

# **TOWN OF STOUGHTON, MASSACHUSETTS**



## **ZONING BY-LAW AND MAP**

**November 18, 2015**

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# STOUGHTON ZONING BY-LAW

## SECTION 1.0 PURPOSE AND AUTHORITY

**1.1 PURPOSE.** These regulations are enacted to promote the general welfare of the Town, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

**1.2 AUTHORITY.** This Zoning By-Law (“this By-Law”) is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

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

**1.4 APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

**1.4.1 Applicability; Nonconformities.** Except as herein after provided, this By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure.

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

**1.5 AMENDMENTS.** This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

**1.6 SEPARABILITY.** The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

## SECTION 2.0 DISTRICTS

### 2.1 ESTABLISHMENT OF ZONING DISTRICTS

**2.1.1 Division into Districts.** The Town of Stoughton, Massachusetts is hereby divided into the following Zoning Districts to be designated as follows:

Full Name	Abbreviation
Residential-Suburban A	RA
Residential-Suburban B	RB
Residential-Suburban C	RC
Residential-Urban	RU
Residential-Multifamily	RM
Central Business District	CBD
General Business	GB
Neighborhood Business	NB
Highway Business	HB
Industrial	I

District	From	To
Residential-Suburban A	R30 or R-30	RA
Residential-Suburban B	R20 or R-20	RB
Residential-Suburban C	R15 or R-15	RC
Residential-Urban	R8 or R-8	RU

### 2.2 ZONING MAP

**2.2.1 Title.** The location and boundaries of the Zoning Districts are hereby established as shown on a map titled "Zoning Map Town of Stoughton, Massachusetts," dated August 19, 2012, as amended, which accompanies and is hereby declared to be a part of, this By-Law.

**2.2.2 Scale and Custody.** The Zoning Map shall be drawn to scale of 1" = 600' with ink in stable material, and shall be located in the Office of the Building Inspector. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

**2.2.3 Changes to Map.** Any change in the location of boundaries of a Zoning District hereinafter made through the amendments of this By-Law shall be indicated by the alteration of such map, and the map thus altered as declared to be part of the By-Law thus amended.

**2.2.4 Boundaries of Districts.** Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules shall apply:

1. Where a boundary is indicated as a street, railroad, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary

approximates a town boundary, then to the limits of the town boundary.

2. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

3. Where a dimensional boundary coincides within ten feet or less with a lot line, the boundary shall be construed to be the lot line.

4. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other body of water, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.

## **2.3 OVERLAY DISTRICTS**

**2.3.1 Establishment.** The Town is also hereby divided into the following overlay districts. See Section 9.0.

Stoughton Center Mixed Use Overlay District	SCMUOD
Flood Hazard, Wetlands, and Watershed Districts	FHWW
Aquifer Protection Overlay District	APOD
Wireless Communication Overlay District	WCOD
Floodplain Overlay District	FPOD
Solar Power Overlay District	SPOD
Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District	MMOD

## **SECTION 3.0 USE REGULATIONS**

### **3.1 PRINCIPAL USES**

**3.1.1 Applicability of Use Regulations.** Except as provided in the Zoning Act or in this By-Law, no building, structure, or land shall be used except for the purposes permitted in the district as described in this Section. Any use not listed shall be construed to be prohibited.

