

TOWN OF WESTHAMPTON



ZONING BYLAWS

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TOWN OF WESTHAMPTON

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SECTION I - TITLE, AUTHORITY AND PURPOSES

1.0 TITLE

This Bylaw shall be known and may be cited as the "Zoning Bylaw for the Town of Westhampton"

1.1 AUTHORITY

This bylaw is adopted pursuant to the authority granted by Massachusetts General Laws, Chapter 40A, as amended by Chapter 808 of the Acts of 1975. The construction, alteration, location, use and extent of use of lands within the Town of Westhampton are hereby regulated as provided in this bylaw.

1.2 PURPOSES

The purpose of this bylaw is to promote the health, safety, and the general welfare of all the inhabitants of the Town of Westhampton; to protect and conserve the value of property and the beauty of the Town; to reduce the hazard from fire by regulating the use of land, and the location and use of buildings and structures and the area of open spaces about them, and to encourage the most appropriate use of land within the Town.

SECTION II - ZONING DISTRICTS

2.0 TYPES OF DISTRICTS

For the purposes of this bylaw, the Town of Westhampton is hereby divided into the following types of use districts:

AR-----Agricultural Residential

FPD-----Floodplain District

WS-----Water Supply Protection District

SPD-----Solar Photovoltaic District

2.1 DISTRICT LOCATIONS AND BOUNDARIES

The location and boundaries of the Floodplain District and the Water Supply Protection District are shown on the following maps. The Floodplain District is defined on a map described in Section 4.0. The Water Supply Protection District is defined on a map described in Section 4.1. These maps are on file with the Town Clerk.

1. Where boundaries are indicated in the right-of-way streets or watercourses, such boundaries shall be the centerline of the right-of-way.
2. Where boundaries approximately follow property lines and are not more than twenty-five feet (25 ft.) therefrom, the property line shall be the district boundary, with the exception of the Floodplain District, and the Water Supply Protection District, wherein boundaries shall always follow natural features and landscape contours shown on the maps.
3. Where boundaries are parallel to a street or road and fixed by dimensions on the zoning map, the distance shall be measured from the center line of such ways.
4. Where distances are not specified on the zoning map or otherwise determined from the above provisions, the scale of the zoning map shall be used to determine the location of the district boundary.
5. Where the location of a boundary line is uncertain, the Zoning Enforcement Officer shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map.

2.2 HAZARDOUS WASTE DISTRICT

2.20 No hazardous waste disposal facility shall be sited within the Town except within a Hazardous Waste District established as a zoning change by a town meeting.

2.21 Radioactive waste disposal:

- a. A low-level radioactive waste disposal facility may be permitted within a Hazardous Waste District by special permit from the Board of Appeals in accordance with all applicable provisions of this bylaw and of any applicable state or federal laws. The special permit shall impose such conditions and limitations on the proposed use as the Board of Appeals may determine are necessary for the protection of public health, safety and welfare.

SECTION III - PRINCIPAL USE REGULATIONS

3.0 SCHEDULE OF USE REGULATIONS

Except as provided elsewhere in this bylaw, no building or structure shall be erected or altered, and no building, structure or land shall be used for any purpose other than as provided for in this section. If a use or condition is not specifically or generally listed herein, landowner/interested party should contact the Zoning Board of Appeals for a variance.

The restrictions and controls intended to regulate development in each district are set forth in Table L Westhampton Schedule of Use Regulations. The following notations apply to the Schedule of Use Regulations.

| | |
|------------|--|
| Y | Yes - Use Permitted |
| SPA | Use allowed with Site Plan Approval |
| SP/ZBA | Use allowed by Special Permit from the Zoning Board of Appeals |
| SP/ZBA/SPA | Use allowed by Special Permit from the Zoning Board of Appeals with Site Plan Approval |
| SP/PB/SPA | Use allowed by Special Permit from the Planning Board with Site Plan Approval |
| N | No - Use Prohibited |

3.01 PROHIBITED USES

Any use not specifically or generally listed herein or otherwise permitted in a district shall be deemed to be prohibited. The following uses shall be prohibited in all districts.

- a. Billboards
- b. Common driveways
- c. ***
- d. Marijuana Establishments (see Section 5.11)

3.015 Exemptions

In accordance with M.G.L., Chapter 40A, any facilities or uses whereby owned and/or operated by the federal government, the Commonwealth, a religious organization or a non-profit education organization will be exempt from the special permit process.

| BYLAW NUMBER | LAND USE CLASSIFICATION | STANDARDS & CONDITIONS | ZONING DISTRICT | | | |
|-----------------|--|--|--------------------|-----|------------|-----|
| | | | AR | FPD | WS | SPD |
| 3.02 | <u>GENERAL USES</u> | | | | | |
| 3.0225 | Farm stand | For the sale and display of farm products | Y | Y | Y | |
| 3.023 | Forestry, wood harvesting tree farm, nursery | | Y | Y | Y | |
| 3.0235 | Conservation land | | Y | N | Y | |
| 3.024 | Commercial boarding stable, riding academy | | Y | N | Y | |
| 3.02 | Agriculture, horticulture, floriculture, aquaculture | | Y | Y | Y | |
| 3.021 | Commercial livestock, dairy, poultry farms | | Y | Y | Y | |
| 3.022 | Farm business, commercial greenhouse | Structures may be used for boarding animals only | Y | N | Y | |
| 3.0245 | Kennel (commercial) | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.0246 | Kennel | | Y | N | Y | |
| 3.025 | Commercial golf course | | Y | N | SP/ZBA/SPA | |
| 3.026 | Commercial landing strip or heliport | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.027 | Commercial recreational facility | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.028 | Campgrounds | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.028 | Campgrounds | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.03 | <u>RESIDENTIAL USES</u> | | | | | |
| 3.03 | Single-family dwelling | | Y | N | Y | |
| 3.031 | Two-family dwelling | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.032 | Mobile home | | Y | N | Y | |
| 3.033 | Mobile Home Park | | N | N | N | |

| BYLAW NUMBER | LAND USE CLASSIFICATION | STANDARDS AND CONDITIONS | ZONING DISTRICT | | | |
|-----------------|---|--|--------------------|-----|------------|-----|
| | | | A | FPD | WS | SPD |
| 3.034 | Room rental or Boarding House | Taking 4 boarders and/or roomers not to exceed 4 persons by a resident family. Before as special permit can be obtained, a Disposal Works Construction Permit from the Board of Health to ensure that the existing sewage disposal system is adequate for the use. No bed & Breakfast shall have more than 4 rooms to rent, nor shall any one room be rented by more than 3 unrelated persons. The owner must obtain a Disposal Works Construction Permit from the Board of Health to ensure that the existing sewage disposal system is adequate for the proposed alteration to the existing dwelling. | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.035 | Bed and Breakfast | See Section 5.8 | SP/PB/SPA | N | Y | |
| 3.036 | Congregate housing for the elderly, handicapped, and affordable housing | | SP/PB/SPA | N | N | |
| 3.04 | <u>COMMUNITY AND PUBLIC SERVICE USES</u> | | | | | |
| 3.041 | Municipal buildings | Including but not limited to police stations, fire departments, town offices, libraries, department of public works, etc. | Y | N | Y | |
| 3.042 | Public utility, sub-station or similar building facility | Excluding power generating plants | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.043 | Public or non-profit educational institution | | Y | N | Y | |
| 3.044 | Church, parish house, or other place of worship | | Y | N | Y | |
| 3.045 | Public park, playground | | Y | Y | Y | |
| 3.046 | Philanthropic institution | | Y | N | Y | |

| BYLAW NUMBER | LAND USE CLASSIFICATION | STANDARDS AND CONDITIONS | A | FPD | WS | SPD |
|-----------------|--|---|------------|-----|------------|-----|
| 3.047 | Neighborhood or community clubhouse, headquarters of fraternal organization or private membership club not conducted as a private business | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.49 | Funeral establishment | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.50 | Cemetery, Crematory | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.51 | Private museum, art gallery, craft center | | SP/ZBA/SPA | N | SP/ZBA/SPA | |
| 3.52 | Daycare Center | | Y | N | Y | |
| 3.525 | Daycare Home | | Y | N | Y | |
| 3.06 | <u>BUSINESS USES</u> | | | | | |
| 3.060 | General retail store | Including items such as crafts made on the premises | SP/PB/SPA | N | SP/ZBA/SPA | |
| 3.061 | Convenience store | See definition | SP/PB/SPA | N | SP/PB/SPA | |
| 3.062 | Discount store, Wholesale store | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.063 | Shopping centers | No shopping center shall exceed 50,000 square feet in floor area | SP/PB/SPA | N | SP/PB/SPA | |
| 3.064 | Bank | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.065 | Business or professional office | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.066 | Repair shop | Such as appliance, electronic, or jewelry repair | SP/PB/SPA | N | SP/PB/SPA | |
| 3.067 | Restaurant | For serving food or beverage to persons inside the building or on the premises | SP/PB/SPA | N | SP/PB/SPA | |
| 3.068 | Drive-in/fast food restaurant | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.069 | Automotive Service station, auto or motorized vehicle repair shop, and auto body shops | | SP/PB/SPA | N | N | |
| 3.070 | Automotive service station/Convenience store | | SP/PB/SPA | N | N | |
| 3.071 | Motor vehicle sales | The planning Board shall establish a maximum limit on the number of motor vehicles for sale | SP/PB/SPA | N | N | |
| 3.072 | Trucking or bus terminals | | SP/PB/SPA | N | N | |

| BYLAW NUMBER | LAND USE CLASSIFICATION | STANDARDS AND CONDITIONS | A | FPD | WS | SPD |
|-----------------|---|---|-----------|-----|-----------|-----|
| 3.073 | Newspaper or job printing | | SP/PB/SPA | N | N | |
| 3.074 | Commercial radio or TV tower | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.075 | Private utility substation or similar facility or building | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.076 | Junkyards | | N | N | N | |
| 3.077 | Veterinary hospital | All animals must be kept inside permanent buildings | SP/PB/SPA | N | SP/PB/SPA | |
| 3.078 | Hospital, sanitarium, rest home, convalescent or nursing home, continuing care retirement community | | SP/PB/SPA | N | N | |
| 3.079 | Registered Marijuana Dispensary (RMD) | See section 5.10 | SP/PB/SPA | N | N | |
| 3.080 | Off-site Medical Marijuana Dispensary (OMMD) | See section 5.10 | SP/PB/SPA | N | N | |
| 3.08 | <u>MANUFACTURING AND INDUSTRIAL</u> | | | | | |
| 3.080 | Marijuana Establishments | See definitions | N | N | N | N |
| 3.082 | Sawmills | Temporary use of portable wood processing equipment does not require a SP | SP/PB/SPA | N | SP/PB/SPA | |
| 3.083 | Construction supply establishments | | SP/PB/SPA | N | SP/PB/SPA | |
| 3.084 | Light industrial use including processing, manufacturing, fabrication, and assembly | See definition of "light" | SP/PB/SPA | N | SP/PB/SPA | |
| 3.09 | <u>ACCESSORY USES</u> | | | | | |
| 3.090 | Home occupation | | Y | N | Y | |
| 3.091 | Home office or studio | | Y | N | Y | |
| 3.092 | Private garage or tool shed for residential use | | Y | N | Y | |
| 3.093 | Private landing strip or heliport | | SP/ZBA | N | SP/ZBA | |

| BYLAW NUMBER | LAND USE CLASSIFICATION | STANDARDS AND CONDITIONS | A | FPD | WS | SPD |
|-------------------------|----------------------------------|--|----------|------------|-----------|------------|
| 3.094 | Off street parking | See section 5.74 | Y | N | Y | |
| 3.095 | Signs | Subject to Sign Bylaw in section 5.4 obligations | Y | N | Y | |
| 3.096 | Roof mounted solar energy system | See section 5.13 | | | | |
| 3.097 | Ground mounted energy system | See section 5.14 | | | | |

3.2 DIMENSIONAL AND DENSITY REGULATIONS

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in the table below. No more than one dwelling shall be built upon any such lot No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

Table 2: TABLE OF DIMENSIONAL REGULATIONS

Yard

| District | Use | Minimum Lot Area (sq.ft.) or as <u>Noted</u> | Minimum Frontage (ft.) | Minimum Yard Setback (ft.) | | | Max. No. of Stories | Max. Height of Building (ft.) | Max. % Coverage of Building Including Accessory Buildings |
|---|--|--|-------------------------|----------------------------|------|------|---------------------|-------------------------------|---|
| | | | | Front | Side | Rear | | | |
| AR | Any Permitted Use (not listed below) | 50,000 | 250 | 50 | 20 | 20 | 2 | 35 | 20 |
| | Two Family Dwelling | 80,000 | 300 | 50 | 20 | 20 | 2 | 35 | 20 |
| | Campground | 10 acres | 250 | 50 | 50 | 50 | 2 | 35 | 20 |
| | Elderly Handicapped and Affordable Housing | 40,000 per Dwelling Unit | 100 per Dwelling Unit** | 75 | 75 | 50 | 2 | 35 | 30 |
| | Off-site Medical Marijuana Dispensary or Registered Marijuana Dispensary | 80,000 | 300 | 100 | 100 | 100 | 2 | 35 | 30 |
| FDP & WS | Any Permitted Use | The dimensional regulations of the underlying district shall apply | | | | | | | |
| | | | | | | | | | |
| Note: Max. No. of Dwelling Units per structure - 6 | | | | | | | | | |
| ** Provided that a minimum of 250 ft. of frontage is required per structure | | | | | | | | | |

3.21 Additional Dimensional and Density Regulations

- a. No building shall be erected within twenty (20) feet of an abutter's property line and all building lots shall consist of a minimum frontage of two hundred and fifty (250) contiguous feet on a public way. On a corner lot, total frontage must be on a single public way.
- b. The height of any building or structure measured from the highest point of any roof or parapet to the average finished grade on the street side of the structure shall not exceed thirty-five (35) feet. This limitation shall not apply to spires, domes, chimneys, antennae, cupolas, television and radio towers, belfries, monuments, tanks, water and fire towers, windmills, silos, ski lift towers, nor to farm buildings, churches, municipal and institutional buildings.
- c. No topography, vegetation, signs, walls or fences which interfere with traffic visibility at any point within thirty-five (35) feet of the intersection of 2 or more streets or roadways will be allowed. All signs must conform to the sign regulations in Section 5.4.
- d. No building shall be erected within 50 feet of any public way.

