:

1. The area of the lot is at least three (3) times the minimum lot area for the district in which the lot is located. For lots divided by a zoning boundary line, the minimum lot area for the district with the larger minimum lot area shall be used in determining the minimum lot area of the rear lot. For those lots located in the Rural A, Rural B and Residence A Districts, seventy-five percent (75%) of the minimum lot area required for zoning compliance or 45,000 square feet, shall be upland. (amended 11/1/1999)
2. The minimum width of the access strip, measured between two side lot lines parallel to the street, shall not be less than fifty (50) feet.
3. The lot must be capable of containing an area of land equal to a circle with diameter equal to the frontage required in the district, but in no case shall the diameter be less than one hundred (100) feet.
4. No more than three rear lots may obtain their access from one common driveway. A special permit from the Planning Board shall be required for any such common driveway.
5. All other dimensional requirements of the district in which the lot is located shall apply.

TABLE II

DISTRICT	MINIMUM REQUIREMENTS						MAXIMUM CONDITIONS			
	Lot Area ⁽¹⁰⁾ Sq. Ft.	Lot ⁽¹⁾ Frontage	Front ⁽²⁾ Yard	Side ⁽³⁾ Yard	Rear Yard	Add'l Area Per ⁽⁵⁾ DwellingUnit	Open Space Percent of Lot Area	Lot Coverage Percent	Height Feet	Number Stories
Rural "A" (amended 3/24/2003)										
One Family	20,000	125	50	30	50	--	--	20	35	2-1/2
All Other Uses	40,000	150	50	30	50	--	25	10	35	2-1/2
Rural "B" (amended 3/24/2003)										
One Family	20,000	125	50	30	50	--	--	20	35	2-1/2
All Other Uses	40,000	150	50	30	50	--	25	10	35	2-1/2
Residence "A" (amended 3/24/2003)										
One Family	20,000	125	30	20	40	--	--	30	35	2-1/2
All Other Uses	40,000	150	50	30	50	--	25	10	35	2-1/2
Residence "B-1" (amended 3/24/2003)										
One-Family	12,500	100	30	10	40	--	--	30	35	2-1/2
All Other Uses	40,000	150	50	30	50	--	25	10	35	2-1/2
Residence "B-2" (amended 3/24/2003)										
One-Family	12,500	100	30	10	40	--	--	30	35	2-1/2
Two-Family	16,000	125	30	10	40	--	--	30	35	2-1/2
All Other Uses	40,000	150	50	30	50	--	25	10	35	2-1/2
Multi-Family Residential (amended 5/22/2002)										
One-Family	12,500	100	30	10	40	--	--	30	35	3
Two-Family	16,000	125	30	10	40 ⁽⁷⁾	--	--	30	35	3
MF-1	16,000	50	50	25	25	4,300	70	--	35	3
MF-2	160,000	50	50	50	50	see VI, Table 1 Footnote 6	70	--	35	2
All Other Uses	20,000	125	25	25	75	--	50	10	35	3
Apartment										
One-Family	12,500	100	30	10	40	--	--	30	35	3
Two-Family	16,000	125	30	10	40	--	--	30	35	3
Multi-Family	16,000	125	25	50	50	2,000	50	8	96	8
All Other Uses	20,000	125	25	50	50	--	50	10	35	3
Limited Business (amended 5/19/04)										
All Uses	12,500	100	15 ⁽⁴⁾	15*	15*	--	15	50	35	2-1/2
*except 50 when abutting a Residential District										
Commercial-Business (amended 11/13/2001, 3/24/2003)										
All Uses ⁽⁶⁾	40,000	150	40	15	25 ⁽⁷⁾	--	20	50	50	4
Limited Industrial (amended 11/13/2001, 3/24/2003)										
All Uses	80,000	50	50	50*	50*	--	20	50	50	4
*except 100 when abutting a Residential District										
Neighborhood Businesses										
All Uses	25,000	150	50	50	50	--	15	15	15	2-1/2
Office-Research (8) (amended 11/13/2001, 9/9/2002)										
All Uses	80,000	100	50	50	50	--	25	50	50 ⁽¹¹⁾	4 ⁽¹¹⁾
Limited Office-Research ⁽⁸⁾ (amended 11/13/2001)										
All Uses	80,000	200	50	50	50	--	30	30	50	3

FOOTNOTES

- 1) Measured along the street lot line, except that a lot which conforms to all other requirements and which is on a turning radius less than 100 feet shall have a minimum of eighty (80) feet of street frontage and shall have a distance measured from side lot line to side lot line through the center of the building equal to the required frontage for the district in which it is located.
- 2) Provided that any residential front yard need only be the average of the depths of the front yards on the abutting yards of the abutting lots, considering the front yards of abutting vacant lots or streets as having a minimum permitted. In no case shall a structure be located within fifty (50) feet of the centerline of the street upon which it fronts.
- 3) Except that in the case of a lot having frontage on two (2) or more streets, the applicable front yard requirements shall apply from each street lot line.
- 4) Except fifty (50) feet when fronting on Route 20. (amended 5/19/2004)
- 5) Additional area required per dwelling unit in excess of two (2).
- 6) The first twenty (20) feet of the required front yard shall contain plant materials, in various patterns, designed to provide a continuous landscaped edge to the property in question, except for points of entry and exit. Said landscaping shall be in accordance with section VII.D.2.d.(1). If no public sidewalk exists across the entire frontage of the lot, a paved sidewalk of at least 4 feet in width shall be provided within the 20-foot landscaped area, and as much as possible said sidewalk shall be designed to create a continuous pedestrian walkway with the abutting properties. (amended 5/18/1987, 3/24/2003)
- 7) Where the rear property line abuts or is located within a residential district, a buffer zone of at least ten feet in width shall be provided along the entire rear yard. Within said buffer, no commercial building or parking areas shall be permitted. Said landscaping shall be in accordance with Section VII.D.2.d.(2). (amended 5/18/1987, 3/24/2003)
- 8) Where Office Research and Limited Office-Research land zoned for single family purposes as of the effective date of this amendment, there shall be a buffer zone extending two hundred feet from such bordering lands, within which no commercial buildings, driveways or parking area shall be permitted. (amended 5/28/1991, 9/9/2002)
- 9) On a lot in the Commercial-Business district created by joining two (2) abutting lots and which resulting lot abuts a public way on three (3) or more sides, the front yard requirement of Table II of Section VII will apply to only one yard of the new lot abutting a public way, which yard shall be selected by the lot owner, and the other yards of the new lot which abut a public way shall be a minimum of 50 feet; except that no structure may be erected in any front yard abutting Route 9 or Route 20 unless the minimum 40 feet front yard requirement of the bylaw is satisfied. (amended 12/9/1991, 3/24/2003)

- 10) Not less than seventy-five percent (75%) of the minimum lot area required shall be contiguous land (upland) not encumbered by areas subject to protection under the Wetlands Protection Act, as defined in M.G.L. c.131 §40 and 310 CMR 10.00, excluding the riverfront area. This provision shall apply only to those lots located within the Rural A, Rural B and Residence A Districts where a minimum of 15,000 square feet of each lot must be contiguous upland. (amended 11/1/1999)
- 11) If parking for at least 100 cars is provided at grade but under a building the overall height of the building may be increased up to 60 feet and five stories, with the parking facility constituting one story. (amended 9/9/2002)

C. Accessory Uses:

Detached accessory buildings such as garages, storage sheds, carports and children's playhouses may be erected in the rear or side yard at least ten (10) feet from the principal building and in conformance with the side yard, rear yard and other requirements of the applicable district.

Detached accessory buildings or structures such as fireplaces, cabanas, electronic antennae, etc., may be erected in the side or rear yard not less than ten (10) feet from the principal building, in conformance with the side yard and front yard requirements of the applicable district and not less than twenty (20) feet from the rear lot line.

Above ground swimming pools greater than 200 square feet but less than 500 square feet in surface area may be erected in the side or rear yard at a distance not less than 10 feet from the lot lines. In ground swimming pools and above ground pools exceeding 500 square feet in surface area may be erected in the side or rear yard in conformance with the side and front yard requirements of the applicable district and not less than twenty (20) feet from the rear lot line. Any deck or platform attached to an above ground pool or any projection therefrom shall be considered an integral part thereof and the entire structure shall be located in conformance with the dimensions noted above.

In ground and above ground swimming pools erected upon corner lots may be installed in the front yard adjacent to the side of a dwelling not less than twenty (20) feet from the street lot line and not less than fifty (50) feet from the point of intersection of the two streets upon which the lot fronts.

An accessory building attached to its principal building shall be considered an integral part thereof, and shall be subject to the front, side and rear yard requirements of the applicable district.

Flagpoles may be erected in any yard ten (10) feet from property lines in conformance with the height requirements of the applicable district.

Fences will not be subject to the front, side and rear yard requirements of the applicable district. Detached buildings not exceeding 200 square feet in area such as storage sheds and pool houses may be erected in any yard, except the front, ten (10) feet from property lines.

D. Off-Street Parking and Loading Areas:

1. Off-street parking and loading spaces shall be required as follows:

a. Dwellings and apartments:

One and one-half (1 1/2) parking spaces for each dwelling unit therein and sufficient off-street parking for visitors and employees, provided that, in the case of apartments constructed for the exclusive use of elderly persons upon approval of the Board of Appeals, as provided in Section IX C2 one (1) parking space for each two (2) dwelling units therein shall be sufficient.

b. Permitted home occupations and professional offices in a residence and funeral parlors:

One (1) parking space for each forty (40) square feet of building floor area devoted to such use.

c. Places of public assembly:

One (1) parking space for each three (3) seats therein or one (1) space for each sixty (60) inches of bleachers or benches, plus one (1) space for every two (2) employees thereof.

d. Schools:

One (1) parking space for each classroom and office therein, or one (1) parking space for each three (3) seats in the auditorium whichever is greater. In addition to the foregoing, schools above high school level shall provide one (1) space for every two (2) students enrolled.

e. Hotels, motels and other places providing overnight accommodations:

One (1) parking space for each room accommodation therein, plus one (1) space for each two (2) employees, and adequate spaces for delivery vehicles. Where applicable additional parking as required in Section VII D, 1, f.

f. Hospitals, sanitariums, convalescent or nursing homes and continuing/continuum care retirement communities:

One (1) parking space for each two (2) beds, plus one (1) additional space for each two (2) employees based on the numerically largest shift.

In accordance with Section IX, the Board of Appeals may grant a Special Permit to allow conditionally one (1) parking space for each four (4) beds, plus one (1) additional space for each two (2) employees, based on the numerically largest shift, for nursing homes or continuing/continuum care retirement communities.

- g. Medical or dental offices: (amended 11/13/2001)

One (1) space for each two hundred (200) square feet of gross floor area.

- h. Theaters, clubs, membership clubs and places of assembly, amusement and recreation:

One (1) parking space for each four (4) seats, plus one (1) additional space for each two (2) employees.

- i. Retail stores and personal service shops: (amended 11/13/2001)

One (1) parking space for each two hundred and fifty (250) square feet of gross floor area exclusive of basement storage. Structures with a gross floor area in excess of 500,000 square feet shall provide one (1) parking space for each two hundred forty (240) square feet of gross floor area.