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

BA	Zoning Board of Appeals
PB	Planning Board
SB	Select Board

**3.1.3 Uses Subject to Other Regulations.** Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this By-Law.

**3.1.4 Table of Use Regulations.** See Table of Use Regulations which is declared to be part of this By-Law.

**TABLE OF USE REGULATIONS**

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>A. RESIDENTIAL</b>										
1. One-family detached dwelling	N	Y	Y	Y	Y	N	N	N	N	N
2. Two-family dwelling	Y	BA	N	N	N	N	N	N	N	N
3. Multifamily dwelling provided that no more than 10% of the total number of units at any one time be units of three or more bedrooms	Y	N	N	N	N	BA	N	N	N	N
4. Flexible development (See Section 7.1)	N	N	PB	PB	PB	N	N	N	N	N
5. Conversion of existing (as of September 8, 1970) dwelling structure to multifamily dwelling provided the total number of units in the converted dwelling structure shall not exceed four dwelling units	Y	BA	N	N	N	BA	BA	N	N	N
6. Planned multifamily development provided that no more than 10% of the total number of units at any one time be units of three or more bedrooms	Y	N	N	N	N	BA	N	N	N	N
7. Conversion of existing nonresident structures to multifamily structures containing five or more dwelling units (See Section 7.3)	BA	N	N	N	N	N	N	N	BA	N
8. Nursing, rest or convalescent home	BA	BA	BA	BA	BA	N	N	N	N	N
9. Bed and Breakfast Establishment	PB	PB	PB	PB	PB	N	N	N	N	N
10. Mixed Use Building	N	N	N	N	N	PB	PB	PB	PB	N
11. Housing for the Elderly and Congregate Housing Constructed under the provisions of Chapter 667, Acts of 1954, and Chapter 689, Acts of 1974 and amendments thereto, of the Commonwealth of Massachusetts	Y	BA	BA	N	N	N	BA	N	N	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>B. COMMUNITY AND EXEMPT FACILITIES</b>										
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Public park, conservation area and preserved open spaces including areas for passive recreation, but not including active recreational facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Nonprofit recreational facility, not including a membership club	Y	Y	Y	Y	Y	N	N	N	N	N
5. Nonprofit country, hunting, fishing, tennis, or golf club without a liquor license; a nonprofit golf club with or without a liquor license	N	N	BA	BA	BA	N	N	N	N	N
6. Nonprofit day camp or other nonprofit camp	N	N	BA	BA	BA	N	N	N	N	N
7. Town building except equipment garage	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
8. Town cemetery, including any crematory therein	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
9. Town equipment garage	N	N	N	N	N	N	Y	N	Y	Y
10. Town Refuse Transfer Station provided that it not be located within an Aquifer Protection Area	N	N	N	N	N	N	N	N	N	Y
11. Historical association or society	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12. Hospital	N	N	BA	BA	BA	N	N	N	N	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>B. COMMUNITY AND EXEMPT FACILITIES</b>										
13. Child care center or school aged child care program	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14. Sewage treatment plant provided that it not be located within an Aquifer Protection Area	N	BA	N	N	N	N	N	N	N	BA
15. Essential Services	BA	BA	BA	BA	BA	N	BA	BA	BA	BA
16. Power plant	N	N	N	N	N	N	N	N	N	N
17. Multi-Family Senior Housing	BA	BA	BA	BA	BA	N	N	N	N	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>C. AGRICULTURAL</b>										
Note: Paragraphs 1 - 6 apply only to parcels of land 5 acres or less, except for parcels with two qualified acres as defined in G.L. c. 40A, s. 3. On parcels of land over 5 acres or on two or more qualified acres, Agriculture (as defined in G.L. c. 40A, s. 3) is permitted in all zones, subject only to approval by the Board of Health under Chapter 111, Section 155 of the General Laws.										
1. Agriculture, horticulture, and floriculture except for a greenhouse or stand for retail sale	Y	Y	Y	Y	Y	N	Y	N	Y	Y
2. Year-round greenhouse or stand for wholesale and retail sale of agricultural or farm products	N	N	N	N	N	N	BA	N	Y	Y
3. Temporary (not to exceed erection or use for a period exceeding 3 months in any one year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises	N	N	BA	BA	BA	N	BA	BA	BA	BA
4. Raising and for keeping of livestock, horses, and poultry, not including the raising of swine or fur animals, with the approval of the Board of Health under Chapter 111 of Section 155 of the General Laws	N	BA	BA	BA	BA	N	N	N	N	N
5. Commercial stables, commercial kennels, veterinary hospital or other commercial establishments in which all animals, fowl or other forms of life are completely enclosed in pens or other structures	N	N	N	N	N	N	BA	N	BA	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>D. RETAIL , TRADE, AND RESTAURANT</b>										
1. Retail, small	N	N	N	N	N	Y	Y	Y	BA	N
2. Retail, large	N	N	N	N	N	N	BA	N	Y	N
3. Eating and drinking places (including alcoholic beverages) not including drive-in establishments or fast order food establishments	N	N	N	N	N	Y	Y	BA	Y	BA
4. Drive in fast order food establishments	N	N	N	N	N	N	BA	N	BA	BA
5. All other drive in or drive-through facilities, provided the principal use is allowed	N	N	N	N	N	PB	PB	PB	PB	PB
6. Fast order food establishments	N	N	N	N	N	BA	BA	N	BA	N
7. Sales by vending machines as a principal use	N	N	N	N	N	N	N	N	Y	N
8. Establishment selling new or new and used motor vehicles, new tires and other accessories, aircraft, boats, motorcycles and household trailers	N	N	N	N	N	N	N	N	BA	N
9. ZIP car or similar facility for short term leasing of vehicles	N	N	N	N	N	Y	Y	Y	Y	Y
10. Hotels and motels	N	N	N	N	N	N	N	N	Y	BA
11. Lodging House	BA	N	N	N	N	N	BA	N	BA	N
12. Personal and consumer service establishment	N	N	N	N	N	Y	Y	Y	Y	BA
13. Funeral establishment	BA	BA	N	N	N	N	Y	Y	Y	N-
14. Membership Club	N	N	N	N	N	BA	Y	BA	Y	BA
15. Professional and business offices and services	N	N	N	N	N	Y	Y	Y	Y	Y
16. Motor vehicle repair	N	N	N	N	N	N	BA	BA	BA	BA