3.3 NON-CONFORMING USES

The lawful use of any structure or land existing at the time of the enactment or amendment of this bylaw may be continued even though such structure or use does not conform with the provisions of the bylaw. This use or structure is, however, subject to the following conditions:

3.30 Discontinuance

A non-conforming use which has not been used for a period of twenty-four (24) months shall not be reestablished and any further use shall conform with this bylaw.

3.31 Changes

A non-conforming use shall not be changed to any other non-conforming use, and once changed to a more restrictive or conforming use, shall not be permitted to revert to its previous use.

3.32 Alteration or Extension

Pre-existing non-conforming structures or uses may be extended or altered by Special Permit or Variance (see Section 6.2 or 6.4) when the Zoning Board of Appeals finds that such extension, alteration or change is not substantially more detrimental to the neighborhood than the existing non-conforming use. Refer to Zoning Board of Appeals policy as to non-conforming use._

3.33 Reconstruction

A non-conforming structure which has been damaged or destroyed by fire, flood, hurricane or other accidental cause, may be repaired or reconstructed and used as before,

provided such restoration is begun within one year and does not exceed the size of the original non-conforming structure unless enlargement is allowed by the Zoning Board of Appeals as outlined above.

3.34 New Ownership

A non-conforming use may be continued by a new owner, subject to the provisions of this section.

3.4 CONDITIONS OF CONSTRUCTION

The following shall apply to all new construction, repair, alteration or moving taking place in the Town of Westhampton:

1. All permits for new residence construction shall be granted only upon provision of acceptable sanitary systems of sewage disposal and provision of a proven tested potable water supply.
2. No person shall construct, alter, move, or substantially repair any building or structure without having first obtained a permit for the same.
3. The Inspector of Buildings, as appointed by the Board of Selectmen, shall be solely responsible for the issuance or withholding of a building or occupancy permit in accordance with the provisions of this bylaw.
4. The application for a building permit shall be accompanied by three (3) copies of a site plan drawn to scale which clearly show boundaries of the lot, location of the street, any required culvert, placement of building or buildings, location of sewerage system and water supply, and, if required, a sketch of the structure showing the location of smoke detectors.
5. A copy of the site plan shall be forwarded, by the applicant, to the superintendent of highways for review. Said superintendent shall make recommendations as he deems appropriate and shall send a copy thereof to the building inspector within three (3) working days of receipt of said plan.
6. A copy of the sketch of the building, showing location of the smoke detectors, if required, shall be forwarded, by the applicant, to the chief of the fire department for review. Said fire chief shall make recommendations as he deems appropriate and shall send a copy thereof to the building inspector within three (3) working days of receipt of said plan.

SECTION IV - OVERLAY DISTRICT REGULATIONS

4.0 **FLOODPLAIN**

4.00 Purposes

4.001 The purposes of the Floodplain District is to:

- a. Protect life, public safety and property from flooding hazards
- b. Preserve the natural flood control and flood storage characteristics of the floodplain
- c. Promote the preservation of agricultural lands within the floodplain;
- d. Prevent any alterations to the natural flow of the river, stream, or brook within the floodplain;
- e. Protect fisheries and wildlife habitat within and along the river, stream, or brook;
- f. Control erosion and siltation;
- g. Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline
- h. Conserve shore cover and encourage well-designed developments;
1. Prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and poorly sited waste disposal facilities.

4.01 District Delineation

4.011 The Floodplain District is herein established as an overlay district and includes all special flood hazard areas designated as Zones A, AI-30 on the Westhampton Flood Insurance Rate Maps (FIRM), dated July 2, 1979, on file with the Town Clerk. These maps and all the accompanying Westhampton Flood Insurance Study are incorporated herein by reference.

4.012 The boundaries of the Floodplain District shall be determined by scaling distances on the Flood Insurance Rate Map. When interpretation is needed as to the exact location of the boundaries of a District, the Building Inspector shall make the necessary interpretation._

4.02 Use Regulations

All development, including structural and non-structural activities, whether permitted as a right or by special permit must be in compliance with the Mass. Wetlands Protection Act. Chapter 131. Section 40 of the Massachusetts General Laws and with the

requirements of the Massachusetts State Building Code pertaining to construction in the floodplain <currently Section 744).

4.021 Permitted Uses

The following uses in the Floodplain District of low flood-damage potential and causing no obstruction to flood flows shall be permitted provided they do not require structures, fill, or storage of material or equipment:

- a. Agricultural uses such as farming, grazing and horticulture.
- b. Forestry uses.
- c. Outdoor recreational uses, including fishing, boating, play areas and foot, bicycle or horse paths.
- d. Conservation of water, plants, and wildlife.
- e. Wildlife management areas.
- f. Buildings lawfully existing prior to the adoption of these provisions.

4.022 Uses by Special Permit

- a. No existing structure or building in the Floodplain District shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Zoning Board of Appeals.

4.023 Special Permit Requirements - Floodplain District

The following Special Permit requirements apply in the Floodplain District: in addition to those requirements specified in Section 6.2:

- a. With Zone A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
- b. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, As a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.
- c. The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

4.024 Special Permit Criteria

In addition to the provisions of Section 6.2, the Zoning Board of Appeals may issue a special permit if it finds the proposed use is compliant with the following provisions:

a. In the Floodplain District, proposed uses must:

- (1) Not create increased flood hazards which are detrimental to the public health, safety and welfare.
- (2) Comply in all respects to the provisions of the underlying District or Districts within which the land is located.
- (3) Comply with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131. Sec. 40).

4.1 **WATER SUPPLY PROTECTION DISTRICT**

4.10 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources.

4.11 Definitions

- a. Animal feed lot: A plot of land on which 50 livestock or more per acre are kept for the purpose of feeding.
- b. Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
- c. Groundwater: All water found beneath the surface of the ground.
- d. Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designed by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act. Massachusetts General Laws, Chapter 21 C.
- e. Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.
- f. Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

- g. Primary Aquifer Recharge Area: Areas which are underlain by surficial geologic deposits including glacialfluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
- h. Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.
- 1. Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

4.12 Scope of Authority

The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by this bylaw. All regulations of the Town of Westhampton Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Water Supply Protection District imposes additional regulations, such regulations shall prevail.

4.13 District Delineation

- 4.131 The Water Supply Protection District is herein established to include all lands within the Town of Westhampton lying within the primary recharge areas of groundwater aquifers and watershed areas of reservoirs which now or may in the future provide public water supply. The map entitled "Water Supply Protection District", Town of Westhampton, on file with the Town Clerk, delineates the boundaries of the district.
- 4.132 Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s) the Town may engage a professional hydrogeologist to determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

4.14 Prohibited Uses

- a. Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity or which involve on-site disposal of industrial process waste waters, including but not limited to metal plating, fuel oil sales, leather tanning, plastics processing, degreasing operations, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair.
- b. Trucking terminals, motor vehicle gasoline sales, automotive service and motor vehicle repair shops, motor vehicle sales.
- c. Solid waste landfills, dumps, auto recycling, junk and salvage yards, with the exception of the disposal of brush or stumps.

- d. Underground storage and/or transmission of petroleum products excluding liquefied petroleum gas.
- e. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- f. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous wastes.
- g. The rendering impervious of more than 20 of the area of any single lot.

4.15 Restricted Uses

- 4.151 The use of sodium chloride for ice control shall be minimized, consistent with the public highway safety requirements.
- 4.152 Salt storage areas shall be covered and be located on a paved surface, with berms to prevent run-off from leaving the site.
- 4.153 Commercial fertilizers, pesticides, herbicides, or other leachable materials shall be used with all necessary precautions to minimize adverse impacts on surface and groundwater.
- 4.154 Above-ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building on a diked, impermeable surface to prevent spills or leaks from reaching groundwater. Floor drains shall be plugged to prevent discharges of leaks.
- 4.155 All new animal feed lots and manure storage areas shall be designed to restrict infiltration or other movement of livestock wastes to the aquifer.

4.16 Drainage

- 4.161 All run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. DIY wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner.

4.17 Uses by Special Permit

- 4.171 The following uses may be allowed in the Water Supply Protection District by Special Permit, obtained from the Board of Appeals. Any enlargement, intensification, or alteration of an existing commercial or industrial use in the district shall also require a special permit under this section.

- a. Commercial or industrial uses which are allowed in the underlying district
- b. Two-family dwellings
- c. Room rental or boarding house

4.172 Requirements for Special Permit in the Water Supply Protection District

The applicant shall file ten (10) copies of a site plan with the Special Permit Granting Authority (heretofore S.P.G.A.) prepared by a qualified professional. The site plan shall at a minimum include the following information where pertinent.

- a. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- b. Those businesses using or storing such hazardous materials shall file with the Board of Appeals and Board of Health a hazardous materials management plan which shall include:
 - 1. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 - 2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - 3. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EP A identification number from the Mass. Department of Environmental Quality Engineering.
- c. Drainage recharge features and provisions to prevent loss of recharge.
- d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

4.173 Additional Procedures for Special Permit in the Water Supply Protection District

- a. The Special Permit Granting Authority shall follow all special permit procedures contained in Section 6.2.
- b. The S.P.G.A. may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 6.2 of this bylaw. The proposed use must:

1. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District. and:
 2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
- c. The Board of Appeals shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in Section 4.173 (b).

4.18 Non-Conforming Use

Non-conforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L. Ch. 40a, Sec. 6, provided that there is a finding by the Board of Appeals that such change does not increase the danger of surface or groundwater pollution from such use.

SECTION V - SPECIAL USE REGULATION

5.0 JUNKYARDS

5.00 Junkyards shall not be permitted in any district.

5.01 General Requirements for Junkyards in Existence Prior to the Adoption of this Bvlaw

The following standards shall be used as additional requirements in the special permit process for all existing junkyards:

1. That the total area of the premises shall be at least five (5) acres;
2. That no burning of salvaged material or junk be permitted on the premises;
3. That the buildings comply with the setback requirements of this bylaw;
4. That the entire junk yard be fenced with a solid board or solid metal fence or a solid buffer of evergreen plantings at least six (6) feet high;
5. That the fence be set back at least 100 feet from the front property line;
6. That all junk be stored within the fenced area;
7. That the operation and adjacent area will be operated in such a manner as to prevent unsightliness of the adjacent area.

5.1 SAWMILLS

5.10 Sawmills shall be permitted in the AR district only upon issuance of a Special Permit from the Special Permit Granting Authority as specified in Section 6.2 of this bylaw, and in addition, with the additional requirements specified herein.

5.11 Additional General Requirements

The following standards shall be used as additional requirements in the special permit process for all sawmills:

1. The distance from the nearest residence to the proposed sawmill shall be at least five hundred (500) feet;
2. Aesthetics: A buffer strip of either fencing or plantings between mill and traveled way and/or abutting property shall be provided as required by the Special Permit Granting Authority;
3. Hours of operation shall be limited to 7 a.m. to 5 p.m.;
4. Provision shall be made for noise abatement (i.e., housing for blade, location of the chipper, etc.) where possible;
5. The town landfill shall not be used for the disposition of by-products unless arrangements are made suitable to the Board of Health.
6. Adequate precautions are taken to assure containment of by-products (chips, sawdust, etc.) to the site;
7. Adequate storage for fuel is provided to assure containment in the event of leak or spill.

5.15 **EARTH REMOVAL BY-LAW**

3.150 Purpose:

Earth removal operations, including gravel pits, have been an important industry and have helped maintain a strong rural economy in the Town of Westhampton for many years. This by-law is set forth in order to ensure the continuation of earth removal operations by right, while at the same time promoting the health, safety, and quality of life for the citizens of Westhampton. Any part of the Town of Westhampton Zoning Bylaws dated May 13, 1995 that conflicts with this Earth Removal Bylaw is deemed inapplicable to the earth removal. The Earth Removal Bylaw supersedes any conflicting bylaw in regards to earth removal.