Home furnishing stores that require a large amount of showroom space (for example major appliance stores, furniture stores, carpet stores) shall provide one (1) parking space for each three hundred and fifty (350) square feet of gross floor area. Retail stores that also provide fast food or take-out service shall provide an additional five (5) spaces for each interior take-out station. Car washes and similar facilities that provide service to customers from vehicles in queues shall provide a vehicle storage lane for storing a minimum of ten (10) vehicles per station.

- j. Restaurants, lounges, bars, night clubs and meeting rooms: (amended 11/13/2001)

Two and a half (2.5) parking spaces for each four (4) seats of seating capacity. Food court areas shall provide one (1) parking space for each 240 square feet of gross floor area devoted to food preparation and seating. Fast food restaurants or other places for serving food not confined to service within the structure shall provide two and a half (2.5) parking spaces for each four (4) seats for seating capacity plus five (5) parking spaces for each interior takeout station. In addition, a vehicle storage lane shall be provided for storing a minimum of ten (10) vehicles for each drive-up window.

- k. Offices:

One (1) parking space for each four hundred (400) square feet of gross floor area, plus space for all company vehicles, space for visitors and loading space for all deliveries and shipping.

- l. Warehouses:

One (1) parking space for each fifteen hundred (1500) square feet of gross floor area.

- m. Banks and Banking Machines:

Four (4) spaces shall be provided for each interior teller window and each interior service desk; in addition thereto a vehicle storage lane shall be provided for each vehicular automatic teller machine and exterior service window providing storage for a minimum of six (6) vehicles.

Three (3) spaces shall be provided for each automatic teller machine not accessible from a vehicle. This requirement shall apply to all such machines wherever they are located. Isolated banking machines accessible from a vehicle shall have a vehicle storage lane providing storage for six (6) vehicles.

- n. All other non-residential establishments, except agricultural, one (1) parking space for each one thousand (1,000) square feet of gross floor area exclusive of storage areas, or one (1) parking space for each two (2) employees, whichever is greater. Adequate loading space shall be provided in addition to the parking requirements.
- o. Day Care Centers:

One and one-half (1.5) parking spaces per classroom or one (1) parking space for every two (2) employees, whichever is greater. To allow for the safe pickup and delivery of children, there shall also be provided either a vehicle storage lane, or an area for short-term parking, for storing or parking a minimum of one vehicle for every ten (10) children.

2. Design of Off-Street Parking and Loading Spaces:

- a. Parking areas containing more than five (5) required parking spaces shall comply with the standards specified below. Site plans prepared pursuant to Section VII F shall be submitted sufficient for the Building Inspector, Planning Board, or Board of Appeals to determine if the proposed layout properly complies with these standards.
 - (1) Space width shall be at least nine (9) feet.
 - (2) Space depth shall be at least nineteen (19) feet for all angle and 90° parking and twenty-two (22) feet for parallel parking.
 - (3) Aisle width shall be twenty-four (24) feet for two-way circulation.
 - (4) Parking spaces shall be provided and designed to safely accommodate commercial vehicles servicing the site.
 - (5) Parking lots shall be designed to permit each motor vehicle to proceed to and from all unoccupied parking spaces without requiring the moving of any other parked motor vehicle. Spaces shall be designed to prevent motor vehicles from backing onto a public street in order to leave the lot. Parking areas shall be designed utilizing channelization devices to prevent short-circuiting of traffic. The net standing and maneuvering areas shall have a maximum grade of 6% in any direction. This maximum grade does not apply to access drives. All required

parking spaces shall be provided with unobstructed access to and from a street and shall be properly maintained in such a manner as to permit them to be used at all times.

All required parking spaces shall be located on the same lot as the use with which such spaces are connected except that two (2) or more businesses may jointly provide the required spaces on one (1) or more of their lots contiguous to each other. The number of spaces in any such joint facilities shall at least equal the total number required under the provisions of this section for their individual uses.

Subject to a Special Permit from the Planning Board unenclosed parking spaces may be located remote from the site but within 200 feet therefrom.

Said off-site parking shall be secured by an appropriate deed restriction.

- Type
- b. Each required loading space shall be at least ten (10) feet wide, forty (40) feet long and fourteen (14) feet high.
 - c. All off-street parking and loading areas, permitted and/or required, except for dwellings, which are located within or adjacent to a Residence A, B-1 or B-2 District, Garden-Apartment or Apartment Districts (whether on the side or rear) shall be screened from all adjoining lots in said district by either:
 - (1) A strip four (4) feet wide, densely planted with shrubs or trees, which are at least four (4) feet high at the time of planting and of a type which may be expected to form a year-round dense screen at least six (6) feet high within three (3) years or
 - (2) A solid wall or fence not less than five (5) feet high.

A masonry or bituminous concrete curbing of at least six (6) inches in height shall terminate the edges of all pavements in rear and side yards to prevent drainage therefrom to adjacent properties.

- d. Parking Lot Landscaping: (amended 11/1/1999)

All parking areas shall be properly screened and landscaped to protect adjacent property from undesirable effects of parking lots and to preserve the appearance and character of the surrounding neighborhoods. The visibility of parking and service areas from public streets shall be minimized through facility location and the use of topography and vegetation.

- (1) A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be provided adjacent to public ways to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, low shrubs, and shade trees with a minimum 2" caliper, with one tree planted for every fifty (50) feet of road frontage. (amended 11/1/1999)

- (2) Along other property lines, there shall be provided a landscaped strip at least five (5) feet in width, planted with grass, low shrubs, and shade trees with a minimum 2" diameter caliper, with one tree planted for every fifty (50) feet of perimeter length. (amended 11/1/1999)
- (3) For parking lots containing twenty-five (25) or more spaces, a minimum of five (5) percent of the interior of the lot shall be maintained with landscaping. The total amount of landscaping shall be separated into smaller areas to break up the expanse of pavement. (amended 11/1/1999)
- (4) Exposed storage areas, dumpsters, machinery, service areas, truck loading areas, utility buildings, and other unsightly uses shall be screened from view from neighboring properties and streets through the use of walls or fences complemented with landscaping. (amended 11/1/1999)
- e. Required off-street parking and loading spaces shall not thereafter be reduced, nor shall one be counted as or substituted for the other. (amended 11/1/1999)
- f. Required off-street loading spaces shall have adequate vehicular access to the street, which, along with the areas themselves, must be approved on a site plan in the case of business or industrial uses, see Section VII F. (amended 11/1/1999)
- g. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas shall be paved to the current specifications required under the Planning Board's Subdivision Rules and Regulations. (amended 11/1/1999)
- h. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas used after sundown shall be illuminated, with illumination so arranged as not to shine on abutting properties or on streets. (amended 11/1/1999)
- i. In the Office Research District up to 25% of all off-street parking spaces may be designed for small cars. For said spaces the parking bay shall be 8 by 16 feet; all other parking and parking design criteria in Section VII subsection D shall apply. (amended 9/9/2002)

3. Reserve Parking Spaces. (amended 11/1/1999)

Under a site plan review, the Planning Board may authorize a decrease in the number of parking spaces required under §VII (D), in accordance with the following.

- a. The Planning Board may authorize a decrease in the number of parking spaces required under §VII (D), provided that:
 - 1) The decrease in the number of parking spaces is no more than twenty-five percent (25%) of the total number of spaces required under §VII (D) (1). The waived

parking spaces shall not be used for building area. The waived spaces shall be labeled as “Reserved Parking” on the site plan.

- 2) Any such decrease in the number of parking spaces shall be based upon documentation of the special nature of a use of a building.
 - 3) The parking spaces labeled “Reserve Parking” on the site plan shall be properly designed as an integral part of the overall parking development and in no case located within areas counted as buffer, parking setback or open space.
 - 4) The decrease in the number of required spaces will not create undue congestion or traffic hazards.
 - 5) Such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this section.
- b. If, after one (1) year after the issuance of a certificate of occupancy, the Planning Board find that all or any of the increased reserved spaces are needed, the Planning Board may require that all or any portion of the spaces identified as increased reserve spaces on the site plan be constructed within a reasonable time period as specified by the Planning Board. A written notice of such a decision shall be sent to the applicant within seven (7) days before the matter is next discussed at a Planning Board meeting.
 - c. In the opinion of the Planning Board, allowing less stringent conformance with §VII (F) will in no way avoid the purpose of site plan review.

E. Signs:

1. The following signs are permitted in any district:
 - a. One (1) sign displaying the street number or name of the occupant of the premises or both, not exceeding one (1) square foot in area. The sign may be attached to the building or may be on a rod or post and shall be located at least three (3) feet from the street lot line.
 - b. One (1) sign for announcing professional or home occupations, or membership of the occupant not exceeding three (3) square feet in area.
 - c. One (1) bulletin or announcement board or identification sign for a permitted use, not exceeding ten (10) square feet in area.
 - d. For churches and institutions two (2) bulletin or announcement boards or identification signs are permitted for each building, one (1) which may not exceed twenty (20) square feet in area, and one (1) of which may not exceed ten (10) square feet in area.
 - e. One (1) temporary "For Sale", "For Rent" or "Sold" sign, not exceeding six (6) square feet in area and advertising only the premises on which the sign is located.

- f. Building contractor's signs may be maintained on the site while the structure or structures are actually under construction, but shall not exceed twenty (20) square feet in area.
2. Additional signs are permitted in the Multi-Family Residential Districts, Apartment, Limited Business Districts and Neighborhood Business District, as follows: (amended 11/1/1999)
 - a. Individual signs less than twenty (20) square feet in area.
 - b. In the case of multiple signs, the aggregate area shall not exceed one (1) square foot for each foot of lot frontage along the street lot line on which it faces.
 - c. The top of any sign shall not be more than thirty (30) feet above ground level.
 - d. Temporary signs not exceeding 100 square feet in area, subject to a special permit from the Board of Appeals.
3. Additional signs are permitted in the Commercial-Business and Limited Industrial Districts, as follows:
 - a. Signs as permitted in Section VII 2.
 - b. Individual signs less than two hundred (200) square feet in area.
 - c. In the case of multiple signs, the aggregate area shall not exceed two (2) square feet for each foot of lot frontage along the street lot line on which it faces.
 - d. The top of any sign shall not be more than thirty-five (35) feet above ground level.
4. All signs shall be subject to the following conditions:
 - a. No sign may be located nearer to a street lot line than one-half (1/2) the depth of the required front yard unless otherwise stated above.
 - b. All signs and advertising devices shall be stationary and may not contain any visible moving parts.
 - c. Any lighting of a sign or advertising device shall be continuous, indirect and installed in such a manner that it will prevent direct light from shining onto any street or adjacent property.
 - d. No sign or other advertising device attached to a building shall project more than twelve (12) inches above the roof or parapet line, nor more than twelve (12) inches out from the wall to which it is attached.
 - e. Signs shall conform to all applicable regulations for the _____ district in which they are located.

- f. Signs being an accessory use shall be located on the same lot as the main use which it is advertising.