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>D. RETAIL , TRADE, AND RESTAURANT</b>										
17. Motor vehicle light service station including the sale of gasoline (not including junkyard or open storage of abandoned automobiles or other vehicles) provided that it not be located within an Aquifer Protection Area	N	N	N	N	N	N	N	N	BA	BA
18. Temporary business use of trailer during time of construction	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
19. General service establishment	N	N	N	N	N	Y	Y	Y	Y	N
20. Motor vehicle, machinery or other junkyard provided it shall be screened from outside view by an enclosed solid fence or wall and gate at least 12 feet in height or by natural or topographic features and provided that it not be located within an Aquifer Protection Area	N	N	N	N	N	N	N	N	N	N
21. Motion picture establishment, outdoor	N	N	N	N	N	N	N	N	BA	BA
22. Motion picture establishment, indoor	N	N	N	N	N	Y	Y	Y	Y	N
23. Other amusement and recreation service, outdoor	N	N	N	N	N	BA	N	N	Y	BA
24. Other amusement and recreation service, indoor	N	N	N	N	N	BA	BA	BA	Y	N
25. Communications and television tower	BA	BA	BA	BA	BA	N	BA	BA	BA	BA
26. Commercial parking lot or structure	N	N	N	N	N	BA	BA	BA	BA	BA
27. Planned business development (See Section 8.4)	N	N	N	N	N	N	BA	BA	BA	BA