5.151 Definitions:

- a. Earth - Earth includes soil, topsoil, loam, sod, rock, sand, gravel, clay, stone, peat, muck, bedrock, or any other earth material or mineral.
- b. Earth Removal: Earth Removal Operations include activities which strip, server, mine, excavate, quarry, blast, drill, hammer, take away, or any other form of removal or extraction of earth. Earth Removal Operations also include stockpiling, storage, treating, crushing, washing, weighing, screening or other processing when conducted on the same property. Access driveways or roadways to earth removal operations, whether across land in the same ownership or in separate ownership, shall be considered part of the operation.
- c. Reclamation: The process of grading, restoring and vegetating an excavated or disturbed area.
- d. Slope: An area that is more or less steep, as measured by vertical rise over a horizontal distance, expressed as a percentage or ratio. For example, a rise of ten feet over twenty horizontal feet is a slope of 50% or a ratio of one to two. (1:2)

5.152 General Regulations and Standards of Operation:

- a. Earth removal activities in excess of 100 cubic yards shall not occur until a completed "Notice of Earth Removal Form" has been filed with the Zoning Enforcement Officer.
- b. Earth removal loading or processing activities shall be allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00a.m. to 4:00 p.m. on Saturday. This shall not be interpreted to limit delivery of processed or finished materials in case of public emergencies.
- c. Earth removal operations shall maintain the following setbacks. The dimensional requirements in this subsection shall supercede the provisions in the Zoning Bylaws, Section 3.2, Dimensional and Density Regulations, regarding earth removal operations.

1. Ten (10) feet from any property line.

2. A 50-foot temporary buffer adjacent to a public way will be maintained. This buffer may be removed and reclaimed in maximum 250-foot sections and in a maximum of 120-day activity periods. Final reclamation setbacks shall be based on approval with the Selectboard and Highway Superintendent.
 3. 200 feet from a private water supply unless written agreement is obtained from the owner. Public water supplies will follow State and Federal regulations and SWAP (Source Water Assessment Program) reports.
 4. Unless a written agreement is received a 250-foot radius buffer will be maintained from any dwelling until the rest of the parcel's operations have been completed. If this buffer is removed as the final phase, it will be completed and reclaimed within a one hundred twenty (120) day working period.
 5. No crushing, screening or other processing operations will take place within 300 feet of a dwelling unless written permission is obtained from the owner.
- d. The area under removal at any one time may not exceed a total of 5 acres not including roadways. An additional 3 acres may be used if processing and storage are being done on the same site. If a quarry and a gravel excavation are both on the same parcel, they will each be allowed 8 acres.
 - e. Existing vegetation shall be left undisturbed in all non-removal areas for screening, erosion control, and noise reduction purposes.
 - f. Buildings, equipment, interior roadways, and areas of operation shall be placed and screened to minimize noise and visual impact by use of vegetation, topography, stockpiling, etc.
 - g. Sufficient on-site parking shall be provided for all vehicles associated with the earth removal operations.
 - h. Erosion control and drainage shall be provided during and after removal operations. Earth removal operations shall minimize dust emanating from the site and minimize the deposit of earth materials on roadways. Any proposed treatment shall not pose a pollution hazard. The operator shall be responsible for removing any spillage on roadways.
 - i. Excavation for removal of earth, sand, gravel, and other soils shall not extend closer than five (5) feet above the annual high groundwater table unless the approved creation of ponds or standing water is part of the plan. If the excavation takes place in the Water Supply Protection District, the property owner shall install

a monitoring well to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.

j. The use of explosives shall be conducted in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.

k. All operations shall be conducted in such a manner as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution, air pollution, and safety.

l. There shall be no more than fifty thousand (50,000) cubic yards of material removed from any parcel of land in any one calendar year. A "parcel of land" as used in this section shall be shown as a lot on the Town of Westhampton Assessor's Map as of December 31, 2002.

m. Access driveways and private roadways to earth removal operations shall be considered a part of the operation. Access road(s) to extractive operation sites shall include a gate.

5.153 Reclamation Requirements

a. Reclamation of the site shall occur at all earth removal operations upon completion of the excavation.

b. Upon completion of reclamation no slope shall be greater than 1:2 (50%). Terracing and less steep slopes may be used to ensure stability.

c. Final grading shall blend with the surrounding land and shall generally maintain the original drainage patterns and drainage to surrounding properties.

d. Reclamation areas shall be covered with topsoil and subsoil to a minimum depth of four (4) inches and shall be: (1) planted with vegetation using non-invasive perennial species, or (2) used for suitable agricultural purposes. In areas where no topsoil or subsoil previously existed, a stable medium shall be established for the growth of non-invasive perennial vegetation or for agricultural use.

e. All equipment shall be removed from the site and all structures shall be removed or continued in use for another purpose. Reasonable efforts shall be made to prevent excessive stockpiling of stumps. No single pile shall exceed ten (10) feet in height if visible from a public way or a dwelling.

f. Reclamation shall begin at any operation area which has been left abandoned for a period of 24 consecutive months.

g. When any five (5) acre operation area has been excavated, reclamation on the first acre must begin in order for further excavation to continue.

5.154 Severability

The invalidity of any provision of this bylaw shall not invalidate any other provision.

5.2 HOME OCCUPATION

The use of a portion of a dwelling or building accessory thereto may be used as the workroom of a dressmaker, milliner, cabinetmaker, skate sharpener, radio repairman or other person engaged in a customary home occupation, or as a place for incidental work and storage in connection with his/her off-premises trade by a resident builder, carpenter, electrician, painter, plumber or other artisan, or by a resident tree surgeon, landscape gardener or similar person, provided that:

1. The use is pursued by any member of the family residing in the dwelling, with not more than two non-resident employees.
2. Such use is clearly secondary to the use of a premises for dwelling purposes.
3. Such use shall not occupy more than the equivalent of 40 percent of the gross floor area of the dwelling unit.
4. The use shall not change the character of the dwelling unit and shall be characterized by outward manifestations (such as traffic generation, noise, public service and utility demand, etc., not unlike those dwelling units in the particular neighborhood in which the dwelling is located).
 - a. The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles, or pedestrians.
5. All operations, including incidental storage, are carried on within the principal or accessory building, and that there is no outward evidence that the premises are being used for any purpose other than residential, except in accordance with numbers 6 and 7 below.
6. In connection with a home occupation, there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area.
7. Adequate off-street parking for employees and customers shall be provided and shall be screened from adjacent properties and the street.

5.3 HOME OFFICE OR STUDIO

The use of a portion of a dwelling or of a building accessory thereof as the office of an owner/occupier, resident doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession, or as the studio or office of an artist, photographer, musician, teacher, real estate or insurance agent residing on the premises shall be considered accessory to the use of the dwelling unit, provided that:

1. The use is pursued by any member of the family residing in the dwelling unit.
2. Such use is clearly secondary to the use of premises for dwelling purposes.
3. There is no outward evidence that the premises is being used for any purpose other than residential except in accordance with numbers 4 and 5 below.
4. There shall be no display of goods or advertising, other than an identification sign not larger than 2 square feet.
5. There shall be adequate off-street parking for employees and clients provided.

5.4 SIGN BYLAW

5.40 Purpose

The purpose of the sign regulations set forth in this section shall be the following:

- a. to protect public and private investments in buildings and open spaces;
- b. to encourage signs which, by their location and design are harmonious to the buildings and sites which they occupy, and which eliminate excessive and confusing sign display;
- c. to eliminate potential hazards to motorists and pedestrians; and
- d. to promote the public health, safety and general welfare.

5.41 Applicability

Only signs which refer to a permitted use or an approved conditional use as set forth in Section 3.0 (Schedule of Use Regulations) of this Bylaw are permitted, provided such signs conform to the provisions of this section. Signs whose total area exceeds ten (10) square feet cannot be attached, erected or otherwise installed until after a sign permit has been issued by the Zoning Enforcement Officer.

5.42 General Regulations

Any sign or advertising device hereafter erected or maintained, must conform to the following in all districts:

- a. A maximum of two (2) signs per lot is permitted for each agricultural, residential, or institutional uses, including home occupations, engaged in a lot, which shall include no more than one free-standing sign.
- b. A maximum of two (2) signs per business is permitted for each commercial, manufacturing or industrial use, which shall include no more than one free-standing.
- c. Window signs shall not exceed more than thirty percent (30) of the window area in which they are displayed or twenty square feet whichever is the lesser.
- d. No sign shall exceed twenty (20) square feet.
- e. Any detached signs shall be set back from adjacent public right-of-ways a distance of at least two (2) feet. Signs, in all cases, shall avoid interference with public utilities and services.
- f. Any traffic, informational or directional sign owned and installed by a government agency shall be permitted.

g. No private sign shall be placed on public property.

5.43 Placement Standards/Sign Height

- a. Signs shall not be mounted on roofs or extend above the roof line.
- b. No sign, together with any supporting framework, shall extend to a height above the maximum building height allowed in the district. Free-standing pole signs shall have a maximum height often (10) feet, a maximum area often (10) square feet and a minimum ground clearance of seven (7) feet. Other free-standing signs shall have a maximum height of four (4) feet.
- c. If any sign is supported by or suspended from a pedestal or post, it cannot project more than 24 inches over or into any pedestrian or vehicular way customarily used by the public.
- d. Signs must not dominate building facades or obscure any architectural details (including, but not limited to, arches, sills, moldings and cornices).
- e. No sign may be placed in a side yard or rear yard as required for the particular district in which it is located.
- f. No sign may be placed within 35 feet of the intersection of two streets or roadways. No sign may interfere with traffic visibility on any street or road.

5.44 Illumination Standards

- a. No sign shall incorporate, or be lighted by, flashing or blinking lights, or be designed to attract attention by a change in intensity or by repeated motion.
- b. Signs shall be externally lit by white light only.
- c. Reflectors as part of signs shall not be permitted.
- d. The light source shall be shaded from view off the premises.
- e. No signs shall be illuminated between the hours of 11:00 p.m. and 6.00 a.m. unless the premises on which it is located is open for business.

5.45 Prohibited Signs

- a. Billboards are not permitted.
- b. Flashing signs, roof signs, signs containing moving parts and signs containing reflective elements which sparkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted providing they meet other provisions of the Bvlaw.
- c. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises is not permitted.

5.46 Additional Standards for Specific Types of Signs

5.461 Sign Area

In computing the area of signs, both sides of V -shaped signs, but only one side of back- to-back signs, shall be included.

5.462 Signs for Agricultural, Residential, Institutional or Accessory Uses

- a. One sign not over two (2) square feet in area is permitted for each family residing in the dwelling.
- b. An accessory use or home occupation may be indicated by one identification sign no larger than two (2) square feet in area.
- c. Signs prohibiting trespass, hunting and the like are not to exceed one (1) square foot of area. One sign per 20 feet of frontage is permitted.

5.463 Signs for Commercial and Industrial Uses

- a. For automobile service stations and motorized vehicle repair shops, the standard type of gasoline pump bearing in usual size and form, the name or type of gasoline and its price shall not be in violation of this Bylaw. Temporary or moveable signs are prohibited.
- b. Signs on adjacent storefronts should be coordinated in height and proportion. The use of a continuous sign-bank extending over adjacent shops within the same building is encouraged as a unifying element.

5.467 Non-Conforming Signs

a. Continuance

A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this bylaw may continue, although such sign does not conform to the provisions of this Bylaw. Defunct business signs must be removed.

b. Replacement

Any sign replacing a non-conforming sign shall conform with the provisions of this Section and the non-conforming sign shall no longer be displayed.

5.47 Administration and Enforcement

5.470 Permits

- a. No sign larger than ten (10) square feet shall be erected altered, displayed, relocated, enlarged or created without first obtaining a permit from the

Building Inspector. At minimum, all applications shall include a scale drawing specifying dimensions, illumination, materials, and location on land or buildings.

- b. The Building Inspector shall issue a permit for a sign when an application therefor has been made and the sign complies with all applicable regulations of the Town and the State Building Code, Article 14. Such application may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises.
- c. The Building Inspector shall act within 30 days of receipt of said application together with the fee. The Building Inspector's action or failure to act may be appealed to the Zoning Board of Appeals.

5.471 Fees

A schedule of fees for such permits may be established and amended from time to time by the Selectmen.

5.472 Enforcement

a. Maintenance and Removal

Every' sign shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust resistant material. The Zoning Enforcement Officer shall inspect and shall have the authority to order the painting, repair, alteration or removal of a sign which shall constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

b. Abandoned Signs

Except as otherwise provided in this article, any sign that is located on property which becomes vacant and is unoccupied for a period of three months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned, unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

c. Removal of Signs by the Zoning Enforcement Officer

The Zoning Enforcement Officer shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign for which no permit has been issued.

The Zoning Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within 20 days, the sign shall be removed in accordance with the provisions of this section.

All notices mailed by the Zoning Enforcement Officer shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail.

For all other signs the notice shall be mailed to the owner of record of the property on which the sign is located as shown on the last equalized assessment roll.

Any person having an interest in the sign or the property may appeal the~ determination of the Zoning Enforcement Officer ordering removal or compliance by filing a written notice of appeal with the Westhampton Board of Selectmen within 10 days after the date of mailing the notice, or 10 days after receipt of the notice if the notice was not mailed.

5.4 73 Penalties

Violation of any provision of this bylaw or any lawful order of the Zoning Enforcement Officer shall be subject to a fine of not more than \$100 per offense. Each day that such violation continues shall be a separate offense. If a sign is removed by the Town for any violation of this bylaw, the cost of such removal may be assessed ratably by the Town against the property owner.