F. Site Plan:

For the purpose of assuring minimum environmental, social, traffic and infrastructure impacts, proper drainage, safe access, siting of structures, and administering the provisions of this Bylaw, a site plan shall be submitted as follows:

1. For Site Plan Review:

- a. All the uses for which off-street parking areas are mandatory except one and two-family dwellings.
- b. All structures, off-street parking and loading areas permitted in Multi-Family Residential, Apartment, Limited Business, Commercial-Business or Limited Industrial Districts.
- c. Ten (10) copies of the site plan shall be submitted to the Building Inspector who shall give the applicant a dated receipt and act upon said plan after forwarding it to the Planning Board for its review and comments. A written decision will be rendered within thirty-five (35) days from the date of receipt. (amended 11/1/1999)

2. For Site Plan Approval by Special Permit:

- a. By Board of Appeals - Earth Removal
- b. Ten (10) copies of the site plan shall be filed with the application for Special Permit at the time of filing with the Town Clerk. Applications will be processed in accordance with the procedural requirements of G.L. c. 40A §§9 and 11. (amended 11/1/1999)

3. For Site Plan Approval by the Planning Board:

- a. All Multi-family developments/buildings; any drive-up window; or any non-residential use which requires twenty (20) or more parking spaces in accordance with Section VII D; or if the proposed development contains buildings/structures with gross floor areas exceeding twenty thousand (20,000) square feet; or the expansion of existing structures and uses exceeding in total (old and new) twenty (20) parking spaces or twenty-thousand (20,000) square feet of floor area.
- b. Ten (10) copies of the site plan submitted for approval by the Planning Board shall be filed in the Town Clerk's office with the appropriate forms. The Planning Board shall hold a public hearing within forty-five (45) days of the date of filing with the Town Clerk. Notice of the public hearing shall be provided according to Section IX F of this bylaw. The Planning Board shall prepare the notice with sufficient identification and shall notify the applicant of the time and place of the public hearing. The applicant shall publish the notice in a newspaper of general circulation in the Town once in each of two

- (2) successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing. A copy of the advertisement shall be mailed to the Planning Board. It is the applicant's responsibility to obtain and certify from the Assessors Office a certified list of names of all abutters within three hundred (300) feet of the subdivision as they appear on the most recent tax list and prove that the applicant has properly notified all abutters by certified mailing at least fourteen days prior to the public hearing. The Planning Board shall file a written decision with the Town Clerk within sixty-five (65) days from the close of the public hearing. Approval shall require a simple majority vote of those members who were present at the hearing. (amended 11/1/1999)
- c. The Planning Board's final action shall consist of either (1) disapproval of the site plan if the applicant fails to furnish adequate information required by this bylaw; or (2) approval of the site plan subject to any conditions, modifications and restrictions required by the Planning Board which will insure that the site plan meets the standard of this bylaw.
- d. The following standards shall be used by the Planning Board in reviewing all applications for site plan approval.
- 1) Conformance with all the provisions of the Shrewsbury Zoning Bylaw;
 - 2) Provisions for convenient and safe vehicular and pedestrian movement within the site, for driveway openings that are convenient and safe in relation to the adjacent street network, and for adequate emergency vehicle access;
 - 3) Provisions for adequate parking and loading spaces, and site design that minimizes visual intrusion of these areas from public ways;
 - 4) Landscaping measures taken to screen the appearance of off-street parking areas from abutting properties and to create visual and noise buffers that minimize the encroachment of the proposed use on neighboring land uses;
 - 5) Adequate provision for controlling surface water runoff to minimize impacts on neighboring properties and streets and to prevent soil erosion and sedimentation of the Town's surface waters;
 - 6) Measures taken to minimize contamination of ground water from sewage disposal and operations involving the use, storage, handling, or containment of hazardous substances;
 - 7) The use will not create a nuisance of noise, odor, smoke, vibration, traffic generated, unsightliness or other conditions detrimental to the public good.
- e. Persons aggrieved by his or her inability to obtain site plan approval by the Planning Board or any final action by the Planning Board in connection with any site plan shall have the right to appeal to the Zoning Board of Appeals in accordance with the

procedures set forth in Section 8 of chapter 40A of Massachusetts General Law and the Zoning Board of Appeals shall have the right to hear such appeals.

f. Contents: (amended 11/1/1999)

Site plan requirements are as follows:

- 1) The site plan shall be prepared by a professional engineer and professional land surveyor and shall be prepared utilizing the most current release of AutoCAD or another Town-approved drawing package. A disk containing the AutoCAD design shall be submitted to the Planning Board. Supplemental plans may be prepared by a professional architect or landscape architect.
- 2) Plans shall be prepared at a scale of 1"=40'.
- 3) Eight (8) copies of prints, no smaller than eight and one-half by eleven (8 ½ x 11) inches, showing an outline of the site plan showing all ways, street names and street numbers shall be submitted.
- 4) The location and boundaries of the site.
- 5) Locus, including abutting land use and zoning district.
- 6) Existing and proposed land and buildings uses. Information regarding the ownership of adjacent land shall be provided.
- 7) Existing and proposed topography and proposed grading for the entire site. This shall include earth removal as defined in Section VII (H).
- 8) The location of existing utilities in adjacent streets.
- 9) The location of existing and proposed on-site structures and all buildings within two hundred (200) feet of the property lines.
- 10) Driveways and driveway openings.
- 11) Parking and loading spaces.
- 12) Delineation of wetlands or other areas potentially subject to the Wetlands and Rivers Protection Act.
- 13) Areas included in any Flood Plain District and areas included in the Aquifer Protection Overlay District.
- 14) The location of any proposed structures, streets, ways, walls, hydrants, fences, outdoor lighting, open space areas, recreation areas, egresses, service entries, facilities for waste disposal or storage, snow storage area and parking with individual spaces identified.

- 15) The location, size and sketch of all proposed signs.
- 16) Landscaping and screening, indicating distinctions between proposed and retained vegetation.
- 17) Water, drainage and sewerage systems.
- 18) Sufficient data to determine compliance with the rules and regulations of the Architectural Barriers Board for handicapped parking, if applicable, as well as parking schedule requirements based on proposed uses.
- 19) Sufficient data to determine compliance with the Table of Lot, Area, Frontage, Yard and Height Requirements.
- 20) Data regarding traffic safety and capacity issues sufficient for the Board to make a determination of whether a traffic impact analysis is necessary.
- 21) Limit of work area, including proposed tree line.
- 22) A photometric map showing on-site footcandle information.

Site plans shall include any additional requirements as provided under Section VI - Use Regulations.

Site improvements shall be in accordance with the Planning Board's current Subdivision Rules and Regulations as applicable.

g. Impact Reports: (amended 11/1/1999)

Impact Reports for each development will be required to accompany site plans and shall address traffic, public services, municipal finances and any effect upon adjoining properties.

The Planning Board or Board of Appeals, as applicable, based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements provided in this subsection VII F. Such waiver shall be issued in writing with supporting reasons.

h. Criteria for Site Plan Approval: (amended 11/1/1999)

The Planning Board shall approve a site plan only upon determination of the following:

- 1) Internal circulation, queuing, and egress are such that traffic safety is protected and access via minor streets servicing single-family homes is minimized.
- 2) Reasonable use is made of building location, grading and vegetation to reduce

visibility of structures, parking areas, outside storage or other outdoor service areas (e.g. waste storage) from public view.

- 3) Adequate access to each structure for fire and service equipment is provided.
- 4) Utilities, drainage and fire-protection provisions serving the site provide functional service to each structure and paved areas in the same manner as required for lots within a subdivision.
- 5) Lighting of structures and parking area avoids illumination on adjoining properties.
- 6) Proposed limit of work is reasonable and protects sensitive environmental and/or cultural resources.
- 7) The site plan as designed will not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
- 8) All other requirements of the Zoning Bylaw are satisfied.

G. Prohibited Uses:

The following uses shall not be allowed in any district in the Town:

1. Trailer or mobile home occupied for sleeping, cooking or for carrying on a business for more than thirty (30) days in any year, except that the Building Inspector may grant a temporary permit for the use of a trailer or mobile home for business purposes as an accessory use to a bona fide construction operation.
2. Racetracks, including those for automobiles, motorcycles, bicycles, horses and dogs.
3. Abattoir, stockyard or slaughter house except incidental to retail poultry business.
4. Trailer coach parks as defined by Chapter 140, Section 32F of the General Laws.
5. The occupancy for residential purposes or human habitation for more than two (2) years of building of which only the cellar or basement has been constructed.
6. Business, commercial or industrial uses which would be injurious, obnoxious, offensive or hazardous to a neighborhood by reason of vibration, noise, smoke, cinders, dust, gas, fumes, chemicals, excessively bright light or refuse matter. Uses hazardous because of danger of flooding, inadequate drainage, or inaccessibility to fire fighting apparatus or other protective service.
7. On-site stripping and/or stockpiling of topsoil, loam, sand, gravel, or other forms of earth from areas in excess of 5,000 square feet on any one (1) lot except as allowed under Section VII H 1.

H. Earth Removal:

1. Allowable Earth Removal:

The removal of earth including soil, loam, sand, gravel, clay, stone, quarried rock or other sub-surface products except water, will be allowed as follows:

- a. When entirely incidental to or in connection with the construction of any structure for which a building permit has been issued.
- b. When entirely incidental to subdivisions which have been approved by the Planning Board under Chapter 41 of the General Laws, and on which the Town Treasurer holds a bond with adequate surety to cover the areas in question.
- c. When entirely incidental to utility construction in public and private ways and private property.
- d. All other earth removal shall be subject to a special permit from the Board of Appeals.

2. Special Permit-Board of Appeals:

The Board of Appeals, when acting upon the powers granted in Section 14 of Chapter 40A of the General Laws, may issue a special permit for the removal of earth subject to the following conditions:

- a. Site Plan approval under Section VII F and sub-section 3 below.
- b. Establishment of a time period to complete the removal operations.
- c. Approved removal areas to be limited to ten (10) acre tracts of land with subsequent approvals on larger tracts subject to satisfactory performance on the preceding sections.
- d. Existing topsoil not to be removed from the site until the area from which it was removed has been restored.
- e. Satisfactory dust control provisions have been agreed upon.
- f. Only one entrance-exit shall be allowed onto any one (1) street.
- g. A twenty (20) foot strip shall be left in its existing condition behind the abutting property and street lines as a buffer zone. This strip may be waived if a solid type fencing five (5) feet in height is installed in lieu thereof.
- h. Excavated slopes shall not exceed a pitch of one (1) foot vertical to two (2) feet horizontal.
- i. Excavation below the grade of existing streets will not be allowed unless drainage and vehicular access is satisfactorily provided for in the final grading.

- j. The final grading, upon completion of the gravel removal operations, must provide an aesthetically pleasing relationship to the abutting properties and grades which will provide adequate drainage (0.5% minimum) to an approved outlet.
- k. In restoring the excavated areas, the existing topsoil shall be spread to a depth of four (4) inches upon which the owner shall develop a satisfactory growth of vegetation.

3. Additional Site Plan Requirements:

In addition to the requirements of Section VII F, the following requirements shall be incorporated into the site plans for earth removal:

- a. Existing and proposed contours shall be shown at an elevation interval of two (2) feet.
- b. All existing structures and current removal operations shall be shown.
- c. Estimated volume of earth removal shall be indicated.
- d. Ground water levels shall be indicated.

4. Bonding Requirements:

- a. The Board of Appeals shall require a bond with adequate surety to be deposited with the Treasurer of the Town. Said bond shall be in a form approved by the Town Counsel, and shall not expire until all conditions of the special permit have been met.
- b. The bond shall be for an amount estimated by the Town Engineer to be adequate to meet the conditions of the special permit in the event the earth removal operations are abandoned.