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>D. RETAIL , TRADE, AND RESTAURANT</b>										
28. Trade, professional or other school conducted as a private gainful business excluding noisy accessory uses and animals	N	N	N	N	N	Y	Y	Y	Y	Y
29. Adult Entertainment Establishments (See Section 8.1)	N	N	N	N	N	BA	N	N	N	N
30. Body Piercing, Massage, except in the case of massage, as an accessory use in association with a Gym or Sports facility, or Medical Practice, or weight room or training facility or swimming pool	N	N	N	N	N	N	N	N	BA	N
31. Physicians, surgeons, chiropractors, osteopaths, physical therapists or massage therapists who are duly licensed to practice within the Commonwealth of Massachusetts.	N	N	N	N	N	Y	Y	BA	Y	Y
32. Tattoo Parlors	N	N	N	N	N	N	N	N	BA	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>E. WHOLESALE, TRANSPORTATION AND INDUSTRIAL</b>										
1. Removal of sand, gravel, quarry, or other raw material (See Section 8.3)	N	N	N	BA	BA	N	N	N	BA	BA
2. Processing and treating of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding, and milling operations	N	N	N	N	N	N	N	N	BA	BA
3. Construction industry including suppliers	N	N	N	N	N	N	N	N	BA	Y
4. Manufacturing or light manufacturing	N	N	N	N	N	N	N	N	Y	Y
5. Laundry or dry cleaning plant	N	N	N	N	N	N	N	N	BA	Y
6. Bakery, including the sale of bakery products on the same premises	N	N	N	N	N	BA	Y	BA	Y	Y
7. Railway express service	N	N	N	N	N	BA	Y	BA	BA	Y
8. Truck terminal, with or without warehousing of freight	N	N	N	N	N	N	N	N	BA	Y
9. Bus or railroad passenger terminal	N	N	N	N	N	N	Y	Y	Y	Y
10. Heliport, subject to the design criteria and standards of the Federal Aviation Administration as published in "Heliport Design Guide" November 1969, or any later revision thereto	N	N	N	N	N	N	N	N	BA	Y
11. Other transportation service	N	N	N	N	N	BA	BA	BA	BA	BA
12. Wholesale trade and distribution including lumber, fuel, feed, and ice and accessory storage of products	N	N	N	N	N	N	N	N	Y	Y

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Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>E. WHOLESALE, TRANSPORTATION AND INDUSTRIAL</b>										
13. Open storage of raw materials, finished goods, or construction equipment and structures for storing such equipment, provided it shall be screened from outside by an enclosed solid fence and gate at least 10 ft. in height, or a solid wall of evergreens of vertical habit when planted not more than 3 ft. apart and at least 6 ft. in height, and a solid gate at least 10 ft. in height and not more than 20 ft. in width	N	N	N	N	N	N	BA	N	BA	Y
14. Research offices or establishments devoted to research and development activities	N	N	N	N	N	BA	N	N	BA	Y
15. Planned industrial development (See Section 9.6)	N	N	N	N	N	N	N	N	BA	BA
16. Printing and publishing provided the gross floor area does not exceed 6,000 sq. ft.	N	N	N	N	N	BA	Y	N	Y	Y
17. Printing and publishing with the gross floor area in excess of 6,000 sq. ft.	N	N	N	N	N	N	N	N	N	Y
18. Waste Disposal Facilities including incinerators, transfer stations and resource recovery facilities	N	N	N	N	N	N	N	N	N	BA
19. Hazardous Waste Facilities for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal of hazardous wastes	N	N	N	N	N	N	N	N	N	N
20. Chemical Plant for Manufacturing, Combining, Storage or Distribution of Chemicals	N	N	N	N	N	N	N	N	N	N
21. Radioactive Waste Disposal for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste	N	N	N	N	N	N	N	N	N	N

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Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>F. ACCESSORY USES</b>										
1. Home occupation (See Section 3.2.2)	BA	BA	BA	BA	BA	N	Y	Y	Y	BA
2. Telephone Use for Business	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Family day care home, small	Y	Y	Y	Y	Y	N	N	N	N	N
4. Family day care home, large	BA	BA	BA	BA	BA	N	N	N	N	N
5. Accessory building such as a private garage, playhouse, greenhouse, tool shed, private swimming pool, or similar accessory structures. Subject to provisions of Section VI.	Y	Y	Y	Y	Y	N	Y	Y	Y	N
6. Accessory private garage for not more than 3 noncommercial motor vehicles. Except on a farm, not more than one noncommercial motor vehicle may be 3/4 ton or more rated in size.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Accessory storage of commercial vehicles which are more than 3/4 ton rated in size	N	N	N	N	N	BA	BA	BA	Y	Y
8. Accessory storage of a trailer, unregistered automobile or boat provided; it shall either be stored within a principal or accessory building or not less than 25 ft. from any front lot line or within the side yards and it shall not be used for dwelling or sleeping purposes, and further, provided the number stored at any one time shall be limited to two trailers, one unregistered automobile and two boats	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
9. Accessory repair and storage facilities in any retail sales or consumer establishment provided: it shall not occupy more than 25 percent of the gross floor area	N	N	N	N	N	Y	Y	Y	Y	N