5.5 CAMPGROUNDS

5.50 Campgrounds by Special Permit

Campgrounds shall be permitted in the Agricultural-Residential District and the Water Supply Protection District upon issuance of a Special Permit from the Zoning Board of Appeals, as specified in Section 6.2 of this bylaw, and in accordance with the additional requirements specified herein.

5.51 Purposes

The purpose of this bylaw is to provide minimum regulations for areas developed for the rental of sites for tents, campers, or travel trailers for the use of vacationers and travelers, including sanitary, cooking, recreational and parking facilities for patrons.

5.52 Application

- a. Each application for Special Permit for campgrounds shall be accompanied by ten (10) copies of a site plan. The Special Permit application for campgrounds shall be the standard special permit application form on file with the Town Clerk. An application fee to cover expenses connected with a public hearing and review of

plans will be required upon filing. In addition to the Special Permit regulations, the site plan shall be on standard 24" X 36" sheets and shall be prepared at sufficient scale to show:

1. The location and boundaries of the campground property, adjacent streets or ways, and the owner's names of all abutters.
2. Existing and proposed structures and camp sites.
3. The location of parking areas, driveways, walkways, access and egress points.
4. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other waste disposal systems.
5. Existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and unique natural land features.

5.53 Additional General Requirements

The following standards shall be used as additional requirements to the Special Permit process for Campgrounds:

5.531 Additional Dimensional and Density Requirements

- a. The total area of the site for the proposed campground shall be at least of ten (10) acres.
- b. No building or structure shall be located within fifty (50) feet of any property line.
- c. No driveway for ingress and egress for such use shall be located within fifty (50) feet of any lot line.
- d. The number of parking sites for tents, campers, or travel trailers shall not exceed twelve (12) per gross acre, exclusive of all public open space.
- e. Camping sites, parking spaces for campers or trailers, and unenclosed recreational facilities shall be located not less than one hundred (100) feet from any property line. These uses shall be screened from view by neighboring properties in residential or institutional use by using dense, hardy, plantings or trees or earthen berms, or wall or tight fence complemented by plantings to minimize visual and noise impacts.

5.533 Parking Spaces

The number of parking sites for travel trailers or similar vehicles shall not exceed the total number of cabins and camping sites. In addition parking spaces adequate to accommodate the vehicles of employees shall be provided as determined by the Board of Appeals.

5.534 Lighting

- a. Lighting shall be so shielded so as to cast no light upon adjacent properties or public ways.
- b. Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished no later than 11:00 p.m.

5.532 Occupancy Requirement

Occupancy of campers, travel trailers, or any other unenclosed recreational facilities shall be temporary and shall not exceed six (6) months in any calendar year for any family of users.

5.535 Roads, Access Ways and Interior Circulation

- a. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- b. Roads, driveways and access ways shall have sufficient width, suitable grades, adequate storm drainage and adequate construction to provide for the needs of vehicular traffic generated by the campgrounds. All roads shall provide free movement for fire equipment and police and emergency equipment.

5.536 Noise

No public address system shall be permitted except where such system is inaudible at any property line.

5.537 Signs

Signs must conform to rules and regulations of signs in section 5.4 of this bylaw.

5.538 Utility Requirements

Camping areas shall comply with Title V, Environmental Code, Commonwealth of Massachusetts regulations and any other laws and regulations pertaining to the establishment and maintenance of on-site sanitary sewage facilities. The applicant shall submit a septic system design prepared by a registered professional engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the special permit application. A special permit will not be issued for a campground unless and until the Board of Health has approved those aspects of the development which come under its jurisdiction.

5.54 Additional Requirements for Campsites in a Campground

- a. Campsites may be occupied by campers, travel trailers or unenclosed recreational facilities, but not by any type of permanent building or mobile home.
- b. The sale of campsites shall not be permitted.
- c. Electrical outlets may be provided at each site in the campground.
- d. Garbage and waste collection stations shall be suitably screened. All provisions for solid waste disposal will be made by the operator at no expense or burden to the Town of Westhampton.
- e. The location, materials of construction and storage of fuel for outdoor cooking facilities of any kind shall be subject to the approval of the fire marshal, and no outdoor cooking shall be allowed except at approved locations.

5.55 Building Permit Requirements

1. A building permit for the construction of Campgrounds shall not be issued until a Special Permit from the Board of Appeals is granted.
2. No certificate of occupancy shall be issued from the Building Inspector until all the conditions of the special permit are inspected and approved by the Building Inspector.

5.56 Supplemental Rules and Regulation

The Board of Appeals may prescribe from time to time, rules and regulations to supplement the standards and conditions set forth in these zoning bylaws for campgrounds, provided the rules and regulations are not inconsistent with the zoning bylaw and Chapter 40A, M.G.L.

5.6 **MOBILE HOMES**

5.60 The following regulations shall apply in respect to all mobile homes used as a permanent dwelling unit:

- a. Mobile homes must meet the minimum lot front yard requirement and all other requirements for a single family dwelling in the district in which they are located.
- b. Mobile homes must be on a permanent foundation.
- c. An accessory building for storage at least equivalent to a single car garage must be provided unless the mobile home has a basement.

5.61 Special Circumstances

The owner or occupier of a residence which has been destroyed by fire or natural disaster may place a trailer or mobile home on the site of such residence and may, by right, reside in such trailer or mobile home for a period not to exceed eighteen (18) months while the residence is being rebuilt. Any such trailer or mobile home shall be subject to the provisions of Title V, the State Sanitary Code.

5.7 **PARKING AND LOADING STANDARDS**

5.70 General Parking Standards

- a. As soon as feasibly possible, off-street parking shall be provided in conjunction with and during the construction, conversion and/or expansion of any structure, as well as upon the expansion of use. In the case of expansion or conversion, these standards shall apply only to the expanded or converted areas.
- b. In granting special permit for any use, the Special Permit Granting Authority may require off-street parking spaces, standards, or conditions in addition to those set forth in this Bylaw, if it deems necessary for the use.

5.71 Parking Areas Design and Location

All new structures and additions or extensions on existing structures shall be provided with off-street parking spaces in accordance with the following:

5.711 Definitions:

- a. Driveway - A space, located on a lot, which is not more than fifteen feet in width for residential uses nor more than twenty-four feet in width for commercial or industrial uses at the lot line, built for vehicular access from a public way across approved frontage to a garage or off-street parking or loading space.
- b. Parking Space - An off-street space at least nine feet in width and twenty feet in length, excluding the portion of the driveway to such space.
- c. Handicapped Parking Space - A space 8'0" wide, with an adjacent access aisle 5'0" wide, and marked with signs and pavement paint. One in every eight accessible spaces shall have an access aisle 8'0" (rather than 5'0"), and shall be signed "van accessible".
- d. Common Driveway- a vehicular access to more than one dwelling is prohibited. See Section 3.01.

5.712 Location

Required parking shall be provided on the same lot with the main use it is to serve. When feasible, parking areas shall be located to the side or rear of the

structure for commercial and industrial uses. A buffer strip of fifteen (15) feet is required around parking areas for commercial and industrial uses.

5.713 Drainage

Drainage facilities for each parking area should be designed and constructed to contain stormwater run-off on the premises.

5.714 Lighting

Drives and parking areas shall be illuminated in such a way that there shall be no glare for motorists, pedestrians or adjoining premises.

5.72 Additional Parking Area Standards for Areas with Ten (10) or More Parking Spaces

5.721 Screening

- a. For ten (10) or more vehicles, parking spaces shall be effectively screened with planting or fencing which adjoins or faces the side or rear lot. Screening may consist of decorative elements such as building wall extensions, plantings, berms or other means, must be maintained in good condition, and no advertising shall be placed thereon. The screening shall be designed so that vehicle sight distance shall not be affected at entrances, exits or street intersections.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, earthed berms, or wall or tight fence complemented by evergreen plantings at least six (6) feet in height.

5.73 Required Minimum, Parking Spaces

- a. Off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, or the development of a new land use.
- b. All uses shall provide parking spaces adequate to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, residents, and visitors to the premises, as determined by the Special Permit Granting Authority.
- c. Handicapped parking spaces.

5.74 Parking Guidelines

The following guidelines may be used by the Special Permit Granting Authority when determining adequate parking.

RECOMMENDED MINIMUM SPACES

RESIDENTIAL USES

Rooming Rental, Boarding House

1 space for each room rented in addition to dwelling unit requirements

Elderly, Handicapped, and Affordable Housing

1.5 spaces for each sleeping room

COMMUNITY AND PUBLIC SERVICE USES

Neighborhood or community clubhouse, headquarters of fraternal organization or private membership club, not conducted as a gainful business

Parking spaces adequate to accommodate, under normal circumstances the vehicles of employees, customers, members and visitors to the premises

Hospital, sanitarium

1.5 spaces per bed at design capacity

Rest homes, convalescent or nursing homes

1 space for each 4 beds

Continuing care retirement community

1.5 spaces for each sleeping room

Private museum, art gallery, craft center

1 space per each 250 feet of floor space

BUSINESS USES

Convenience Store

1 space per each 200 feet of gross floor space

Discount Store, Wholesale Store

1 space per each 300 feet of gross floor space

Repair Shop

1 space per each 300 feet of gross floor space

Automotive Services Station
Auto or Motorized Vehicle
Repair Shop, and Auto body Shops

3 spaces/service bay, but not less than 1 space/100 square feet of gross floor are

USES

RECOMMENDED MINIMUM SPACES

Automotive Service Station
Convenience Store

3 spaces service bay, but not less
than 1 space/100 square feet of gross
floor space

Motor Vehicle Sales

1 space per 800 square feet of gross
floor space. In the case of outdoor
display areas one for each 1,000 square
feet of lot area in such use.

Veterinary Establishments

Parking spaces adequate to
accommodate, under normal conditions,
the vehicles of occupants, employees,
customers, clients and visitors to the
premises.

MANUFACTURING AND INDUSTRIAL USES

Sawmills

One per 1,000 square feet of gross floor
space. In the case of outdoor display areas,
one for each 1,000 square feet of lot area in
such use.

Manufacturing or Industrial Use
including Processing, Fabrication
and Assembly

1 space for each person employed
on the largest shift

Note 1: Gross floor area shall mean the total area of a building measured by taking the
outside dimensions of the building at each floor level intended for occupancy or
storage.

Note 2: When the computation of required parking or loading spaces results in the
requirement of a fractional space, any fraction of one-half or more shall require
one space.

5.75 Off-Street Loading and Unloading Requirements

- a. Adequate off-street loading and unloading space with proper access from a street,
highway, common service driveway, or alley shall be provided whenever the
normal operation of any development requires that goods, merchandise, or
equipment be routinely delivered to or shipped from that development.
- b. The loading and unloading area must be of sufficient size to accommodate the
numbers and types of vehicles that are likely to use this area, given the nature of the
development proposed. The following table indicates the number and size of spaces
that generally satisfy the standard set forth in this subsection. However, Special
Permit Granting Authority may require more or less loading and unloading area if it
deems such increases or decreases reasonably necessary to satisfy the foregoing
standard.

| <u>Gross Leasable Area of Building</u> | <u>Number of Spaces*</u> |
|--|--------------------------|
| | 1 |
| 1,000 - 19,999 | |
| 20,000 - 79,999 | 2 |
| 80,000 - 127,999 | |
| 128,000 - 191,999 | 3 |
| | 4 |

*Minimum dimensions of 12 x 55 feet and overhead clearance of 14 feet from street grade required.

- c. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- d. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

5.76 Handicapped Parking

- 5.761 All parking areas shall provide handicapped accessible parking spaces, as required by the federal American with Disability Act (ADA), and as specified in Table Three, except for the following uses which are specifically exempted in ADA Requirements:
 - a) owner-occupied buildings with no more than four units:
 - b) single-family homes, not owner-occupied sold or rented without the use of a broker:
 - c) housing operated by religious organizations and private clubs that limit occupancy to members.

Handicapped accessible parking spaces shall meet the standards in Section 5.711.

TABLE THREE REQUIRED MINIMUM ACCESSIBLE PARKING SPACES

| <u>Total Parking Spaces in Lot</u> | <u>Accessible Spaces</u> |
|------------------------------------|--------------------------|
| <u>1 to 25</u> | <u>1</u> |
| <u>26 to 50</u> | <u>2</u> |
| <u>51 to 75</u> | <u>3</u> |
| <u>76 to 100</u> | <u>4</u> |
| <u>101 to 150</u> | <u>5</u> |
| <u>151 to 200</u> | <u>6</u> |
| <u>201 to 300</u> | <u>7</u> |
| <u>301 to 400</u> | <u>8</u> |
| <u>401 to 500</u> | <u>9</u> |
| <u>501 to 1,000</u> | <u>2 *</u> |
| <u>1,001 and over</u> | <u>20 **</u> |

*Percent of Total

**Plus One Space for Each 100 over 1,000

5.8 ELDERLY or HANDICAPPED CONGREGATE HOUSING

5.80 Elderly or Handicapped Congregate Housing by Special Permit

Elderly or handicapped congregate multi-family dwelling units shall be permitted in Agricultural Residential District only upon issuance of a Special Permit with Site Plan Approval from the Planning Board, as specified in Section 6.2 and Section 6.4 of this bylaw, and in accordance with the additional requirements specified herein.