I. Flood Plains:

Land found to be subject to seasonal or periodic flooding as described herein shall not be developed or altered in such a manner as to endanger the health, safety or welfare of the inhabitants or occupants thereof or of the public generally or of real property from the hazards of flood inundation nor shall such development adversely affect the water table or water recharge areas within the Town so as to present a threat to the present or potential water supplies for the use of the Town for public health or safety facilities. Whenever development of such an area can be performed in a manner not detrimental to the safety or welfare of the inhabitants or occupants or property within such an area or the public generally, said development or construction shall be conducted in accordance with the following:

- 1. Those areas found to be subject to seasonal or periodic flooding shall be defined as "special flood hazard areas" and are those areas delineated as Zone A or Zone A1-30 on maps entitled "Flood Insurance Rate Maps and Flood Boundary and Floodways Maps,

Town of Shrewsbury, Massachusetts, Worcester County dated June 4, 1980". The maps as well as the accompanying Flood Insurance Study are incorporated herein by reference. The Flood Insurance Study and maps are on file with the Town Clerk, Engineering Department and Inspector of Buildings; and are hereby made part of this Bylaw by reference.

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2. The use of land located within a flood hazard area shall be governed by the provisions Section VI, Subsection A-J, of this Bylaw relative to the district in which it lies and further, said use shall be subject to all other applicable regulations contained within this Bylaw.
 3. All development within a Zone A or Zone A1-30 as shown on the Flood Insurance Rate Maps shall be subject to the Massachusetts State Building Code relative to elevation or flood-proofing requirements. Where the base flood elevation is not provided on the Rate Maps, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization towards meeting the elevation of flood proofing standards of the Massachusetts State Building Code.
 4. Within a floodway, as designated on the Flood Boundary and Floodway Map, all encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of a 100-year flood.

In any Zone A or Zone A1-30 which is situated along a watercourse that has not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in a floodway which would result in any increase in flood levels within Shrewsbury during the occurrence of the base flood discharge. Base flood elevation data is required for any proposed subdivision or other development located within an unnumbered A Zone which consists of either more than 50 lots or is greater than 5 acres in area.

5. All construction within a floodway shall be in accordance with the Massachusetts State Building Code relative to elevation or flood proofing requirements as well as Chapter 131, Section 40, of the Massachusetts General Laws and the Wetlands Protection Regulations, the Inland Wetlands Restriction, and the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, of the Massachusetts Department of Environmental Protection.
6. Where, in a riverine situation, an alteration or relocation of a watercourse is proposed, the applicant shall notify, in writing, all communities adjacent to Shrewsbury, the National Flood Insurance Program State Coordinator and the National Flood Insurance Program Federal Program Specialist.

J. Cluster Development: (amended 11/13/2001)

1. **Purpose**

- a. Intended as an alternative to conventional subdivision.
- b. To provide for the public interest by the preservation of open space and natural landscape features in perpetuity.
- c. To promote variety in single-family and multi-family residential housing patterns.
- d. To encourage development designed to accommodate a site's physical characteristics such as: topography, vegetation, water bodies, wetlands, open spaces such as farmlands and meadows, major scenic views and wildlife habitats.
- e. To encourage the preservation of important site features.
- f. Not intended to make undevelopable land developable.

2. **Definition**

Cluster Development: A division of land into lots used, or available for use, as building sites where said lots are clustered together into one or more groups, separated from adjacent property and other groups of lots by intervening "common" land.

3. **Application**

In all residential zoning districts the Planning Board may grant a special permit for any tract of land of not less than five (5) acres or more to be subdivided as a cluster development, for single family detached dwellings and multi-family dwellings, subject to the requirements and conditions of this section. Each application for the preliminary plan, definitive plan and special permit for a Cluster Development shall be filed with the Town Clerk along with 10 copies of required plans and supporting information. The Planning Board shall submit the plans and information with other boards and individuals of its choosing, and any such board or individual shall submit such recommendation as it deems appropriate to the Planning Board.

4. **Submission Requirements**

- a. Step One: Preliminary Plan

The preliminary plan shall consist of:

1. A description of the overall development plan.
2. A Sketch Plan shall show development of the parcel as a conventional subdivision.

3. Must be prepared by a registered Landscape Architect and a Professional Engineer.
 4. Show existing landscape features (including steep topography, wetlands and water resources, rock outcroppings, boulder fields, stone walls, cliffs, forest glades, drumlins, high points, hill tops and ridges).
 5. Show existing open areas (including farm fields, meadows, and major long views).
 6. Shows important natural, cultural and scenic features. This plan shall analyze the site's relation to adjacent land, such as the potential for linkages or public access.
- b. Step Two: Definitive Plan
7. The plan must be in accordance with the Shrewsbury Subdivision Rules and Regulations.
 8. The applicant can request waivers from the Subdivision Rules and Regulations if such an action is in the public interest and is consistent with the intent and purposes of the Cluster Bylaw.
 9. A public hearing is held (the second) for the Definitive Plan and Special Permit.
 10. There shall be no substantial variation from the Preliminary Plan, except as authorized or recommended by the Planning Board.

A public hearing is held for the Preliminary Plan. After the Planning Board renders a decision based upon the Preliminary Plan, the applicant shall then file both a Special Permit application and a Definitive Plan application.

- c. Decision: The Planning Board shall hold a public hearing within 65 days after the filing of the Definitive Plan and render its decision within 90 days following the close of the public hearing in conformity with the provisions of M.G.L. Ch. 40A, §§ 9 and 11. In order to facilitate processing, the Planning Board may adopt Rules and Regulations, insofar as practicable, combining procedures which satisfy this section and the Board's regulations under the Subdivision Control Law.

5. Number of Dwelling Units Permitted

The number of dwelling units permitted shall be the lesser of the two following methods; but in no case less than the number of lots developable on a subdivision under the Subdivision Rules and Regulations.

1. The number of lots developable on the definitive plan under the Subdivision Rules and Regulations plus fifteen (15) percent.
2. The maximum number of dwelling units permitted shall equal the “Net Usable Land Area” within the tract divided by the minimum lot area requirement specified in Table II for the existing zoning district in which the tract is located. Net Usable Land Area shall equal the lesser of:
 - a. 70% of the gross tract area, or
 - b. 75% of the gross tract area, minus 100% of all water bodies; and 75% of the land lying below the one hundred year flood elevation, land subject to M.G.L. Ch. 131 § 40 (wetlands), and land having slopes in excess of 15%.

These calculations shall be submitted with the request for the Special Permit.

6. Minimum Lot Area and Frontage

Cluster developments shall be permissible in all residential zoning districts and all lots therein shall have a minimum lot area of 12,500 square feet and a minimum lot frontage of 80 feet.

Lots located on the turnaround of a dead-end street shall have a minimum of fifty (50) feet of street frontage providing a front building line is designated on the Plan for such a lot and the width of the lot at this building line is at least equal to the frontage requirement above.

7. Yard Requirements

- a. Front yards may be staggered to provide a variety in the size of such yards. The minimum average of all front yards shall be twenty-four (24) feet; however, no front yard shall be less than eighteen (18) feet.
- b. Side yards shall be a minimum of ten (10) feet each.
- c. Rear yards shall be a minimum of thirty (30) feet, except along the boundaries of the tract, the rear yard shall not be less than the minimum requirement for the district.
- d. The front, side and rear setback lines shall be shown on the definitive subdivision plan.

8. Open Space Criteria, Ownership and Management

- a. At least 40 percent of the total area of the tract shall be designated as common land, and except as provided below, shall not be covered with buildings, roads, driveways,

or parking areas. No more than twenty-five (25) percent of the common land shall be wetland or land lying below the one hundred year flood elevation.

- b. The common land shall consist of contiguous parcels of land that have the maximum value for wildlife habitat, aquifer recharge, riparian protection, scenic value, historic & cultural value and where possible, shall provide a connection to adjacent open space. Furthermore, the common land shall consist in the form of one or more contiguous open spaces and not several small fragments of land. The Town shall not maintain the landscaping and signage at the subdivision's entrances. Any improvements to the subdivision entrances that are located within the right-of-way, open space or common land, that includes signage, lighting, landscaping and street furniture, shall be removed prior to acceptance by the Town.
- c. All open space must be conveyed to:
 - 1. The Town and accepted for park or open space use;
 - 2. To a non-profit corporation whose principal purpose is the conservation of open space;
 - 3. The corporation or trust owned by the lot owners within the development, ownership shall pass with the conveyance of the lot.

Land not conveyed to the town:

- 1. Must be placed under a conservation restriction enforceable by the Town;
 - 2. The applicant shall include as part of the covenant, a provision that the common open space will be deeded as approved by the Planning Board; and,
 - 3. The applicant must include in their Cluster application a program describing how the common open space will be maintained in perpetuity, including an agreement empowering the Town to perform maintenance (paid for by the lot owners) in the event of failure to comply with the program.
- d. A maximum of twenty (20) percent of the common land may be devoted to paved areas and structures used for, or accessory to, active recreational uses provided such uses are located and operated in such a manner as not to disturb the neighborhood.
 - e. All entryways into the Common Land shall be designated with an appropriate sign that shows the shape and outline of the area.
 - f. At least twenty-five (25) percent of the required common land shall be of a shape, slope, location and condition as are suitable for use as an informal field for group play or sport.

- g. Perimeter buffer strips shall not be counted towards the required open space calculation.

9. Findings of the Planning Board

The Planning Board may grant a special permit for a Cluster Development only if the Board finds that:

- a. The development helps to preserve open space, conserve important ecological features, and minimizes environmental disruption of the land.
- b. Diversity and originality in lot layout and street systems achieves an harmonious relationship between the development and the land.
- c. The common land is of such shape and character as to be well-suited for its intended use, and is appropriately located in relation to topography and places of residence as to be easily accessible to all residents of the development.
- d. The proposed use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, utility facilities, and other matters affecting the public health, safety and welfare.

10. Revision of Lot Lines

Subsequent to granting of the special permit and approval of a Definitive Plan of a subdivision, the Planning Board may permit relocation of lot lines within the development. However, any change in the number of lots, lines of streets, common land, its ownership or use, or any other conditions stated in the original special permit shall require a new special permit.

11. Design Guidelines

In evaluating the layout of lots and common land, the following criteria will be considered by the Planning Board as indicating design appropriate to the natural landscape and meeting the purpose of cluster development.

Development Standards for the Preliminary Plan

- The pedestrian circulation system is designed to assure that pedestrians can move safely and easily on the site and between properties and activities within the site and neighborhood.
- The street system provides for the safe and convenient movement of vehicles on and off the site and is designed to contribute to the overall aesthetic quality of the Development.

- The maximum number of house lots compatible with good design about the common land, and all house lots have reasonable access to the common land.
- Landscaping screens areas of low visual interest, such as utility boxes, trash containers, and parking areas, and treats pedestrian systems and open space areas in a manner which contributes to their use and visual appearance.
- The elements of the site plan (buildings, circulation, common land, landscaping, etc.) are arranged favorably with existing natural topography, streams, and water bodies.

Development Standards for the Definitive Plan

- Extensive topographic changes necessitating vegetation and tree removal are minimized. The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views, by adapting the location and placement of structures, if any are approved, and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and surrounding properties.