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>F. ACCESSORY USES</b>										
10. Accessory outside storage clearly necessary to the operation and conduct of a permitted principal wholesale, transportation, industrial and/or commercial use provided: it shall be screened from outside view by an enclosed solid fence or wall and gate at least 10 ft. in height or a solid wall of evergreens when planted not more than 3 ft. apart and at least 6 ft. in height and a solid gate at least 10 ft. in height and not more than 20 ft. in width	N	N	N	N	N	N	BA	N	BA	Y
11. Accessory manufacturing use provided: it shall not occupy more than twenty-five (25) percent of the gross floor area of the building; and it shall not be located within one hundred (100) feet of any "R" District or within fifty (50) feet of any street lot line	N	N	N	N	N	N	N	N	N	Y
12. Newsstand, barber shop, dining room or cafeteria and similar accessory services primarily for occupants or users thereof within a hotel, office, or industrial building, hospital containing more than 50 sleeping rooms, or transportation terminal facility	N	N	N	N	N	N	Y	Y	Y	Y
13. Up to three lodging units in an existing dwelling	Y	Y	N	N	N	N	BA	BA	BA	N
14. Accessory gas storage and pumping facilities for use by the principal use and not as a separate business but not in the Aquifer Protection District	N	N	N	N	N	N	BA	BA	Y	Y
15. The raising and keeping of livestock, horses and poultry as an accessory use not including the raising of swine or fur animals with the approval of the Board of Health under Chapter 111 of Section 155	BA	BA	BA	BA	BA	N	BA	BA	BA	BA

## TABLE OF USE REGULATIONS

Principal Uses	Residential					Business				Industrial
	R-M	R-U	R-C	R-B	R-A	CBD	GB	NB	HB	I
<b>F. ACCESSORY USES</b>										
16. Removal of gravel, sand, or other earth material incidental to and in connection with the construction of a building on a lot (See Section 8.3)	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
17. Accessory Retail Store in an Industrial or Warehouse Building, providing it is selling their own products	N	N	N	N	N	N	N	N	N	BA
18. Temporary additional living areas (See Section 7.2)	N	Y	Y	Y	Y	N	N	N	N	N
19. Accessory professional offices within one hundred (100) feet of a hospital provided it not be located within fifty (50) feet of any abutter's lot line	N	N	Y	Y	Y	N	N	N	N	N
20. Educational purposes, not otherwise exempt, expressly: swimming lessons, horseback riding lessons, ceramics lessons, or knitting lessons.	BA	BA	BA	BA	BA	N	N	N	N	N
21. Electric charging station, Level Two	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
22. Donation Box	N	N	N	N	N	BA	BA	BA	BA	N

## **3.2 ACCESSORY USES**

**3.2.1 General.** An accessory use located on the same lot with, and customarily incidental to, any of uses set forth in the Table of Uses as allowed or allowed by special permit shall be permitted.

**3.2.2 Home Occupation.** A home occupation may be conducted as set forth in the Table of Use Regulations, subject to the following standards.

1. No more than one nonresident shall be employed therein.
2. The use is carried on strictly within the principal building or a lawful accessory structure.
3. Not more than 40 percent of the existing net floor area not to exceed 400 square feet is devoted to such use.
4. That there shall be no display of goods or wares visible from the street.
5. No advertising on the premises other than a small non-electric sign not to exceed 2 square feet in area, and carrying only the occupant's name, telephone number, email or website address, and his occupation such as physician, artisan, teacher, day-nurses, lawyer, architect, salesman (type), engineer, clergyman, accountant, osteopath, dentist, and similar occupations or professions.
6. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.(Refer to section 6.3 Environmental Performance Standards)
7. Any such building shall include no feature or design not customary in buildings for residential use.
8. Such uses as clinics, barber shops, retail, gift shops, beauty parlors, tearooms, tourist homes, animal hospitals, kennels, contractor's yard, landscaper's yard, and others of a similar nature shall not be considered as home occupations.
9. The prohibition of retail home occupations shall not be construed to prohibit infrequent yard, tag or estate sales.