5.81 Dimensional Requirements

All multi-family dwelling units shall be connected to on-site sewerage disposal and water systems and shall conform to the following dimensional requirements:

Min. Lot. Size Per Dwelling: 40,000 sq. ft.

Max. No. of Dwelling Units Per Structure: 6

Min. Frontage Per Dwelling Unit: 100 ft .. provided that a minimum of 250 feet of frontage is required per structure

Min. Front Yard: 75 ft.

Min. Side Yard: 75 ft.

Min. Rear Yard: 50 ft.

Max. Height: 35 ft.

Max. No. of Stories: 2

Max. Lot Coverage: 30

For a structure with 6 dwelling units, a total of 240,000 square feet (approximately 5.51 acres) is necessary for the development. For a structure with 5 dwelling units, a total of 200,000 square feet (approximately 4.59 acres) is necessary for development. For a structure with 4 dwelling units, a total of 160,000 square feet (approximately 3.67 acres) is necessary for the development. For a structure with 3 dwelling units, a total of 120,000 square feet (approximately 2.75 acres) is necessary for the development.

5.82 Additional Requirements

The following standards shall be used as additional requirements in the special permit/site plan approval process for all multi-family dwelling units:

5.821 Siting and Layout Requirements

- a. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: (a) minimize use of steep slopes, hilltops: (b) minimize obstruction of scenic views from publicly accessible locations: (c) preserve unique natural or historical features: (d) minimize tree, vegetation and soil removal and grade changes: and (e) maximize open space retention and (f) screen objectionable features from neighboring properties and roadways.
- b. More than one dwelling may be placed on a lot, but no principal structures shall be placed closer to each other than 50 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

5.822 Design Requirements

Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.

5.823 Vehicular and Pedestrian Access Requirements

- a. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- b. Congregate structures shall have access on public roads having sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the site.
- c. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Westhampton Subdivision Regulations.

5.824 Open Space and Buffer Area Requirements

- a. All land not devoted to dwellings, accessory uses, roads, or other development shall be permanently reserved as open space. A minimum of 50 of land reserved as open space shall be grassed or landscaped land available for active and passive recreation and shall be grassed or landscaped by the developer/applicant.
- b. Congregate structures shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development.

5.825 Parking, Loading, and Lighting Requirements

- a. Parking areas shall not be located within a required front, rear, or side yard as specified in Section 5.82 and shall be screened from public ways and adjacent or abutting properties by building location, fencing, or planting. No individual parking area shall contain more than fourteen (14) spaces. One and one-half parking spaces shall be provided for each bedroom. One additional space for visitor parking shall be provided for every ten resident parking spaces. No parking shall be allowed on interior streets.
- b. Exposed storage areas; machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.
- c. No building shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than fifteen (15) feet.

5.826 Water Supply and Sewerage Requirements

- a. The development shall be served with adequate water supply and waste disposal systems provided by the developer/applicant and shall not place excessive demands on municipal infrastructure.
- b. The following additional utility requirements shall apply to all elderly, handicapped and affordable dwelling units which are served by on-site sewerage or water supply systems:
 - 1. For dwellings to be served by on-site water and waste disposal systems, the applicant shall submit a septic system design prepared by a registered engineer and approved by the Board of Health a plan illustrating the location of water supply wells with the special permit application. No septic system serving the project shall exceed 2,000 gallons per day sewage flow. More than one septic system may serve the site in order to meet this requirement.

2. Dwellings with on-site waste disposal systems shall be allowed only upon demonstration by the applicant that the groundwater quality of the boundaries of the lot will not fall below the standards established by the Massachusetts Department of Environmental Quality Engineering in Drinking Water Standards of Massachusetts," or by the U.S. Environmental Protection Agency in "National Interim Primary Drinking Water Regulations", or where groundwater quality is already below these standards, upon determination that the activity will result in no further degradation. Where compliance is in doubt, the Planning Board may hire a Professional Engineer to analyze and certify groundwater quality impacts, and shall charge the applicant for the cost of such analysis.

5.827 Drainage Requirements

- a. Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

5.828 Utility Requirements

- a. Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible and at the developer's expense.

5.83 Community Association

5.831 If an elderly, handicapped, and affordable development is owned by more than one person or converted to ownership of more than one person, a non-profit, incorporated community association shall be established, requiring membership of each property owner in the development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, recreational and thoroughfare facilities. A community association agreement of covenant shall be submitted with the special permit/site plan approval application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board.

5.832 Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement. the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

5.9 PLANNED MULTI-FAMILY DEVELOPMENTS WITH AFFORDABLE HOUSING

5.90 Planned Multi-Family Developments with Affordable Housing by Special Permit

Planned multi-family developments with affordable multi-family dwelling units shall be permitted in Agricultural Residential District only upon issuance of a Special Permit with Site Plan Approval from the Planning Board, as specified in Section 6.2 and Section 6.4 of this bylaw, and in accordance with the additional requirements specified herein.

5.91 Dimensional Requirements

All multi-family dwelling units shall be connected to on-site sewerage disposal and water systems and shall conform to the following dimensional requirements:

Min. Lot Size Per Dwelling: 40,000 sq. ft.

Max. No. of Dwelling Units Per Structure: 6

Min. Frontage Per Dwelling Unit: 100 ft .. provided that a minimum of 250 feet of frontage is required per structure

Min. Front Yard: 75 ft.

Min. Side Yard: 50 ft.

Min. Rear Yard: 50 ft.

Max. Height: 35 ft.

Max. No. of Stories: 2

Max. Lot Coverage: 30

For a structure with 6 dwelling units, a total of 240,000 square feet (approximately 5.51 acres) is necessary for the development. For a structure with 5 dwelling units, a total of 200,000 square feet (approximately 4.59 acres) is necessary for development. For a structure with 4 dwelling units, a total of 160,000 square feet (approximately 3.67 acres) is necessary for the development. For a structure with 3 dwelling units, a total of 120,000 square feet (approximately 2.75 acres) is necessary for the development.

5.92 Additional Requirements

Planned multi-family developments, with affordable housing must comply with all of the additional requirements contained in Section 5.82 of this bylaw.

5.93 Community Association

Planned multi-family development with affordable housing must comply with all applicable provisions of Section 5.83.

5.94 Affordable Housing Provisions

5.941 If the proposed project provides 10 of the total units as affordable housing as defined in Section VII. and in compliance with the affordable housing requirements specified herein, the following density and dimensional requirements may be substituted for those requirements normally required in the district:

- a. The minimum lot size for all dwelling units may be reduced by 10 below the lot size required in Section 5.91.
- b. The frontage requirements may be reduced by 10 below the frontage required in Section 5.91.

5.942 The selection of qualified buyers for the affordable units shall be administered by the Westhampton Housing Authority. The selection from a pool of prospective buyers meeting the established income guidelines shall be based upon the following criteria:

1. Priority consideration shall be given to households not currently owning a home:
2. Priority consideration shall be given to prospective owner-occupants of the affordable units to be sold.

5.943 In order to ensure equity and continued affordability, affordable housing units shall be subject to resale controls administered by the Westhampton Housing Authority. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:

1. At the time of initial sale of the affordable unit, the Housing Authority shall arrange for a real estate appraisal to be made the costs to borne by the seller to determine the market value of the unit. The sale price divided by the market value of the unit shall equal the discount rate. The discount rate shall be recorded on the deed and mortgage documents.
2. When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price, unless the market value has declined. If the market value has declined, the maximum resale price shall be the original sale price.
3. The deed shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing Authority, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed.

- 5.944 At the time of resale of an affordable housing unit, the Westhampton Housing Authority shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.
- 5.945 Those families so notified shall have exclusive right to contract for the unit, for a period of sixty days.
- 5.946 If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.

5.10 **REGISTERED MARIJUANA DISPENSARY (RMD) and OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD)**

5.100 **Purposes**

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Westhampton.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

5.101 **Additional Requirements/Conditions**

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries:

- a. Use:
 - i. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
 - ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
 - iii. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- b. Physical Requirements:
 - i. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
 - ii. No outside storage is permitted.
 - iii. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.

- iv. Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:
 - 1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 - 2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
 - v. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.
- c. Location:
- i. No RMD and OMMD facility shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of a parcel occupied by:
 - 1. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
 - 2. another RMD or OMMD facility
 - ii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- d. Reporting Requirements.
- i. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
 - ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:
 - 1. A minimum of 30 days prior to any change in ownership or management of that facility
 - 2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.
 - iii. Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
 - iv. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.

- e. Issuance/Transfer/Discontinuance of Use
 - i. Special Permits/Site Plan Approvals shall be issued to the RMD Operator
 - ii. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
 - iii. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
 - iv. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
 - 1. If the permit holder ceases operation of the RMD, and/or
 - 2. The permit holder's registration by MDPH expires or is terminated
 - v. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
 - vi. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
 - 1. Prior to the issuance of a Building Permit for a RMD or OMMD the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

5.102 Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

- a. The name and address of each owner of the RMD or OMMD facility/operation;
- b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;
- d. A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;

- e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- f. A detailed floor plan identifying the areas available and functional uses (including square footage)
- g. All signage being proposed for the facility.
- h. A traffic study to establish the RMD or OMMD impacts at peak demand times.
- i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

5.103 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

- a. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.;
- b. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- d. That the RMD or OMMD project meets a demonstrated need
- e. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
- f. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

- 3. Add the following definitions to Section 7.01 Term Definitions:

Off-Site Medical Marijuana Dispensary (OMMD) – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.00, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana,

related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

5.13 ROOF MOUNTED SOLAR ENERGY SYSTEM

- i Roof Mounted systems are allowed By-Right, and shall be reviewed by the Building Inspector before issuance of a building permit.

5.14 GROUND MOUNTED SOLAR ENERGY SYSTEMS

- i Purpose:

The purpose of this Section is to provide standards for the design, placement, construction, operation, monitoring, modification and removal of Ground Mounted Solar Energy System installations while addressing public safety and minimize impact on scenic, natural and historic resources.

- ii Applicability:

a. This Section applies to all ground mounted solar energy installation applied for after the effective date of this Section. This Section also pertains to physical modifications that alter the type, configuration, or size of these installations or related equipment.

b. Within the Solar Photovoltaic Overlay District only, Ground Mounted Solar Photovoltaic Installations (including Large Scale) are permitted By-Right Siting (subject to Site Plan Review) when the lot coverage of all of the arrays, structures and buildings do not exceed an aggregate of 1.5 acres. The calculations of the lot coverage area shall exclude required setbacks and wetlands. The combined area of multiple installations (new or existing) on a single lot, or adjacent lots in common ownership shall be used to determine accordance with the 1.5 acre threshold.

- iii Dimensions and Placement of Ground Mounted Solar Energy Systems:

a. All Ground Mounted Solar Energy Systems shall be no higher than 35 feet.

b. All Ground Mounted Solar Energy Systems shall meet front setback of 50 feet, side setbacks of 20 feet, and rear setback of 20 feet.

c. No Ground Mounted Solar Energy System shall be placed within the 50 foot front setback.

c. All Ground Mounted Solar Energy Systems shall be positioned such that they do not interfere with access to, or functioning and maintenance of, existing on-site septic system components.

- e. **SMALL SCALE:** A Small Scale Ground Mounted Solar Energy Systems is an Active Solar Energy System that occupies 2,100 square feet or less of surface area of solar panels. Small Scale Ground Mounted Solar Energy Systems are allowed By-Right, and shall be reviewed by the Building Inspector before issuance of a building permit
 - f. **MEDIUM SCALE:** Medium Scale Ground Mounted Solar Energy Systems is an Active Solar System that occupies more than 2,100 but less than 32,000 square feet of surface area of solar panels. Medium Scale Ground Mounted Systems will require a Site Plan Review from the Site Plan Review Authority, before issuance of a building permit.
 - g. **LARGE SCALE:** a Large Scale Ground Mounted Solar Energy Systems is an Active Solar System that occupies 32,000 square feet or more of surface area of solar panels. Large Scale Ground Mounted Solar Energy Systems are encouraged to be placed in the Solar Photovoltaic District. Large Scale Ground Mounted Solar Energy Systems not located in the Solar Photovoltaic District shall apply for a Site Plan Approval/Special Permit/Planning Board. Large Scale Ground Mounted Solar Energy Systems located in the Solar Photovoltaic District (SPD) require a Site Plan Review. Systems located in the (SPD) are By-Right. No Ground Mounted Solar Energy System shall be installed upon or at the Westhampton capped landfill or Transfer Station without written consent and permitting from the Massachusetts Department of Environmental Protection (DEP).
- iv Utility Notification - No ground mounted solar energy system installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been notified of the Solar Energy installation Project Proponent's intent to install an interconnected customer owned generator. Off grid system shall be exempt from this requirement.
 - v Dimension and Density Requirements - Ground Mounted Solar Energy System installation shall comply with the density and dimensional requirements of Town of Westhampton Zoning Bylaws.
 - vi Structures - All structures for Ground Mounted Solar Energy Systems shall be subject to existing bylaws. All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other.
 - vii Design Standards - Projects shall be designed to:
 - a. Minimize the volume of cut and fill, the number of removed trees 10" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution.
 - b. Maximize pedestrian and vehicular safety when on the site and entering and exiting the site.
 - c. Minimize obstruction of scenic views from publicly accessible locations.
 - d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned.