Open Space Use and Design Standards

Standards and requirements for the land that is to remain undeveloped address:

- The maintenance and improvements to naturally-existing woods, fields, meadows and wetlands;
- The size and shape of common open space parcel(s)
- The percentage of impervious surface allowed
- Allowed uses
- The location of retention/detention ponds
- The perimeter buffer – size, shape, composition, allowed no-cut easements
- The Developer shall develop at least one active recreation area. Active recreational areas are suitably located and accessible to the residential units and adequate screening ensures privacy and quiet for neighboring residents. Said area(s) shall not have grades exceeding 2%. At least one such area shall be large enough to provide for facilities such as: football, soccer and baseball.
- Common land is arranged to protect valuable natural environments such as stream valleys, outstanding vegetation, or scenic views, and to avoid development on hazardous areas such as flood plains and steep slopes.

11. Way, Interior Drives, and Utilities

The construction of all ways, interior drives and utilities shall be in accordance with the standards specified in the Planning Board's Rules and Regulations Governing the Subdivision of Land. The Planning Board may waive the Subdivision Rules and Regulations if it determines that adequate access will be provided to all lots in the development by ways that will be safe and convenient for travel.

K. Density Bonus Incentive for Affordable Housing (amended 5/28/1991)

1. Purpose

It is the intent of this section to lower the cost of family home ownership for people who live or work in Shrewsbury who would otherwise be unable to purchase their own home at prevailing market rates. In order to encourage the production of more affordable units by the private sector, the Planning Board may grant a special permit to allow an increase in density above that permitted as-of-right in the zoning district where the property is located. Alternative density and dimensional standards are specified in order to make the higher density possible, but in return, the development must provide for preservation of open space in order to reduce the potential impacts on the surrounding neighborhood.

2. Districts Permitted

Affordable housing developments are permitted, upon grant of a special permit by the Planning Board, in Rural A and B and Residence A districts.

3. Density Bonus

The Planning Board may authorize a greater number of single family dwelling units than that otherwise permitted as-of-right by the zoning bylaw, but in no case shall the maximum density increase be more than 15 percent (15%) of that allowed by a Cluster Development subdivision. The fifteen percent (15%) additional units, but not less than five, shall be affordable units as herein defined. If the calculation of the percentage of affordable housing results in a fractional unit of one-half or greater, the requirement shall be the next whole number.

4. Affordable Units Defined

Affordable housing units are those which may be purchased by households earning between eighty percent (80%) and one hundred twenty percent (120%) of the median income for the Worcester Metropolitan Statistical Area (MSA) as calculated by the U.S. Department of Housing and Urban Development (HUD), or any successor agency, and shall be adjusted for family size. The Shrewsbury Housing Authority shall certify

whether a proposed purchaser falls within the income guidelines established by this section by using standard lending practices prevailing at the time of application.

5. Submission Requirements

- a. Pre-application Review: to promote better communication and to avoid misunderstanding, the applicant shall submit two substantially different development plans meeting the requirement of the Planning Board's Subdivision Regulations for Preliminary Plans. The purpose of this procedure is to enable the Planning Board to compare a conventional subdivision with an Affordable Housing Development. The Planning Board shall review these plans, and advise the applicant within forty-five days of submission of its preference for use of the land.
 1. One plan shall show a conventional or grid-type subdivision of individual lots meeting the dimensional requirements of the Zoning Bylaw. The Planning Board shall have the right to eliminate any lot on the Preliminary Plan which it believes is un-buildable due to physical constraints or legal asements/restrictions which prohibit building of residences. This Plan shall determine the number of dwelling units that may be built as-of-right on the property.
 2. The second plan shall depict the layout of the affordable development and shall clearly show the number, location, and percentage of affordable and market rate units. This plan shall show no more than fifteen (15%) of that shown on the Cluster Development plan.
- b. Application: each application for a special permit for an Affordable Housing Development shall be accompanied by a Definitive Subdivision Plan meeting the requirements of the Planning Board's Subdivision Regulations. In addition to the information required in Section VII. J., 4 for a Cluster Development, the applicant shall provide the following: (5/22/2002)
 1. Information regarding the number, size and type of units to be provided for both the affordable and market rate units.
 2. Typical architectural drawings of both affordable and market rate units proposed to be built on the site.
 3. The price levels at which the affordable units will be sold and documentation that such price levels are affordable to eligible households as defined in Section 4 above. The price levels for the affordable units approved by the Planning Board may be increased by the percentage increase in the Boston Area Consumer Price Index, from the date of approval of the special permit to the date the Housing Authority is notified by the developer that the affordable units are available for sale. See Section 12.b.
 4. A schedule showing the construction of the affordable units in relation to the market rate units.

- c. The procedures for acting on the special permit application shall be those listed in Section VII. J., 4.b. and c. for a Cluster Development. (5/22/2002)

6. Dimensional Regulations

The purpose of the following dimensional regulations is to allow an appropriate increase in density as an incentive for affordable housing, but not so great as to cause an undue impact on, or conflict with, the surrounding neighborhood. Lot lines and yard setbacks shall be shown on the plan whether or not it is intended that lots be created and sold to the owners of the individual units.

- a. The minimum tract size shall be ten (10) acres, and not more than twenty-five percent (25%) of the total area of the tract shall contain wetlands, floodplains, or land under water.
- b. The following table of dimensional regulations shall govern the layout of lots and buildings in the development. The Planning Board may waive these standards for individual structures if such a waiver will result in better design or greater preservation of natural features.

	Single Family	
	Detached	Zero Lot Line (1)
Minimum Area	10,000 s.f.	10,000 s.f.
Minimum Frontage	75	65
Minimum Front Yard	25	25
Minimum Side Yard (2)	10	10
Minimum Rear Yard	30	30
Maximum Height	2-1/2 st.	2-1/2 st.

- (1) A single family detached dwelling placed on a side lot line with no side yard along that lot line.
- (2) Not applicable to the side of a zero lot line dwelling sited on a lot line.
- c. The maximum amount of impervious coverage for the entire development shall not exceed twenty five percent (25%).

- d. An open space buffer of seventy five feet (75') shall be preserved along all boundaries of the site. Retained natural woodland shall be preferred landscaping, but other landscaping may be approved provided suitable indigenous trees and shrubs are used for screening. Such lands may be maintained as common land or as private open space subject to a suitable deed restriction. On sites where insufficient land is available for a landscaped buffer, fences may be substituted provided the material selected is compatible with the facing of the buildings.
- e. Zero lot line units are prohibited from sharing a common side lot line. Zero lot line units must be sited on alternate side lot lines.

7. Open Space Criteria, Ownership and Management (amended 5/22/2002)

The Definitive Plan shall adhere to the requirements for Open Space Criteria, Ownership and Management contained in Section VII. J., 8. for Cluster Developments.

8. Design Guidelines

The Definitive Plan shall adhere to the requirements for Open Space Criteria, Ownership and Management contained in Section VII. J., 8. for Cluster Developments.

- a. In order to lower the cost of housing, affordable units may have smaller area, fewer bedrooms, and fewer amenities than market rate units and should be dispersed throughout the development.
- b. The proposed development shall be designed to retain and reflect certain characteristics of the neighborhood in which it is located. An architectural theme shall be carried out by use of common building materials, color, exterior detailing, bulk and/or roof lines. Rigidity in design shall be avoided by variations in building location, landscaping, planting and building coverage.

9. General Requirements

- a. The entire development shall be served by Town water and sewer systems.
- b. The construction of all ways, interior drives, and utilities shall be in accordance with the standards specified in the Planning Board's Subdivision Regulations. The Planning Board may waive certain regulations to help lower overall development costs provided such savings are passed on to the purchasers of the affordable units, and provided that adequate access will be provided to all lots in the development by ways that will be safe and convenient for travel.
- c. Where the housing is to be constructed in stages, the affordable units shall be provided in each stage in the same proportion as required for the total development unless otherwise permitted by the Planning Board.

- d. Upon approval of the Special Permit by the Planning Board a note shall be inscribed on the Definitive Plan that no additional lots or dwelling units may be created unless a new Special Permit is granted by the Planning Board.
- e. Affordable units shall contain two or more bedrooms and shall be suitable in type and design for family occupancy.

10. Local Preference at Time of Initial Offering

Unless otherwise prohibited by a federal or state law or regulation, at least seventy (70) percent of the affordable units shall be offered initially to present or former residents of the Town, and to persons employed within the Town, as follows:

- a. Forty (40) percent shall be initially offered to current residents who have resided in the Town for a period of three (3) years or to former residents who had resided in the Town for a period of three (3) years.
- b. Thirty (30) percent shall be initially offered to persons employed within the Town.
- c. Persons who both reside and work in the Town shall be counted as residents only.
- d. Upon notification of the availability of the affordable units by the developer, the Housing Authority shall advertise the units to the general public and shall screen qualified purchasers through a process involving applications and interviews. Where necessary, the Housing Authority may hold a lottery to select purchasers. The developer/owner shall retain final approval in the selection of the purchasers qualified by the Housing Authority. The method of selecting purchasers shall not discriminate on the basis of age, gender, race, creed, color, national origin, ancestry, marital status, physical disability, number of children, or veterans' status.

11. Long Term Affordability

- a. In order to maintain long-term affordability, the Planning Board, as a condition of the Special Permit, shall require resale price restrictions to be incorporated into the deed conveying the property to the initial purchaser, and it shall bind all subsequent purchasers for a period of forty (40) years after the initial conveyance.
- b. Subsequent resales shall be limited to a percentage of the unit's market value at the time of resale. This limitation will be determined by the percentage of market value for which the unit was originally sold. This percentage shall be recorded as part of the deed restriction.
- c. The housing authority shall be given the responsibility of monitoring the resale of affordable units. Any subsequent purchasers must submit documentation of gross annual income to the Housing Authority and be declared eligible to purchase an affordable unit by reason of meeting the applicable income guidelines.

12. Findings of the Planning Board

The Planning Board may grant a special permit for an affordable housing development only if:

- a. The Board makes the findings presented in Section VII. J., 9 for Cluster Development;
- b. The Board is satisfied that the applicant has conformed to the requirements of this section and will deliver the needed affordable units; and
- c. The increase in density does not have a material detrimental effect on the character of the neighborhood or the Town.

L. Common Driveways (amended 11/1/1999)

1. The Planning Board may grant a Special Permit to allow the use of common driveways. Common driveways may be permitted to allow for more efficient traffic flow, to reduce traffic hazards from numerous individual driveways, to consolidate access to lots across wetland resources, and otherwise where, in the Planning Board's judgement, such an arrangement will be more advantageous to the neighborhood than separate driveways.
2. Common driveways shall meet the following standards:
 - a. Minimum width: paved width of eighteen (18) feet and an easement width of twenty-four (24) feet. The paved surface shall consist of a 2-inch binder, a 1-inch top and a 12-inch gravel base.
 - b. Maximum grade: eight percent (8%), and within fifty (50) feet of the street line, six percent (6%).
 - c. Curb cut: no closer than one hundred (100) feet from the centerline intersections of any right-of-way.
 - d. Minimum centerline radius: forty-five (45) feet.
 - e. The minimum sight distance for a driveway entering onto a roadway shall be a minimum of two hundred (200) feet in each direction.
 - f. In no case shall more than three (3) lots be serviced by one (1) common driveway.
 - g. The maximum length of a common driveway shall not exceed three hundred (300) feet.
3. The design of common driveways shall assure adequate safety for emergency vehicles, water service, if available, including hydrants, and adequate drainage of surface waters and provision for turnaround for use in all seasons by emergency vehicles.