## **3.3 ACCESSORY STRUCTURES**

**3.3.1 General.** In "R" and "B" Districts, a detached accessory building or structure shall conform to the following provisions:

1. It shall not occupy more than 25 percent of the required rear yard;
2. It shall be set back from the street line the required front yard distance for the zone in which it is located;
3. It shall not be less than 5 feet from any other lot line or less than 10 feet from any principal building or structure; and

4. It shall not exceed 20 feet in height.

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

### **3.4 RESIDENTIAL PORTABLE SELF-STORAGE UNITS**

**3.4.1 General.** A portable self-storage unit, otherwise known as a "POD" or a "box container," shall be allowed in a Residence District for not more than six consecutive months, unless not visible from the street or any adjacent property.

**3.4.2 Exception.** A portable self-storage unit serving a construction project with an active building permit is exempt.

### **3.5 DONATION BOXES**

**3.5.1 General.** One or more donation boxes may be allowed on a property as set forth in the Table of Use Regulations upon the grant of a special permit by the Board of Appeals.

#### **3.5.2 Limitations.**

1. No donation box shall be larger than 125 cubic feet.
2. The Board of Appeals may impose reasonable conditions for the donation box, including a time limit on the special permit and provisions requiring removal of the donation box after the expiration of the special permit.
3. The owner or lessee of the premises shall regularly ensure that surplus donations do not spill over into the parking area and are not visible from the street.

## **SECTION 4.0 DIMENSIONAL AND DENSITY REGULATIONS**

### **4.1 GENERAL REQUIREMENTS**

**4.1.1 Applicability.** The regulations for each District pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, minimum open space shall be as specified in this Section and set forth in the Table of Dimensional and Density Regulations, and subject to the further provisions of this Section.

**4.1.2 Table of Dimensional and Density Regulations.** See Table of Dimensional and Density Regulations which is declared to be a part of this By-Law.

**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS**

District	Use	Minimum Lot Area (ft.)	Minimum Lot Width (ft.)	Minimum Lot Frontage (ft.)	Minimum Lot Depth (ft.)	Minimum Yards			Maximum Height (ft.)	Maximum Stories (no.)	Maximum Building Area (%)	Minimum Open Space (%)
						Front (ft.)	Side (ft.)	Rear (ft.)				
R-M	Multi-Family Apartment House Multi-Family Row House (Town House, Condominium) Two-Family Dwelling	12,000 sq. ft. per dwelling unit + 2,000 sq. ft. per bedroom per dwelling unit (7)	150 (5)	150 (5)	80	25	10(2)	30	40	4	30	30
	Any other permitted use (5)		100	100								
RU (10)	Two-Family Dwelling	35,000 (7)	120	120	100	25	15(1)	40	35	2.5	30	50
	Single-Family Dwelling	25,000 (7)	80 (5)	80	80	25	15	40	35	2.5	30	50
	Any other permitted use	35,000 (7)	120 (6)	120	80	25	15	40	35	2.5	30	50
RC (10)	Any permitted use	40,000 (7)	100 (5)	100	120	35	15	40	35	3	25	50
RB (10)	Any permitted use	55,000 (7)	125 (5)	125	140	40	20	40	35	2.5	20	50
RA (10)	Any permitted use	55,000 (9)	150 (5)	150	180	40	20	50	35	2.5	20	50
CBD	Any permitted use	2,500	20	20	75	0	0	10	40	3	90	0
GB	Any permitted use	10,000 (7)	50	50	75	15	5	30	40	3	70	10
NB	Any permitted use	10,000 (7)	50	50	75	15	5	30	30	2.5	50	20
HB	Hotel and Motel	20,000 + 3,000 per unit (7)	80	80	100	20	15	40	40	4	40	30
	Any permitted use	20,000 (7)	80	80	100	20	15	40	85 (8)	6 (8)	40	30
I	Any permitted use	80,000 (7)	125	150	125	25	20	40	40	4	50	25(3)

Amended by action of Town Meeting, April 30, 1979, Article #27.