- e. Minimize glare from headlights and light trespass.
- f. Ensure adequate access to each structure for fire and service equipment and adequate provisions for utilities and stormwater drainage.
- g. Site Lighting - Lighting of solar energy installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy installations shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- h. Signage - No signage on ground mounted solar energy installations is permitted other than those required to identify voltage and electrocution hazards as well as the owner, and provide a 24 hour emergency contact phone number. Solar energy installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy installation.
- i. Utility Connections - Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar energy installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

viii Safety Environmental Standards:

- a. Emergency Services - The ground mounted solar energy installation Project Proponent shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the Project Proponent shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy installation shall be clearly marked. The Project Proponent shall identify a responsible person for public inquiries throughout the life of the installation.
- b. Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground mounted solar energy installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for ground mounted solar energy installations shall contain land requiring clearing of forest.
- c. No topsoil shall be removed from the land parcel under consideration for ground mounted solar energy installations. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time earthwork operations are completed and topsoil can be re-spread over parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to 1000 cubic yards per acre effected by installation. A detailed earthworks estimate is a required submittal component providing this quantity is maintained.
- d. Impact on Agricultural and Environmentally Sensitive Land - The Solar Energy Generating Installation shall be designed to minimize impact to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than 50% of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.
- e. Vegetation Management - Mowing or grazing is helpful to minimize the amount and height of "fuel" available in case of fire.

- f. All land associated with the ground mounted solar energy installation shall be covered and grown in natural vegetation. All ground surface areas beneath solar arrays and setback areas shall be pervious to maximize on-site infiltration of stormwater. Impervious paving of areas beneath solar arrays is prohibited. To the greatest extent possible, a diversity of plants species shall be used, with preference given to species that are native to New England. Use of plants identified by the most recent copy of the “Massachusetts Prohibited Plant List” maintained by the Massachusetts Department of Agricultural Resources is prohibited. Herbicides shall be applied only by licensed personal in conformance with all applicable state regulations.
 - g. All Medium and Large Scale ground mounted solar energy system installations shall be enclosed by a secure fence to keep wildlife, and unauthorized people out of the solar field. A security locking system, approved by the fire chief, shall be in place for emergency entrance.
- ix Monitoring and Maintenance
 - a. Ground Mounted Solar Energy Installations Conditions - Project Proponent shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, fencing and integrity of security measures. The Project Proponent shall be responsible for the cost of maintaining the solar energy installation and any access road(s), unless accepted as a public way.
 - b. Modifications - All material modifications to a solar energy installation made after issuance of the required building permit shall require approval of the Site Plan Review Authority.
- x Outside Consultant Fees - In addition to the normal filing fee, the Planning Board may, “at its discretion”, charge the applicant with a fee to hire “outside consultants” to assist the Board in administering and reviewing applications.
- xi Additional Requirements for Medium and Large Scale Ground Mounted Solar Energy Systems: In addition to the requirements set forth above, all Medium and Large Scale Ground Mounted Solar Energy Systems must comply with the following:
 - a. General- All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
 - b. Required Documents - Pursuant to the site plan review process, the project proponent shall provide the following documents:
 - a) A site plan showing:
 - (1) Property lines and physical features, including roads for the project site;
 - (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - (3) Blueprints or drawings of the solar energy installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - (4) One or three line electrical diagram detailing the solar Energy installation, associated components and electrical interconnection methods, with all Massachusetts Electric Code compliant disconnects and overcurrent devices;

- (5) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- (6) Name, address, and contact information for proposed system installer;
- (7) Name, address, phone number and signature of the Project Proponent;
- (8) Name, contact information and signature of any agent representing the Project Proponent.

b) Stormwater Management Plan.

c) Erosion & sediment control plan.

d) Documentation of actual or prospective access and control of the project site.

e) An operation and maintenance plan.

f) Proof of liability and builder's risk insurance.

g) A public outreach plan, including the project development timeline, which indicates how the project proponents will meet the required site plan review notification procedures and otherwise inform abutters and the community.

h) Site control - The Project Proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy installation.

i) Operation and Maintenance Plan - The Project Proponent shall submit a plan for the operation and maintenance of the ground mounted solar energy installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

j) Abandonment & Decommissioning Plan - The Project Proponent shall submit a Decommissioning Plan. Any Solar Energy generating installation which has reached the end of its useful life or has been abandoned (i.e. when either it fails to complete within a commercially reasonable time (such that the power generation can commence), or it fails to operate for an elapsed time of more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and the plans for removal. The Abandonment & Decommissioning Plan shall include a detailed description of how all of the following will be addressed:

1. Physical removal of all structures, equipment, buildings, security barriers and transmission lines from the site, including any material used to limit vegetation.
2. Dispose of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designed below-grade foundations in order to minimize erosion and disruption to vegetation.
 4. Financial surety for Decommissioning - Proponents of Solar Energy Generating Facilities shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the estimated cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Planning Board. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive detailed itemized cost estimate of the town's estimated cost (including "prevailing wages") associated with removal and full decommissioning of the facility and the site, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal cost due to inflation at the end of the facility's useful life. Said estimated cost shall not include or deduct the value of material recycling. Said surety in its full amount shall be presented to the Planning Board prior to the Project Proponent applying for a Building Permit or the commencement of construction.
 5. All legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation.
- c. Visual Impact Mitigation: the plan for a Medium or Large Scale Ground Mounted Solar Energy System shall be designed to preserve the on-site and abutting natural and developed features. In natural (undeveloped) areas, existing vegetation shall be retained to the greatest extent possible, especially where such vegetation provides a benefit to the natural environment. In developed areas, the design of the installation shall consider and incorporate human-design landscape features to the greatest extent, including contextual landscape amenities that complement the physical features of the site and abutting property. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts and be architecturally compatible with each other. Vegetation shall be varieties native to New England and a mix of deciduous and evergreen species. Vegetative screening shall reach a mature form to effectively screen the installation within five years of installation. Planting of the vegetative screening shall be completed prior to final approval of the installation by the Building Inspector.

- xii WAIVERS - The Planning Board may, upon the prior written request of the applicant and by a 3/4 majority affirmative vote of the full complement of the Board, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.

SECTION VI: ENFORCEMENT AND ADMINISTRATION

6.0 ENFORCEMENT OF ZONING BYLAW

- 6.01 This Bylaw shall be enforced by a Zoning Enforcement Officer appointed by the Board of Selectmen. The Board of Selectmen and the Police Department shall assist the Zoning Enforcement Officer where necessary and appropriate.
- 6.02 No building shall be constructed or changed, or the use changed until a permit has been issued by the Building Inspector. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health, and provision of a tested source of potable water. The proposed building and location thereof conform with the Town's laws and Bylaws. Any new building or structure shall conform with all adopted State and Town laws, Bylaws. codes. ordinances and regulations. No building shall be occupied until a certificate of occupancy (where required) has been issued by the Building Inspector.
- 6.03 The Building Inspector shall refuse to issue any permit which would result in a violation of any provision of this Bylaw or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or the Planning Board.
- 6.04 The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises. either of which are in violation of the provisions of this Bylaw.
- 6.05 Construction or operation under a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit, and in the uses involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- 6.06 Penalties

- a. Non-Criminal Disposition of Violations

Any violation of the provisions of this Bylaw. the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw. shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. Each day such violation continues shall be deemed a separate offense.

In addition to the procedures for enforcement as described above. the provisions of this Bylaw. the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, may be enforced, by the Building Inspector. by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40. Section 210. The fine for any violation disposed of through this procedure shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

b. Criminal Disposition of Violations

Persons violating any of the provisions of this Bylaw shall be fined not less than twenty-five (25) dollars or more than three hundred (300) dollars for each offense. Each day that such violation continues shall constitute a separate offense.

6.1 **ZONING BOARD OF APPEALS**

There is hereby established a Zoning Board of Appeals of five (5) members and three (3) associate members. The Board of Selectmen shall appoint members of the Zoning Board of Appeals pursuant to Section 12 of Chapter 40A of the Massachusetts General Laws as amended.

6.10 Appeals

To hear and decide on an appeal 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, as amended; the Pioneer Valley Planning Commission; or any person, including an officer or board of the town, or 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 this bylaw, or Chapter 40A of Massachusetts General Laws, as amended.

Any such appeal must be taken within thirty (30) days from the date of the order, or decision is filed with the Town Clerk.

6.11 Variances

The Zoning Board of Appeals shall hear and decide requests for variance from the terms of this Bylaw in accordance with the provisions of Section 10 of Chapter 40A of the General Laws, as amended.

1. Such a variance shall be granted only if all of the following conditions have been met:
 - a. Circumstances exist that relate to the soil conditions, shape or topography of the land or structures which especially affect such land or structures but do not generally affect the zoning district in which the land or structures are located.
 - b. Literal enforcement of the bylaw will result in a substantial hardship, financial or otherwise.
 - c. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.
2. All applications for variances shall be made in writing on forms furnished by the Board of Appeals and located in the Town Clerk's office or Town Hall and shall be accompanied by a plan indicating the following:

- a. Location of premises showing dimensions, abutting properties with owner's name and address, abutting and nearby streets and ways, and the zoning of all properties shown.
 - b. Location and dimensions of all proposed structures.
3. If the rights authorized by the variance are not exercised within one (1) year from the date such variance was granted, they shall lapse and may be re-established according to Chapter 40A of the Massachusetts General Laws.
4. Variances shall only be issued following a public hearing held in accordance with Chapter 40A, Sect. 11 of the General Laws, as amended.

6.12 Restrictions

In carrying out the provisions above, the Board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this Bylaw. Such restriction shall be stated in writing by the Board and made a part of the permit or variance. No variance shall be conditioned on the continued ownership of the land or structures by the petitioner to whom the variance was issued.

6.13 Two Years Before Next Appeal

No petition considered under Sections 6.11 and 6.12 which has been unfavorably acted upon by the Zoning Board of Appeals shall be again considered on its merits by said Board within two years after the date of such unfavorable action unless the Zoning Board of Appeals and Planning Board consent thereto under the provisions of Section 16 of Chapter 40A, as amended.

6.14 Procedures

Appeals, applications and petitions authorized by this Bylaw and/or by Chapter 40A of the Massachusetts General Laws shall be taken and/or filed as provided in Section 15 through 17 of Chapter 40A of the Massachusetts General Laws. All hearings, meetings and other proceedings conducted by the Zoning Board of Appeals shall comply in all respects with the provisions of Sections 15 through 17 of Chapter 40A of the Massachusetts General Laws.

6.2 SPECIAL PERMITS

Special permits are requested for certain uses, structures or conditions as specified in Section 3.0, Schedule of Use Regulations.

6.20 Purpose

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic, utility systems, and the character of the town, among other things. The Special Permit review process is intended to insure a harmonious relationship between proposed development and its surroundings and insure the proposals are consistent with the purpose and intent of this Bylaw.

6.21 Special Permit Granting Authorities

The Planning Board and the Zoning Board of Appeals shall be the special permit granting authorities for uses as specified in Section 3.0 Schedule of Use Regulations. The Selectboard may appoint one (1) associate member of the Planning Board as provided for under G. L. c. 40A, § 9. The Planning Board Chair may designate that associate member to sit on the Planning Board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the board. The term of an associate member shall be for one (1) year, and an associate member may be re-appointed for successive terms. Or take any action in relation thereto

The Selectboard may appoint one (1) associate member of the Planning Board as provided for under G. L. c. 40A, § 9. The Planning Board Chair may designate that associate member to sit on the Planning Board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the board. The term of an associate member shall be for one (1) year, and an associate member may be re-appointed for successive terms. (May 11, 2019)

6.22 Special Permit Procedures

Special Permits may be issued by special permit granting authorities in accordance with Massachusetts General Laws. Chapter 40A. Section 9 and with the following regulations:

6.23 Public Hearings

Special Permits shall only be issued following a public hearing held within sixty-five (65) days after filing an application with the Town Clerk, a copy of which shall forthwith be given to the Special Permit Granting Authority by the applicant. The special permit granting authority shall take final action on an application for special permit within ninety (90) days following the public hearing. Failure to do so shall constitute approval. A vote of at least four members of a five-member board is required. The required time limits for a public hearing and special permit granting authority decision may be extended by written agreement between the applicant and the special permit granting authority. A copy of such agreement shall be filed in the office of the Town Clerk.

6.24 Application Procedures

1. All applications for special permits shall be made in writing on forms furnished by the Town Clerk and located in the Town Clerk's office. One original form and ten copies of the application shall be submitted, each accompanied by a site plan drawn to scale, and showing the following:
 - a. Location and dimensions of the lot.
 - b. Names of abutting streets and property owners.
 - c. Location of existing and proposed buildings and structures, including signs or other means of advertising.
 - d. Parking, loading areas, and driveways.
 - e. Facilities for sewer, refuse, other waste disposal, and surface water drainage.

6.25 Expiration

All special permits that have no time restrictions imposed by the special permit granting authority shall lapse within two (2) years from the date the permit was granted, unless substantial use or construction has commenced, and continues regularly. Included in the two (2) years shall be the time required to pursue or await the determination of an appeal referred to in Section 17, M.G.L., Chapter 40A, as amended.