4. A declaration of covenants, easements and restrictions for the use and maintenance of said common drives may be required by the Board and shall include arrangements satisfactory to the Board concerning: roadway maintenance, snowplowing, rubbish collection and potential future use as a public way.
5. For all common driveways, the rate of a post-development runoff shall not exceed the rate of pre-development runoff. The Town Engineer and the Planning Board shall approve the drainage system.
6. No occupancy permit for a residence to be served by a common driveway shall be issued until the Planning Board certifies in writing that the common driveway has been completed in accordance with the standards of this section.
 7. No common driveway may ever be used to satisfy zoning frontage requirements.

M. LAKEWAY OVERLAY DISTRICT (5/19/2004)

1. Purposes.

The Town shall have a Lakeway Overlay District (LOD) as shown on the Zoning Map entitled, "LAKEWAY OVERLAY DISTRICT, TOWN OF SHREWSBURY," dated March 2, 2004, on file in the office of the Town Clerk. The purposes of the Lakeway Overlay District are to:

- a. Encourage a mix of commercial, residential, institutional and civic uses in a physical arrangement that is safe for vehicular, pedestrian and bicycle traffic;
- b. Provide viable alternatives to conventional commercial sprawl, thereby assisting the Town in creating and maintaining a vibrant, walkable commercial area;
- c. Promote shared access and appropriate links to adjoining properties, thereby lessening the need for curb openings on Route 9.

Toward these ends, the Planning Board is authorized to apply design guidelines, flexible dimensional regulations and site standards to the review of site plans and special permits in the Lakeway Overlay District, as set forth below.

2. Applicability.

The Lakeway Overlay District is an overlay district that applies to portions of the Commercial Business and Limited Business Districts along Route 9, as shown on the LAKEWAY OVERLAY DISTRICT map dated March 2, 2004. As an overlay district, it provides development options that do not exist in the underlying zoning districts. Except as provided below, all use, dimensional and development regulations of the Commercial Business and Limited Business Districts remain in effect and are not altered by this Bylaw.

3. Relationship to Site Plan Review.

All permitted and special permitted uses in the Lakeway Overlay District are subject to Article VII, Section F: Site Plan.

4. Definitions.

- a. Mixed-Use Development: Vertical Mix. An integration of commercial and multi-family residential uses in a single structure in which the residential uses are located above the ground floor.
- b. Mixed-Use Development: Horizontal Mix. An integration of commercial and multi-family residential uses in a development comprised of two or more structures on the same lot. The multi-family residential uses may be located above the ground floor of a commercial structure, in separate structures on the same lot, or a combination thereof.

5. Permitted Uses and Structures.

- a. Mixed-Use Development: Vertical Mix. Uses permitted (Y) in the Commercial Business District or Limited Business District, when integrated with one or more of the following uses in a single structure:
 - 1. Dwelling units above the ground floor of a commercial building.
 - 2. Live-and-work space, e.g. artist's residence and studio.
 - 3. In a vertical mixed-use development, permitted commercial uses shall constitute at least 30% of the total gross floor area of the structure.
- c. No use listed as a prohibited use under Section M.7 of this Bylaw may be included in a vertical mixed-use development or a one-family conversion.

6. Uses and Structures Permitted by Special Permit.

- a. Mixed-Use Development by Special Permit: Horizontal Mix. In the Lakeway Overlay District, the Planning Board may issue a special permit for a development that includes more than one structure on a single lot and integrates permitted or special permitted uses in the Commercial Business District or Limited Business District with the following additional uses:
 - 1. Multi-family garden-type apartments (SP-PB), subject to a new footnote to Table I:
(28) Multi-family use is allowed as part of a mixed-use development subject to the requirements of Section VII-M. Lakeway Overlay District. Multi-family units may be located above the ground floor of a commercial building, accessed by an entrance separate and distinct from commercial uses, in a multi-family building to the side or rear of the same lot, or a combination thereof. Multi-family building disposition

(placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.

2. Multi-family townhouse-type structures (SP-PB), subject to a new footnote to Table I:

(29) Use allowed by special permit subject to the requirements of Section VII-M. Lakeway Overlay District.

- b. Marinas.

- c. No use listed as a prohibited use under Section M.7 of this Bylaw may be included in a horizontal mixed-use development.

7. **Prohibited Uses.**

- a. Single-family detached dwelling.

- b. Hospital or sanitarium.

- c. Stand-alone automatic teller machines (ATM) that provide public access from a drive-up window or outside a building, except when part of a building in which the principal use is a commercial banking establishment.¹

- d. Restaurants or other places for serving food not confined to service on the premises¹

- e. Gasoline service stations.

- f. Garage and repair shops.

- g. Salesrooms for Automobiles and Motor Cycles

- h. Mortuaries or crematories

- i. Auditoriums, skating rinks, clubs and other places of amusement or assembly where activities are conducted *outside* the structure.

- j. Adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, or establishment which displays live nudity for its patrons¹

- k. Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in the Town.

- l. Any use not explicitly provided for in this Bylaw.

8. **Dimensional, Setback and Intensity Regulations.**

¹ Use prohibited in the Lakeway Overlay District and in any portion of a district underlying the LOD.

Uses in the Lakeway Overlay District shall meet the following requirements, subject to the corresponding footnotes to Section VII, Table II:

- | | |
|---|------------------|
| a. Minimum Lot Area: | 40,000 feet (16) |
| b. Minimum Frontage: | 150 feet (16) |
| c. Front Yard Setback (<u>Maximum</u> Feet): | 20 (17) |
| d. Side Yard Setback (Feet): | None (18) |
| e. Rear Yard Setback (Feet): | 20 (19) |
| f. Additional Area/Dwelling Unit: | N/A |
| g. Open Space % Lot Area: | 15% |
| h. Lot Coverage: | 50% |
| i. Maximum Height (Feet): | 35 (20) |
| j. Maximum Number of Stories: | 3 (20) |

Footnotes to Table II:

- 16) Where the underlying district is less than 300 feet in depth, the minimum lot size for uses in the Lakeway Overlay District shall be 20,000 square feet and the minimum frontage, 100 feet.
- 17) The front yard setback in the Lakeway Overlay District is a maximum setback that the Planning Board may waive by special permit only for a development that consists of more than one structure on a single lot and only for structures located to the rear of a lot. No parking shall be permitted in the front yard setback.
- 18) Except 50 feet when abutting a Rural or Residence district.
- 19) Except 50 feet when abutting a Rural or Residence district.
- 20) The Planning Board may, by special permit, authorize a maximum height up of 60 feet and five stories for development that consists of more than one structure on a single lot, provided the taller elevation/s is/are located to the rear of the lot, the structure at the front lot line conforms to the height requirements of Table II, the structure with the taller elevation is for a mix of uses but predominantly residential, and the lot does not abut a Rural or Residence District. The Planning Board may impose conditions on the special permit to require at-grade parking under a structure of 60 feet and five stories, with the parking facility constituting one story.

9. Development Regulations for the Lakeway Overlay District.

Development, redevelopment and reuse will generally be deemed consistent with the purposes of the Lakeway Overlay District when it meets the following objectives: (a) provides appropriate scale, design, operation and visual character for a New England downtown or central business district, (b) avoids “big box” development, (c) consolidates and minimizes curb cuts, subordinates the location of parking to buildings, and provides

exemplary architectural design, (d) strengthens the local economy, (e) encourages pedestrian and bicycle access along major and side streets, and between commercial or mixed-use properties, and (f) encourages people to live, work and shop in Shrewsbury by providing a planned mix of uses.

a. Multi-Family Dwellings

Multi-family garden-type apartments and multi-family townhouse dwellings may be allowed by special permit from the Planning Board when part of a horizontal mixed-use development in the Lakeway Overlay District, subject to the following requirements:

1. Multi-family garden-type apartments may be located above the ground floor of a building, provided that the ground floor is occupied by permitted or special permitted commercial uses.
2. Multi-family garden-type apartments may be allowed in separate buildings located to the side and rear portions of a lot on which the primary structure facing the street contains a vertical mix of commercial and residential uses, provided that no more than 60% of aggregate gross floor area on the lot is for residential uses. The Planning Board may waive the requirement that the primary structure contain a vertical mix of commercial and residential uses when the height of the primary structure is at least 35 feet and two and one half stories. Multi-family building disposition (placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.
3. Multi-family townhouse-type structures may be allowed in separate buildings located to the side and rear portions of a lot on which the primary structure facing the street contains a vertical mix of commercial and residential uses, provided that no more than 60% of aggregate gross floor area on the lot is for residential uses. The Planning Board may waive the requirement that the primary structure contain a vertical mix of commercial and residential uses when the height of the primary structure is at least 35 feet and two and one half stories. Building disposition (placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.
4. Multi-family garden-type apartments and multi-family townhouse-type structures must provide affordable housing in accordance with Community Benefits (below).
5. The maximum number of garden-type apartments or townhouse-type units allowed in a single development shall not exceed the limit in Footnote 5 of Table I, Section VI.
6. Aggregate maximum gross floor area of garden-type apartments or townhouse-type units approved by special permit from the Planning Board shall not exceed 40% of aggregate gross floor area of all uses in the Lakeway

Overlay District, including permitted or special permitted uses in the underlying district.

b. Site Development; Location of Buildings and Structures

In addition to the requirements of Section VII of this bylaw, the following development regulations apply in the Lakeway Overlay District.

1. Multiple buildings on a single lot. By special permit from the Planning Board, a lot in the Lakeway Overlay District may contain more than one structure with a principal use, but the total amount of development on any lot shall not exceed a gross floor area ratio of 1.5. The Planning Board may grant approval for two or more structures on one lot only upon making a determination that the proposed development:

- (a) Contains a mix of commercial and residential uses.
- (b) Meets Lakeway Overlay District Design Guidelines
- (c) Addresses the criteria under Community Benefits.

c. Site Plan Submission Requirements

All uses in the Lakeway Overlay District shall be subject to site plan review or site plan approval, as applicable, by the Planning Board. Applications and procedures shall be in accordance with Section VII-F and the following additional requirements for Site Plan Content:

- 1. Elevations of all proposed buildings, prepared and stamped by a registered professional architect.
- 2. A landscaping plan showing the location, name, number and size of plant types, and the locations and elevation and/or height of planting beds, fences, walls, steps and paths, prepared by a registered landscape architect.

d. Site Plan Approval Criteria

The Planning Board shall approve a site plan only upon a determination that the plan meets the requirements of Section VII-F.h and the following additional design criteria for the Lakeway Overlay District. Specifically, the Planning Board shall find that the site plan:

- 1. Promotes public safety by avoiding pedestrian or vehicular hazards within the site or egressing from it, facilitating access by emergency vehicles and facilitating visual surveillance by occupants, neighbors and passersby.
- 2. Minimizes curb cuts on existing public ways. Wherever feasible, access to lots in the Lakeway Overlay District shall be provided through one of the following methods: (a) through a cul-de-sac or loop road or common driveway shared by adjacent lots or premises, (b) through joint and cross access between the lot and adjacent uses, (c) through an existing side or rear street, (d) through a cul-de-sac or loop road shared by adjacent lots or premises.
- 3. Contributes to a visually attractive, pedestrian- and bicycle-oriented image throughout the Lakeway Overlay District by providing appropriate landscaping and walkways along Route 9 and between adjoining properties. In addition:
 - (a) The front yard area should provide pedestrian amenities, such as an accessible patio or sitting plaza, and a continuous landscaped edge to the property in question, except for points of entry and exit. Visual relief from buildings and hard materials shall be accomplished with landscape treatment such as shrubs, trees, flower boxes and other greenery around buildings or in recessed places.