R-M Previous amendment voted June 17, 1981, Article 16  
R-30 Previous amendment voted June 23, 1975, Article 19

R-8 Previous amendment voted June 20, 1977, Article 4  
CBD Added by Town Meeting, April 24, 1978, Article 53

(1) One side only for side-by-side dwelling units.

(2) Semidetached row unit, outside only.

(3) The requirements of Section 6.1.7 shall apply.

(4) Amended by action of Special Town Meeting, October 28, 1985, Article 24

(5) Amended by action of Special Town Meeting, November 1, 1988, Article 8

(6) Amended by action of Annual Town Meeting, April 24, 1989, Article 42

(7) Amended by action of Special Town Meeting, November 12, 1996, Article 6

(8) Amended by action of Special Town Meeting, May 5, 1997, Article 9 ID 29

(9) Amended by action of Special Town Meeting, May 3, 1999, Article 1 ID 1

(10) Amended by action of Special Town Meeting, May 3, 1999, Article #3 ID 19

**4.1.3 Reduction of Lot Areas.** The lot, yard areas or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this By-Law, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this By-Law, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

**4.1.4 Separation of Lots.** Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this By-Law.

**4.1.5 One Principal Structure per Lot.** Except for planned developments for multifamily development, Flexible Development, planned unit residential development, planned business or industrial development, community facilities, and public utilities, only one principal structure shall be permitted on a lot. The minimum distance between the walls of such principal buildings shall be twice the minimum side yard or side setback required in the District. The minimum lot area required per each individual dwelling unit, building, or other unit of use shall be multiplied by the number of such units to obtain the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract as a whole.

**4.1.6 Shape Factor.**

1. No principal structure having a permitted use shall hereafter be erected or placed, on any lot unless the lot is substantially regular in shape. Substantially regular in shape shall mean that a lot has a Shape Factor (SF) of 30.0 or less. Shape Factor shall be determined by dividing the square of the perimeter of the lot measures in linear feet, by the area of the lot measured in square feet:  $SF=(p \times p)/A$ .
2. A lot may have a Shape Factor exceeding 30.0 if a portion of the lot itself meets the minimum lot area requirement and has a Shape Factor of 30.0 or less and which portion includes minimum street frontage.
3. The requirements of subsections 1 and 2 are hereby declared to be area and width requirements within the meaning of General Law, Chapter 40A, Section 6 (fourth paragraph, first sentence).

**4.1.7 Lot Width.** Every lot created shall be configured so that it can contain a rectangle abutting the street line; said rectangle having a width equal to the required frontage, and having depth equal to the minimum required lot depth.

**4.1.8 Lot Width and Frontage.** Each lot shall have frontage on a street or way of the required minimum lot width, with its primary means of access onto said street or way. The principle means of access for residential lots shall be through said frontage.

**4.2 SPECIAL REQUIREMENTS**

**4.2.1 Courts.** Provisions for inner and outer courts shall be subject to the Building Code.

**4.2.2 Corner Lot.** A corner lot shall have minimum street yards with depths which shall be the same as the required front yard depths for the adjoining lots.

**4.2.3 Through Lot.** At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the District in which each street frontage is located.

**4.2.4 Projections.** Projections into required yards or other required open spaces are permitted subject to the following:

1. Balcony or bay window, limited in total length to one half the length of the building, not more than 2 feet.
2. Open terrace or steps or stoop, under 4 feet in height, up to one half the required yard setback.
3. Steps or stoop over 4 feet in height, window sill, chimney, roof eave, fire escape, fire tower, storm enclosure, or similar architectural features, not more than 2 feet.

### **4.3 HEIGHT REQUIREMENTS**

**4.3.1 Exceptions.** The provisions of this By-Law governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, solar panels, elevator shafts, and other necessary appurtenances usually carried above roof, not to domes, towers, stacks, or spires, if not used for human occupancy and which occupy not more than 20 percent of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20 percent of the lot area; nor to churches or public agricultural or institutional buildings or buildings of private schools not conducted for profit that are primarily used for school purposes, provided that excepted appurtenances are not located within the flight paths of an airport as defined by FAA regulations.