6.26 Review Procedures

The Special Permit Granting Authority shall submit one copy of said application and plan to the Board of Appeals, the Planning Board, the Board of Health, and the Conservation Commission for their review. Said Boards and Commission shall within thirty-five (35) days make recommendations as they deem appropriate and shall send copies thereof to the Special Permit Granting Authority and to the applicant in accordance with Chapter 40A, Section 11 of the Massachusetts General Laws. Failure of the said Boards or Commission to make recommendations shall be deemed lack of opposition thereto.

6.27 Criteria

Where a special permit may be authorized by the Special Permit Granting Authority under this Bylaw, said Authority may grant, upon written application, such special permit if it finds, among other things:

1. That the proposed use would be suitably located in the neighborhood in which it is proposed and/or the total town.
2. That the use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district.
3. That the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories.
4. The adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation.
5. The proposed use shall comply with any and all additional special permit criteria or special use regulations imposed on individual uses in Section V of this Bylaw.
6. The proposal will not create traffic congestion or impair pedestrian safety. Provision shall be made for convenient and safe vehicular and pedestrian circulation with the site and in relation to adjacent streets, property or improvements.
7. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for maximizing groundwater recharge.
8. The design of the project shall provide for adequate methods of disposal of sewage, refuse or other wastes generated by the proposed use.
9. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses through the use of screening or vegetated buffer zones.

6.28 Conditions, Safeguards, Limitations

In granting a special permit, the special permit granting authority may, in accordance with MGL Chapter 40A, impose conditions, safeguards and limitations to be enforced in accordance with Section 6.0. Such conditions, safeguards, and limitations shall be in writing and may include but are not limited to the following:

1. Setback, side and rear yards greater than the minimum required in this Bylaw.
2. Screening of parking areas or other parts of the premises from adjoining properties
or from streets by the use of walls, fences, plantings or other such devices.
3. Limitations of size, number of occupants, method or time of operation or extent of
facilities.
4. Modification of the exterior design or appearance of buildings, structures,
signs, or
landscape materials.
5. Additional parking, loading or traffic requirements beyond the minimum
required in
the Bylaw.
6. Measures to protect against environmental pollution.
7. Performance bond or other security to ensure that the project meets the
conditions
specified in the special permits.

6.29 Change, Alterations, Expansion

Any special change, alteration or expansion of a use allowed by special permit shall require a special permit from the appropriate special permit granting authority.

6.3 SPECIAL PERMITS WITH SITE PLAN APPROVAL

6.30 Projects Requiring Site Plan Approval

No special permit or building permit shall be issued for any of the following uses:

- a. the construction or exterior alteration of business, manufacturing or industrial structures or accessory uses;
- b. any expansion or change in use of business, manufacturing or industrial structure;
- c. any business, manufacturing or industrial use of a structure not previously used for business, manufacturing or industrial uses;
- d. residential developments requiring approval under the Subdivision Control Law (M.G.L. Chapter 41); and
- e. any other use specified in the Schedule of Use Regulations which indicates Site Plan Approval is required.

Unless a site plan has been endorsed by the Planning Board, after consultation with other boards, including but not limited to the following: Building Inspector, Board of Health, Board of Selectmen, Conservation Commission, Highway Department, Fire Department, Historical Commission and Police Department.

6.31 Purpose

The purpose of site plan approval is to further the purposes of this bylaw and to ensure that new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town, and to assure adequate drainage of surface water and safe vehicular access

6.32 Application for Special Permits with Site Plan Approval

- 6.321 Each application for a Special Permit with Site Plan Approval shall be submitted to the Planning Board by the current owner of record, accompanied by ten (10) copies of the site plan. The Planning Board shall, within five (5) days, transmit one copy each to the Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Historical Commission, Police Department, and Town Clerk._
- 6.322 The Planning Board shall obtain with each submission a deposit sufficient to cover any expenses connected with a public hearing and review of plans, including the costs of any engineering or planning consultant services necessary for review purposes. If consultant services are necessary or appropriate, the applicant shall, prior to the determination of Site Plan Approval by the Planning Board, pay the Town for the full cost of services. An application is incomplete without the full payment of these services. The Planning Board may request the posting of bond instead to cover consulting service expenses.

6.33 Required Contents

6.331 All Special Permit application requirements specified in Section 6.24 shall be met.

6.332 All site plans shall be prepared by a registered architect, landscape architect, professional engineer, or professional land surveyor unless this requirement is waived by the Planning Board because of unusually simple circumstances. All site plans shall be on standard 24" x 36" sheets and shall be prepared at a sufficient scale to show:

- a. The location and boundaries of the lot, adjacent streets or ways, and the location and owner's names of all adjacent properties.
- b. Existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding, and unique natural land features.
- a. Existing and proposed structures, including dimensions and elevations.
- d. The location of parking and loading areas. Driveways, walkways, access and egress points.
- e. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other waste disposal methods.
- f. Proposed landscape features including the location and a description of screening, fencing, and plantings.
- g. The location, dimensions, height, and characteristics of proposed signs.
- h. The location and a description of proposed open space or recreation areas.

1. Required setback lines.

6.333 The applicable Board may waive any information requirements it judges to be unnecessary to the review of a particular plan.

6.34 Procedures for Special Permits with Site Plan Approval

- 6.341 The Planning Board shall refer copies of the application within 15 days to the Conservation Commission, Board of Health, and Building Inspector, who shall review the application and submit their recommendations and comments to the Planning Board. Failure of Boards to make recommendations within 35 days of the referral of the application shall be deemed to be lack of opposition.
- 6.342 The period of review for a special permit requiring site plan approval shall be the same as any other special permit and shall conform to the requirements of Chapter 40A, Section 9, "Special Permits." Specifically, a joint public hearing to address the Special Permit application and Site Plan Approval application shall be held within sixty-five (65) days of the filing of a special permit application with the Planning Board or Board of Appeals. The applicable Board shall then have 90 days following the public hearing in which to act.

6.35 Criteria for Evaluating Special Permit with Site Plan Approval Applications

- 6.351 The following criteria shall be considered by the aforementioned Boards in the review and evaluation of a site plan, consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:
- a. The proposal must conform to the special permit requirements as listed in Section 6.27 of this bylaw.
 - b. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: a) minimize impact on wetlands, steep slopes, floodplains, hilltops; b) minimize obstruction of scenic views from publicly accessible locations; c) preserve unique natural or historical features; d) minimize tree, vegetation and soil removal and grade changes; e) maximize open space retention; and, f) screen objectionable features from neighboring properties and roadways.
 - c. Building shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.

- d. The development shall be served with adequate water supply and waste disposal systems provided by the developer/applicant. For structures to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a Certified Engineer and approved by the Board of Health.
- e. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. The plan shall describe estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.
- f. The site plan shall show adequate measures to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased run-off and potential for flooding. Drainage shall be designed so that run-off shall not be increased; groundwater recharge is maximized, and neighboring properties will not be adversely affected.
- g. The development will not place excessive demands on Town services and infrastructure.
- h. Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.
- i. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or visually screened to protect the neighbors from objectionable features.
- j. The site plan shall comply with all zoning requirements for parking, loading, dimensions, environmental performance standards, and all other provisions of this bylaw.
- k. The plan shall not conflict with the goals of the community open space plan, or the character of the Town.

- 5.352 Before approval of a site plan, the reviewing board may request the applicant to make modifications in the proposed design of the project to ensure that the above criteria are met.

6.36 Final Action

6.361 The applicable Board's final action shall consist of either:

- a. A finding that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in this bylaw:
- b. A written denial of the application stating the reasons for such denial: or,
- c. Approval subject to any conditions, modifications and restrictions as the applicable Board may deem necessary.

6.362 The applicable Board may also impose any conditions, safeguards and limitations on the Special Permit specified in Section 6.28.

6.37 Enforcement

6.371 The applicable Board may require the posting of a bond or approval of a covenant in accordance with the Westhampton Subdivision Rules and Regulations to assure compliance with the plan and conditions and may suspend any permit or license when work is not performed as required.

6.372 Any special permit with site plan approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for good cause.

6.373 The applicable Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

6.4 **AMENDMENT**

This zoning bylaw may be amended from time to time at an annual or special town meeting as provided for by Chapter 40A of the General Laws. Copies of the procedures for doing so are available at the Office of the Town Clerk.

6.5 **VALIDITY**

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

SECTION VII - DEFINITIONS

For the purpose of this bylaw, the following terms or words used shall have the meanings given hereinafter. Terms and words not defined herein but defined in the Subdivision Control Law shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Merriam-Webster's Unabridged Dictionary.

7.0 WORD DEFINITIONS

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, and the plural number includes the singular.

The word "shall" is mandatory; the word "may" is permissive.

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

7.01 Term Definitions

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure, except for uses accessory to scientific research development or related production permitted as a matter of right in which case the accessory use does not have to be located on the same lot as the principal use.

Addition: A structure added to the original structure at some time after the completion of the original.

Affordable Housing: A multifamily housing building or buildings, which shall include a minimum of 10 affordable housing units. The remaining units may be market rate units. Affordable housing units are those which may be purchased by families with incomes less than 100 of the median income for the (SMSA name) Standard Metropolitan Statistical Area, and whose expenditure for housing costs does not exceed 30 of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a 30-year mortgage term, and a 10 down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations. The median income for SMSA shall be established by the U.S. Department of Housing and Urban Development median gross family income data, as annually updated.

Agriculture: Agriculture shall include but not be limited to farming, horticulture, floriculture, nursery, truck gardening, greenhouses, maple sugar productions and display and sale of natural products raised in the town with the necessary structures needed for these uses.

Alteration: Any construction, rearrangement, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

Animal Feed Lot: A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.

Antenna: A metallic device, as a rod or wire, for sending and/or receiving radio waves.

Approved Frontage: Frontage on a public way.

Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Auto Service Station: A building or part thereof whose chief activity is selling gasoline, oil and related products for motor vehicles or the provisions of lubricating service or general auto repair.

Bed and Breakfast: A Bed and Breakfast is a boarding house in which rooms are rented with breakfast and in which no other meals may be served for a fee. Rooms may be rented to the same person or persons by the Bed and Breakfast for no more than sixty (60) days per year. No Bed and Breakfast shall have more than 4 rooms to rent, nor shall anyone room be rented by more than 3 unrelated people. If a Bed and Breakfast has more than two rooms to rent, it shall have separate toilet and washing facilities for its customers.

Boarding House: A building in which the rooms are rented with or without meals to not more than four (4) persons. A lodging house, or a rooming house, or a furnished room shall be deemed a boarding house.

Boarding Stable: A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises.

Building: Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building Inspector: The lead person in a municipal building department. All other inspectors are deemed to be local inspectors in accordance with MGL, chapter 143, & section 3 & 3A. The building inspector is also the zoning enforcement officer.

Building Permit: A construction permit issued by an authorized building inspector; the building permit affirms that the project is consistent with the state and federal building codes as well as local zoning bylaws.

Building, Principal: A building in which is conducted the principal use of the lot on which it is situated.

Building Coverage: The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roof (or as shown in dimensional regulation, section 3.21 (b)).

Business: Place where the activity of a commercial, industrial, service or professional organization is transacted, not to include motels, hotels, or restaurants.

Business or Professional Office: The office of an establishment engaged in rendering business services, such as advertising and mailing; employment service; business management and consulting services; equipment rental and leasing; commercial research; development testing; and personal supply services and/or the office of a member of a recognized profession maintained for the conduct of that profession.

By-Right: The siting of a development may proceed without the need for a special permit or other discretionary approval. However, development shall be subject to site plan review to determine conformance with local zoning ordinances, bylaws, federal and state building codes, and to protect the public health, safety and welfare. Siting of projects cannot be prohibited, but can be reasonably regulated by the local building inspector, local inspectors, and designated Site Plan Review Authority

Campgrounds: Any area or tract of land used commercially to accommodate two or more camping parties, including cabins, tents, house trailers, or other camping outfits.

Club, Neighborhood or Community: A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. Does not include clubs which are commercial in nature, such as tennis and fitness clubs, owned by individuals and operated for profit.

Club, Private: A social, fraternal, religious, athletic, or political association or organization which operates solely for members and their guests, and which is not conducted as a gainful business.

Commercial Recreational Facility: A facility, operated for profit, designed to offer recreational opportunities to the public such as ski tow, park, swimming pool, tennis courts, picnic areas, cross country skiing, boating, nature trails and other recreational activities which are functionally compatible with the character of the town.

Commercial Use: Activity carried out for pecuniary gain.

Common Driveway: A vehicular access from a public way to more than one dwelling. (see Sec. 5.711 and Sec. 3.01).

Congregate Housing for the Elderly: A building or buildings arranged or used for the residence of persons age fifty-five (55) or older with some shared facilities and services.

Congregate Housing for Handicapped Persons: A building or buildings for the residence of handicapped persons, as defined in Chapter 121B of the M.G.L with some shared facilities and services.

Conservation Land: The careful preservation and protection of land in a natural condition owned and/or maintained by the Federal government, Commonwealth, the Town or a non-profit organization.

Construction Supply Establishment: An establishment which sells, rents, leases, services, and/or otherwise maintains materials and/or equipment involved in construction activities, including but not limited to hardware, lumber, equipment sales and millwork.

Continuing Care Retirement Community: A structure or structures containing independent living units, health care facilities, and other related services and amenities provided to three or more elderly persons by a person unrelated by marriage, blood or adoption to the person receiving such services.