- (b) If no public sidewalk exists across the frontage of the lot, a paved sidewalk of at least six feet in width shall be provided within the front yard setback and to the maximum extent possible, the sidewalk shall be designed to create a continuous pedestrian walkway with the abutting properties.
 - (c) Parking shall be located to the rear of a building and may be located to the side, provided that no off-street parking is located within 20 feet of the front elevation facing Route 9.
 - (d) Parking areas shall include appropriate, visible facilities for the parking of bicycles.
- 4. Enhances the natural environment by preserving mature trees where they exist, reducing the volume of earth materials cut or filled, reducing soil erosion during and after construction and reducing the extent of alteration in the amount, timing and location of stormwater runoff from the site.
 - 5. Addresses the Lakeway Overlay District Design Guidelines to the maximum extent practical given the size of the proposed development, its mix of uses, and its relationship to abutting properties.
- e. Lakeway Overlay District Design Guidelines

The following design guidelines apply to all uses and structures in the Lakeway Overlay District and should be addressed, to the maximum extent practical, in applications for site plan review or site plan approval, as applicable.

- 1. General. The elements on a building's elevations are crucial to its overall architectural quality, its presence and contribution to the surrounding area. A two- to two-and-one-half story elevation is preferred for structures facing Route 9, but a three-story elevation is acceptable. The Planning Board may approve taller elevations for structures located to the rear of a lot. In addition, a pleasing, symmetrical arrangement of windows, entrances, trim, shutters and other details, and proportionality of these features, creates a rhythm that will accomplish the town's objectives for the Lakeway Overlay District. Generally, buildings should contribute to a sense of continuity and coherence for all who visit, shop or work there. Architectural diversity is encouraged as long as individual design solutions are compatible with the purposes of the Lakeway Overlay District as a compact, mixed-use area with a strong visual definition.
- 2 Site context. Recognizing that major visual exposure comes not only from the building front, applicants must give full attention to the treatment of sidewalks, landscaping, parking areas and the building wall at the rear and sides.
- 3. Orientation. Buildings should not turn their backs to the street. They should face the street, and may be oriented around a courtyard or respond in design to a prominent feature, such as a corner location. Buildings and site design should provide an inviting entry orientation.
- 4. Size, mass, facades and exterior features. No single structure may exceed 80,000 gross square feet. A single building with a width of more than 60 feet facing the street should

- be divided visually into sub-elements which, where appropriate, express the functional diversity within the building. In addition, all buildings should:
- (a) Provide continuous visual interest, emphasizing such design features as bay windows, recessed doorways, pilasters, columns, horizontal and vertical offsets, material and color variations, decorative cornices, awnings or canopies.
 - (b) Avoid unarticulated and monotonous building facades and window placements, regular spacings, and building placements that will be viewed from the street as continuous walls.
 - (c) Provide human-scale features, especially for pedestrians and at lower levels and from a pedestrian viewing distance.
5. Accommodation of taller buildings. Taller buildings must be located away from Route 9 and from abutting and off-site residential areas.
 6. Exterior materials. Exterior materials may include painted clapboard, wood shingles, brick or materials of comparable appearance, subject to approval by the Planning Board. Neutral or earth-tone colors are appropriate, but brighter colors may be applied to building trim with approval of the Planning Board. Variation in materials, appropriate colors and textures is encouraged when they contribute to the purposes of the Lakeway Overlay District. Rough, imitation or reflective materials such as unpainted wood, field stone, stucco, smooth-face concrete, exposed metal, imitation materials, mirror glass, porcelain enamel or polished stone are prohibited unless authorized by special permit from the Planning Board.
 7. Rooflines and roof features. A flat or nearly flat roof is prohibited on any building facing the street in the Lakeway Overlay District, except as provided below.
 - (a) Structures facing Route 9 should have a simple gable roof with an average slope of 6 over 12. A structure that fronts on and faces a side street should have a simple gable roof with a pitch of at least 8 over 12, or a gambrel or a hip roof. The roof trim should have depth and projection of details.
 - (b) The Planning Board may grant a special permit to authorize a flat-roof design on a structure facing Route 9, provided that a flat roof structure shall be capped by an articulated parapet design that acts as a structural expression of the building façade and its materials.
 - (c) For other structures, roof features should complement the character of adjoining development and meet the purposes of the Lakeway Overlay District. Roofs shall, at a minimum, have articulated parapets concealing flat roofs and rooftop equipment, (such as HVAC units) which are visible from adjoining public streets or properties. Parapets or facades shall be designed to give the appearance of three or more roof slope planes.
 8. Environmental design. Applicants are encouraged to use green building technologies and materials, wherever possible, to limit environmental impacts.

9. Large retail development. Large retail developments of more than 50,000 square feet of floor area should provide outdoor spaces and amenities to link structures with surrounding areas in the Lakeway Overlay District. Passenger drop-off/pick-up points shall be integrated with traffic patterns on the site. Special design features shall enhance the building's function as a center of activity within the District. Unless waived by the Planning Board, each large retail development shall provide at least one of the following design features, which shall be constructed of materials that match the principal structure and linked by sidewalks to the principal structure:

- (a) Patio/seating area.
- (b) Pedestrian plaza with benches.
- (c) Window shopping walkway.
- (d) Play areas.
- (e) Kiosk area.
- (f) Water feature or clock tower.
- (g) Other focal feature approved by the Planning Board.

f. Community Benefits

The Planning Board may grant a special permit for a mixed-use development that includes multi-family garden-type apartments or multi-family townhouse-type structures when the development provides community benefits. For purposes of this bylaw, “community benefits” shall include low- or moderate-income affordable housing and one of the additional benefits described below.

- 1. Low-income affordable housing. A mixed-use development shall provide 10% of the dwelling units as affordable in perpetuity to households with incomes at or below 80% of area median income as determined by the U.S. Department of Housing and Urban Development (HUD). “Affordable” shall account for adjustments to income based on household size/s suitable for the proposed dwelling units, as presented in the formula for below-market housing.
- 2. For mixed-use developments that receive a special permit on the condition of including low-income affordable units, no occupancy permit shall be issued for until:
 - (a) An affordable housing use restriction or regulatory agreement approved by the DHCD Local Initiative Program (760 CMR 45.00) has been recorded at the Registry of Deeds.
 - (b) Applicants provide evidence acceptable to the town that the unit/s has/have been approved by the DHCD Local Initiative Program (760 CMR 45.00) for listing on the Chapter 40B Subsidized Housing Inventory.
- 3. Neighborhood or community facility. A mixed-use development shall also provide a neighborhood or community facility, i.e., a facility open and available to residents of

nearby neighborhoods or the town, and meets community needs as determined by the Planning Board. A neighborhood or community facility may include:

- (a) A small public park with furnishings and pathways accessible to persons with disabilities.
- (b) A tot lot or small neighborhood playground, with furnishings and pathways accessible to persons with disabilities.
- (c) A bandstand.
- (d) A fee in lieu of neighborhood or community facilities paid to the Lakeway Overlay District Fund. The fund shall be the town's use to provide streetlights, sidewalks, trash receptacles, parking and public realm improvements in the Lakeway Overlay District, in accordance with a fee schedule approved by the Planning Board.

10. Special Permits in the Lakeway Overlay District.

The special permit Granting Authority (SPGA) for uses and structures in the Lakeway Overlay District shall be the Planning Board.

- a. Requirements. An application for a special permit in the Lakeway Overlay District shall include a written description of the proposal for which a special permit is requested and a Site Plan prepared by a Registered Professional Engineer and/or Registered Land Surveyor at an appropriate scale to clearly show dimensions, legend, and all other information deemed necessary to describe the site and its conditions. The application and accompanying plan(s) shall be of size, form, number and contents specified in the Lakeway Overlay District Submission Requirements and Procedures, adopted by the Planning Board and filed with the Town Clerk. After adoption of this Bylaw, the Planning Board shall prepare and adopt the Lakeway Overlay District Submission Requirements and Procedures following a public hearing.
- b. Site Plan Approval. The site plan approval requirements of Section VII.F(3) of this Bylaw shall apply to special permitted uses in the Lakeway Overlay District. For uses allowed by special permit, site plan review shall be conducted concurrently with the special permit application, review and determination procedures.
- c. Special Permit Granting Criteria. The Planning Board may approve a special permit for a proposed use or structure upon finding that the application complies with the purposes of this Bylaw, to the degree consistent with a reasonable use of the site for the purpose permitted within the Lakeway Overlay District. In making its decision, the Planning Board shall consider the following criteria:
 - 1. Compliance with the Shrewsbury Zoning Bylaw
 - 2. Consistency with the Shrewsbury Master Plan.
 - 3. The degree to which the development meets the "Lakeway Overlay District Design Guidelines" in Section 9.e of this Bylaw.

4. The degree to which the applicant has preserved and enhanced a historically significant building or other historic or cultural resource, where applicable.
5. The degree to which the applicant's proposal provides logical, safe pedestrian connections to other uses nearby.
6. Protection of adjoining premises against detrimental or offensive uses on the site.
7. Adequacy of space for vehicular access to the site and off-street parking and loading/unloading on the site.
8. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways and land.
9. Adequacy of water supplies and distribution for domestic use fire protection.
10. Adequacy of the methods of storage and disposal for sewage, refuse and other wastes resulting from the uses permitted on the site and the methods of drainage or retention of surface water.