Convenience Store: A small retail establishment no greater than 3,000 square feet in floor area that sells principally convenience goods, including but not limited to food, drugs and proprietary goods and is usually open 15 to 24 hours a day.

Craft Center: A structure or complex of structures for housing crafts.

Craft Shop: A retail establishment selling crafts.

Creative Development: A form of residential development allowed in all districts by special permit, whereby the options of common driveways and flexible area, and frontage requirements are utilized to create permanent open space and avoid standard Approval not Required and subdivision development.

Daycare Home: Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age in a family day care home not to exceed six (6) children, including participating children living in the residence. Day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or occasional care of children with or without compensation therefor.

Daycare Center: Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school or known under any other name which receives more than six (6) children not of common parentage, under seven years of age, for non-residential custody and care during part or all of the day separate from their parent(s).

Discount Store: An establishment advertising a wide variety of merchandise for sale at less than retail cost.

Drive-In Establishment: A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term "drive-in" includes a drive-in eating establishment where food is purchased from a building on the lot, but is consumed in the vehicle: drive-in service establishments such as banks, convenience stores, cleaners and the like: and automotive service stations, gasoline stations or the like.

Drive-In, Fast-Food Restaurant: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the consumer in a ready-to-consume state for consumption either within the restaurant or off-premises.

Driveway: See Sec. 5.711 a.

Dwelling, One-Family: A detached residential dwelling unit, designed for and occupied by one-family only. This definition shall include prefabricated and modular units that meet the state standards for building construction.

Dwelling, Two-Family: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the structure for the exclusive use of a single family maintaining a household.

Educational Institution: Any building or part thereof which is designed, constructed or used for educational or institution in any branch of knowledge.

Extension: The expansion or enlargement of a building, structure or use.

Family: A family is any number of individuals related by blood, marriage or adoption living together as a single housekeeping unit, provided that a group of not more than four persons keeping house together but not necessarily related by blood or marriage shall be considered a family. For the purpose of this definition, foster children shall be considered as family members to a maximum of six.

Farm: A parcel or parcels of land under one ownership or lease, said land being common, on which farming operations can be carried on to produce a minimum living income. Land divided by a private or public way or waterway shall be construed as one parcel.

Farm Business: Business established for the processing of farm products.

Farm Stand: Stand established for the display or sale of farm products.

Fast Food Establishment: An establishment whose primary business is the sale of food for consumption on or off the premises which is: (a) primarily intended for consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Fence: A man-made barrier intended to prevent escape or intrusion or to mark a boundary.

Frontage: The linear distance width of a lot measured along the right-of-way line of an approved public way where a plan of the way is on file with the Registry of Deeds or in the absence of such a plan, from a line parallel to and half the width of the public way from the center of said way provided in both cases that the minimum frontage required by this Bylaw shall be satisfied in a continuous, uninterrupted segment of such frontage. Frontage must also provide meaningful access to the parcel, and must be continuous from the right-of-way line to the front setback line.

Fraternal Organization: A group of people formally organized for a common interest, usually cultural religious or entertainment, with regular meetings, rituals and formal written membership requirements.

Funeral Establishment: An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage (Private) : A building used for the storage of one or more automotive vehicles, owned or used by the owner or tenant of the premises, and not exceeding two additional vehicles (not commercial) owned or used by others. A private garage is considered an accessory building.

General Retail Store: Retail establishment selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, small wares and hardware.

Groundwater: All water found beneath the surface of the ground.

Habitable Area: The floor area of the living space for the exclusive use of a single family in a dwelling or in a dwelling unit. Living space shall not include porches, breezeways, garage, basement, and any unfinished or community areas, and shall be measured as net area, or as gross area less twelve percent (12) for partitions and walls.

Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws Chapter 21 C.

Heliport: An area, either at ground level or elevated on a structure. licensed or approved for the loading and take-off of helicopters and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Home Occupation: The use of a portion of a dwelling or accessory building thereto as the workroom of a beautician, dressmaker, milliner, skate sharpener, radio repairman or other person engaged in a customary home occupation, or as a place for incidental work and storage in connection with his/her off-premises trade by a resident builder, carpenter, electrician, plumber or other artisan, or by a resident tree surgeon, landscape gardener, or similar person.

Home Office or Studio: The use of a portion of a dwelling or of a building accessory thereof as the office of a resident doctor, dentist, optician, clergyman, lawyer, architect, engineer or other member of a recognized profession or the studio or office of artist, craftsmen, photographer, musician, teacher, real estate or insurance agent residing on the premises.

Hotel or Motel: A building designed and used for lodging transients in non-housekeeping units. One permanent housekeeping dwelling unit is permitted for occupancy of a manager or custodian, rooms for assembly, a swimming pool for the use of guests, and the serving of food shall be deemed to be accessory uses.

Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Industry: Those fields of economic activity including mining; construction; manufacturing; transportation, electric, gas and sanitary services; and wholesale trade.

Junk Yard: Land or structures used commercially for collecting, storing or selling wastepaper, rags, scrap metal or discarded material; or for collecting, dismantling, storing, salvaging or selling inoperative machinery, vehicles or parts thereof.

Kennel: Any structure in which dogs are kept, boarded, bred or trained.

Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Light Industrial Use: Offices, research facilities, manufacturing, processing fabrication, packaging, assembly, or other industrial operation provided that is not commonly considered hazardous or noxious, that it shall be completely enclosed within a building or buildings, and that it shall not generate more than 20 gallons of wastewater per employee per day.

Lot: A single area of land in one ownership defined by metes and bounds on boundary lines on a deed recorded in the Registry of Deeds, Hampshire County, or drawn on a plan endorsed by "Approval Not Required" under Subdivision Control Law, or words of similar import. In order to be used for building purposes, it must meet the criteria of a buildable lot.

Lot. Buildable: Land area available, under the Bylaw and other lawful restrictions, for the location of a main building. Eighty percent (80) of a buildable lot may not include watercourses, waterbodies, banks or bordering vegetated wetland as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00. If the landowner/development is uncertain if any wetland exists within buildable lot. he/she may ask for a determination from the Conservation Commission.

Lot. Comer: A lot having at least two adjacent sides dividing it from two or more intersecting Public ways, provided that the interior angle of the intersection of such two sides is less than one hundred thirty-five degrees (135^0).

Lot. Through: A lot other than comer lot which extends all the way between and abuts two or more generally parallel streets.

Lot Coverage: The portion of the lot which is rendered impervious to rainfall, including but not limited to structures, pavement and permanent accessories.

Lot Line: The established division line between lots or between a lot and a street.

Lot Line, Front: The property line dividing a lot from a Public Way. On a corner lot the owner shall designate one street line as the front lot line.

Lot Line, Side: The line or lines bounding a lot which extend from the street toward the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

Lot Line, Rear: The lot line opposite the front lot line.

Manufactured (or Modular) Housing: A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees and other prefabricated supplements incorporated into a structure at the site. For the purpose of this Bylaw, a modular unit shall not be deemed a "mobile home" but shall be regarded as a conventional dwelling, subject to the rules and regulations contained herein.

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products and the blending of materials such as plastics, resins, or liquors.

Marijuana establishment: A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed adult use marijuana-related business, as defined in G.L. c.94G and 935 CMR 500.002.

Mobile Home: A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a permanent foundation for permanent living quarters.

Mobile Home Park: Any lot, parcel or tract of land upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodations.

Motor Vehicle Sales: A lot and/or structure where motor vehicles are on display for sale and service.

Non-Conforming Use: The use of land or structures which are lawfully in existence but which do not comply with the provisions of this bylaw.

Nursing Home: An extended or intermediate care facility licensed by the State to provide full-time convalescent or chronic care to individuals who by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Off-Street Parking: A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

Park: A tract of land, designated and used by the public for active and passive recreation.

Parking Area: Any open space used for parking motor vehicles exclusively, and in which neither gasoline nor motor vehicle accessories are sold, or no other business conducted.

Person: Shall include an individual, corporation, society, association, partnership, trust or other entity, public or private.

Photovoltaic System: (also referred to as Photovoltaic Installation): An Active solar energy system that converts solar energy directly into electricity.

Playground: An area used for games and recreation especially by children.

Primary Aquifer Recharge Areas: Areas which are underlain by surficial geologic deposits including glaciafluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.

Principal Use: The primary or predominant use of any lot.

Private Stable: A building or part of a building in which one or more horses or ponies are kept for the private use of the owner, and in which no horses or ponies are kept for sale, rent, hire, breeding, or for commercial cartage, trucking, or other business purposes.

Project Proponent: The applicant, property owner, facility developer, operator and management entity, jointly and severally, of a project. Each of the responsible parties shall be responsible for adhering to the requirements set forth in this bylaw.

Public Right-of-Way: The entire strip of land acquired for or dedicated to the use of a public way shown on a Definitive Plan of a subdivision of land which has been approved by the Planning Board and is on file at the Registry of Deeds.

Public Uses: Uses owned and/or operated by a government entity or a non-profit organization for the general welfare of the community.

Public Utility: A closely regulated private enterprise with an exclusive franchise for providing a public service.

Public Way: Public way shall include any street or highway established by prescription as a public way or by the State, County, or Town as a public way dedicated or open to public use.

Radioactive Waste: Any waste material or substance, which is a source of ionizing or non-ionizing radiation.

Rated Nameplate Capacity: The maximum rated output of electric power production of a Photovoltaic system in Direct Current (DC).

Repair Shop: An establishment for the repair of household items, except motor vehicles.

Rest Home: See Nursing Home

Restaurant: An establishment where food and drink is prepared served and consumed primarily within the primary building.

Riding Academy: An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for hire.

Sanitarium: An institution which is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related by marriage, blood, or adoption.

Sawmill: A facility utilized to process timber into boards, beams, and related wood stock for commercial purposes, excluding operation accessory to a permitted agricultural use.

Shopping Center: A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provided for goods delivery separated from customer access, aesthetic consideration and protection from the elements.

Sign Accessory: Any sign that advertises, or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter.

Sign, Area of:

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

Sign, Free-Standing: A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

Sign, Movable: A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

Sign, Non-Accessory: Any sign not an accessory sign.

Sign, Projecting: A sign which is affixed to building, tree, or other structure and which extends more than six (6) inches beyond the surface to which it is affixed.

Sign, Roof: A sign which is located above, or projected above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof

Sign, Temporary: Any sign, including its' support structure, intended to be maintained for a continuous period of not more than thirty (30) days in any calendar year.

Sign, Wall: Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six (6) inches from the surface of the building.

Site Plan Review: A review by the Site Plan Review Authority to determine conformance with local zoning ordinances and bylaws.

Site Plan Review Authority: The person or group designated as such by the applicable section of the bylaw to perform Site Plan Review is the Planning Board.

Solar Energy System Installation Ground Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof mounted; may be of any size (small-, medium- or large scale).

Solar Energy System Installation Large Scale: An Active Solar Energy System that occupies 32,000 square feet or greater of surface area of solar panels.

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight or interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System Installation Medium Scale: An Active Solar Energy System that occupies more than 2,100 but less than 32,000 square feet of surface area of solar panels.

Solar Energy System, Off Grid: A Solar Energy System in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System Roof Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure, may be of any size (small-, medium-, or large scale).

Solar Energy System Installation Small Scale: An Active Solar Energy System that occupies 2,100 square feet or less of surface area of solar panels.

Solar Thermal System: An Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or save cooling.

Street: A way, either public or private, giving access to private property and to which the public has access, but excluding an alley used for service access only. Street shall be deemed to include the entire right-of-way.

Street Line: The dividing line between a street and a lot, and in the case of a public street, the street line established by public authority.

Structure: A combination of materials for permanently or temporary occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, in-ground swimming pool, shelters, piers, bin, fence, sign, gasoline pumps, recreational courts, or the like.

Subdivision: Including re-subdivision shall be as defined in the Subdivision Control Law, M.G.L., Chapter 41.

Supermarket: A retail store selling a complete assortment of food, food preparation and wrapping materials and household cleaning and servicing items.

Trailer: A vehicular, prefabricated, portable structure designed as a temporary dwelling for travel, overnight camping, recreational and vacation uses. Designed for temporary use, such trailers are usually in, on or behind a motor vehicle.

Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.

Underground Storage: Storage below ground level but not including storage in a free-standing container within a building.

Use: The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

Variance: An authorization granted by the Board of Appeals to vary the terms of this Bylaw when special physical conditions affect such use or structure and where a literal enforcement of this Bylaw would involve substantial hardship to the owner. Provided also that such authorization shall not take away from the intent or purpose of the Bylaw.

Veterinary Hospital: A place where animals or pets are given medical or surgical treatment and boarding of animals is limited to short-term care incidental to the hospital use.

Warehouse: A building used primarily for the storage of goods and materials for uses other than in conjunction with a home occupation.

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

Wholesale Store: An establishment or place of business primarily engaged in selling merchandise to retailers to industrial, commercial institutional, or professional business users, or to other wholesalers: or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard: A required open space, unoccupied except as herein permitted, between a principal building, excluding steps but including porches, decks and the like, and a street or a lot line.

Yard, Front: A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard, Rear: A yard adjacent to the rear lot line and extending between side lot lines.

Yard, Side: A yard adjacent to the side lot line and extending from the front yard to the rear yard.