11. Off-Street Parking.

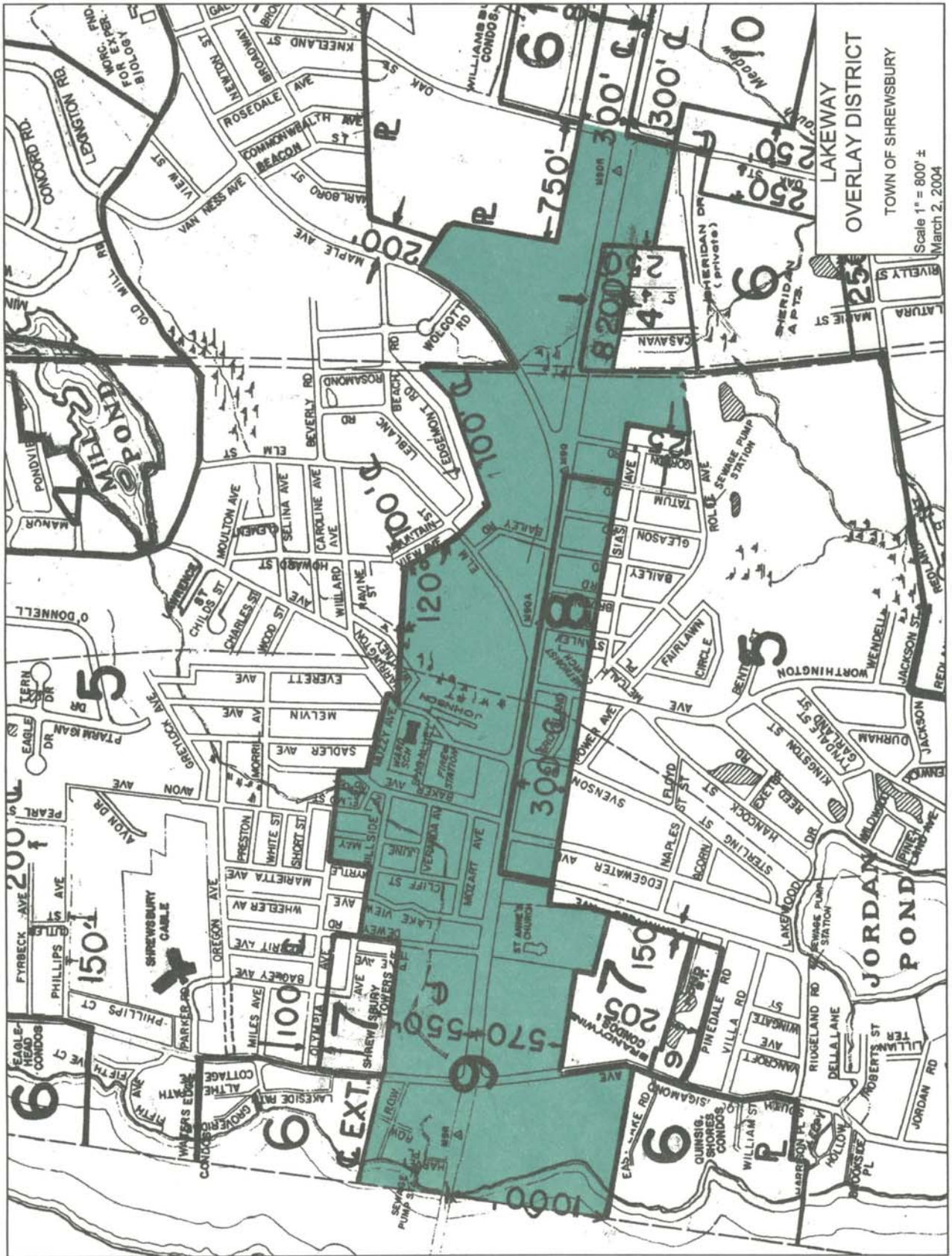
- a. Off-street parking shall be provided in accordance with Section VII.D, Off-Street Parking and Loading Regulations, except that in the Lakeway Overlay District, applicants may seek relief from strict compliance with the off-street parking requirements of this Bylaw by obtaining a special permit from the Planning Board.
- b. The Planning Board may grant relief by issuing a special permit to:
 1. Reduce the number of required parking spaces.
 2. Accept from the applicant a payment in lieu of parking spaces to the Lakeway Overlay District Fund.
 3. Authorize a combination thereof.

12. Use Variances.

Use Variances are not permitted in the Lakeway Overlay District.

13. Additional Requirements

The Planning Board may adopt rules and regulations necessary to implement this Bylaw after holding a public hearing. Rules and regulations adopted by the Planning Board shall be filed with the Town Clerk.



SECTION VIII -- ADMINISTRATION

The provisions of this Bylaw and any amendments thereto shall be administered and enforced by the Building Inspector.

A. Building Permits:

1. Application for building permits when required shall be in accordance with the Commonwealth of Massachusetts State Building Code in effect at the time of the application.
2. The Building Inspector shall not issue a building permit for the erection or alteration of any building or part thereof unless the plans, specifications and intended uses of such building on the lot are in all respects in conformity with this Bylaw. Where special permits are required under this Bylaw, the Building Inspector shall issue no permit until so directed in writing by the Board of Appeals, or where applicable, the Planning Board.
3. Whenever such permit is refused because of some provision in this Bylaw, the reason therefor shall be clearly stated in writing.
4. The fee required for a building permit shall be that established by the Board of Selectmen.
5. Any person, officer, official or board aggrieved by reason of his inability to obtain a permit, or by any order or decision of the Building Inspector or other administrative official shall file his written appeal with the Town Clerk for delivery to the chairman of said Board of Appeals, together with the current appeal fee set by the Board of Appeals, not later than thirty (30) days after the mailing of notice of said order or decision causing the aggrievance of the refusal to issue such permit.
6. Any building, structure or use authorized by the issuance of a building or special permit shall conform to any subsequent Bylaw amendment unless the use or construction authorized by such building or special permit is commenced within one year from the date of issuance of such permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

B. Occupancy Permits:

No building hereafter erected, altered or relocated shall be used, and no change shall be made of the use of any building or of any parcel of land, unless an occupancy permit signed by the Building Inspector has been granted to the owner or occupant of such land or building. This permit shall be applied for at the same time that the building permit is applied for, or in the case of land, before any improvements are made thereon, and shall be issued within ten (10) days after notification from the permittee that the premises are ready for occupancy.

Such permit shall not be granted unless the proposed use of the land or building and all necessary uses comply in all respects with this Bylaw, and no use shall be made of such land or building except the use or uses authorized by such occupancy permit.

If the permit is denied, the permittee shall be so notified in writing within the stated ten (10) days. All the specific conditions of non-conformance shall be enumerated in the notification.

C. Violations and Enforcement:

Violation shall be determined by the Building Inspector by an investigation of the fact and inspection of the premises, after which he shall give notice thereof in writing to the owner or to his duly authorized agent and to the occupant of the premises, and shall order that any use of any premises contrary to the provisions of this Bylaw shall immediately cease. Each day of violation after such written notice will be considered a separate offense. If, after such notice, the premises continue to be used in a manner contrary to the provisions of this Bylaw, or if any such owner or occupant shall fail to obey any lawful order of the Building Inspector in respect to any violation or use contrary to the provisions of this Bylaw, the Building Inspector shall institute appropriate legal proceedings to enforce the provisions of this Bylaw or to restrain by injunction any violation thereof, or both. A property owner who upon written notification to do so by the Building Inspector fails to comply with any of the provisions of this Bylaw within fourteen (14) days, or take constructive action to do so shall be subject upon conviction to fine of fifty dollars (\$50.00) for each offense.

**SECTION IX - BOARD OF APPEALS AND SPECIAL PERMIT
GRANTING AUTHORITY**

A. Establishment of Board of Appeals/Special Permit Granting Authority:

A Board of Appeals shall be established in accordance with the provisions of Section 12 of Chapter 40A of the Massachusetts General Laws.

The Board of Appeals shall consist of five (5) members, one of whom shall be the Chairman of the Planning Board and four (4) associate members, all appointed by the Board of Selectmen. Members and associate members shall be registered voters in the Town.

Members shall be appointed for two (2) year terms as of April 1 of each year except for the Chairman of the Planning Board, who shall be appointed annually. Associate members shall be appointed for one (1) year terms.

Where provided in Section VI, Subsection H and K and Sections VII, Subsections F and J, of this Bylaw, the Planning Board shall act as the Special Permit Granting Authority in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 9.

The Planning Board, when acting as the Special Permit Granting authority, shall have one (1) Associate Member. The Associate Member shall be appointed by the Town Manager for a period of one (1) year and shall act in the case of absence, an inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

B. Basis for Appeals:

1. An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A of the Massachusetts General Laws, or of this Bylaw or amendments thereto, by the Central Massachusetts Regional Planning Commission or by any person, including an officer or board of the Town of Shrewsbury, or of an abutting city or town, aggrieved by an order or decision of the Building Inspector, or other administrative official, in violation of any provision of Massachusetts General Laws, Chapter 40A, or of this Bylaw or amendments thereto.
2. An appeal to the Board of Appeals for a variance as provided for in Massachusetts General Laws, Chapter 40A, Section 10, may be made by any person, including an officer or board of the Town of Shrewsbury, or an officer or board of any other city or town.
3. An appeal or a petition to the Board of Appeals/Special Permit Granting Authority for a Special Permit as provided for in Massachusetts General Laws, Chapter 40A, Section 9, may be made by any person, including an officer or board of the Town of Shrewsbury, or an officer or board of any other city or town.

C. Powers of the Board of Appeals/Special Permit Granting Authority:

1. Board of Appeals: To hear and decide appeals taken as provided in Massachusetts General Laws, Chapter 40A, Section 8.
2. Board of Appeals: To hear and decide appeals or petitions for variances as provided in Section 10 of Chapter 40A of the Massachusetts General Laws. Variance may be granted which would authorize a use or activity in the district in which the land or structure is located which is not otherwise permitted by this Bylaw.
3. Board of Appeals: To hear and decide applications for special permits as provided in Massachusetts General Laws, Chapter 40A, Section 9.

In exercising the powers granted by Section 14 of Chapter 40A, the Board of Appeals may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter. The Board may also make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

4. Special Permit Granting Authority: To hear and decide applications for special permits as provided in Massachusetts General Laws, Chapter 40A, Section 9.

D. Procedure for Appeals:

An appeal under Section 8 of Chapter 40A of the Massachusetts General Laws shall be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a Form of Appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the members of the Board of Appeals. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which appeal is taken.

Any appeal or petition for a variance or special permit shall be made by filing with the Town Clerk a Form of Appeal. Upon such submission, the Town Clerk shall submit copies thereof forthwith to the Board of Appeals or the Special Permit Granting Authority, as applicable.

E. Conditions for Approval:

The Board of Appeals/Special Permit Granting Authority may grant upon appeal or petition a Special Permit for those uses as specified in this Bylaw upon satisfaction that said use is appropriate and that it will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated, unsightliness or other conditions detrimental to the public good.

The rights authorized by the granting of a special permit in accordance with the provisions of this section shall terminate if the use or, in the case of a building or structure, construction has not commenced except for good cause, within two years from the date of such granting

exclusive of such time required to pursue or await the determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 17.

In the case of a Special Permit granted for a professional office or customary home occupation, such permit shall terminate with the change in ownership of the property for which the Special Permit was issued.

The provisions of this section shall terminate upon abandonment of such use or if such use is discontinued for a period of two (2) years.

F. Public Hearing:

Meetings of the Board of Appeals/Special Permit Granting Authority shall be held at the call of the chairman or when called on such other manner as the Board of Appeals/Special Permit Granting Authority shall determine in its rules. The Board of Appeals/Special Permit Granting Authority shall hold a public hearing on any appeal, application or petition transmitted to it from the office of the Town Clerk in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 and 15.

The Board of Appeals/Special Permit Granting Authority shall cause notice of such hearing to be published and sent to "parties in interest" as designated in Massachusetts General Laws, Chapter 40A, Section 11. The Chairman, or in his absence the Acting Chairman, may administer oaths, summon witnesses, and call for the production of papers.

All hearings of the Board of Appeals/Special Permit Granting Authority shall be open to the public and shall be conducted in accordance with the applicable provisions of Massachusetts General Laws, Chapter 40A, Sections 9, 11 and 15.

SECTION X - AMENDMENTS, VALIDITY AND EFFECTIVE DATE

A. Amendments:

This Bylaw may be amended from time to time at an annual or special town meeting in accord with the provisions of Section 5 of Chapter 40A of the General Laws.

B. Validity:

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

In general, this Bylaw is supplementary to other Bylaws affecting the use and dimensions of buildings, structures and premises. Where this Bylaw imposes greater restrictions than imposed by other Bylaws, the provisions of this Bylaw shall control.

C. Effective Date:

The adoption of this Zoning Bylaw shall have the force and effect of repealing all presently existing Zoning Bylaws and Regulations and Amendments thereto, heretofore adopted by the Town.

The effective date of the regulations and restrictions of this Bylaw and of the establishment of the respective districts shall be deemed to be August 2, 1967.