### **4.4 MULTIFAMILY REQUIREMENTS**

**4.4.1 Multifamily Units.** For multifamily units of two or more bedrooms, where the total number of dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units, there shall be an open space area with a minimum size of 500 square feet per unit for each two bedroom and 1,000 square feet per bedroom for each unit of 3 or more bedrooms. Specifically exempt from this requirement are one bedroom units and age restricted housing under federal and state law.

### **4.5 PLANNED MULTIFAMILY DEVELOPMENT**

**4.5.1 General.** For a Multifamily Apartment House, Multifamily Row House (Town House or Condominium) and Two-Family Dwelling in the RM District, in addition to the requirements set forth in the Table of Dimensional and Density Regulations, the minimum lot area shall be 12,000 square feet per dwelling unit and 2,000 square feet per bedroom per dwelling unit.

## **4.6 SPECIAL DISTRICT REQUIREMENTS**

**4.6.1 Buildings in Floodway.** A building shall not be erected in a floodway or any area subject to periodic flooding, except if the first floor elevation is higher than the highest flood recorded, unless such flood elevation shall have been reduced by construction of dams at headwaters, or by other means.

**4.6.2 I and B Districts.** Where "I" or "B" District abuts an "R" District, no building within the "I" or "B" District shall be within 25 feet of the boundary line of the "R" District.

1. Within the 25 foot setback there shall be a green belt no less than 15 feet in width running the distance where the "I" or "B" District abuts the "R" District. The Planning Board shall define the type, height and density of such plantings in its Rules and Regulations.
2. No building in a "B" or "I" District shall be constructed within twenty-five feet of the lot line of any residential home.

**4.6.3 RM District.** Where a lot in a RM District and/or Multifamily dwelling Units abuts or is within one hundred (100) feet of the boundary line of any Single Residence District and/or single Family Dwellings a buffer strip shall be provided on all portions of said lot so abutting (within 100 feet as above said); such buffer strip to be at least one hundred (100) feet wide, including the width of any town owned land or public street. "The buffer strip on said lot shall include a dense screen of vegetation no less than eight (8) feet high and no closer than fifteen (15) feet from any intersection, and/or driveway-road intersection, and may be used only for access to the lot except that the Board of Appeals with due consideration to the effect on abutting lots may, in exceptional case, permit up to fifty (50) feet of the buffer strip most distant from the boundary line to be used for off-street parking subject to such additional screening conditions and requirements as the Board may determine are required. Nothing in this paragraph 11 shall be deemed to modify setback and yard requirements as otherwise provided in this zoning by-law.

**4.6.4 HB District.** In an HB District, two or more Contiguous Lots shall be considered one lot for the purpose of calculating Minimum Open Space under the Table of Dimensional and Density Regulations.

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

**5.1 APPLICABILITY.** This By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this By-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

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

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

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use.

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

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

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

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

**5.5 NONCONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure by more than 100% gross floor area.

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

1. Alteration, extension or change to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements;
2. Alteration, extension or change to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements;
3. Alteration, extension or change to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

If the Building Inspector determines that proposed alteration, extension or change exceeds the one or more of the criteria set forth above, the Zoning Board of Appeals may, by finding, allow such alteration, extension or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. For the purposes of this subsection only, the term “reconstruction” shall not include the voluntary demolition of such structure and its rebuilding. See Section 5.7.

**5.6 ABANDONMENT OR NON-USE.** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law; provided, however, that by special permit the Zoning Board of Appeals may reestablish a nonconforming use or structure otherwise abandoned or not used.

**5.7 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION.** Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions.

**5.7.1 Procedures.**

1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
2. Building(s) reconstructed as of right shall be located on the same footprint as the original nonconforming structure and shall be only as great in volume or area as the original nonconforming structure.
3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required. In the case of voluntary demolition, the special permit shall be obtained from the Zoning Board of Appeals prior to such demolition.

**5.8 REVERSION TO NONCONFORMITY.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

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

## **SECTION 6.0 GENERAL REGULATIONS**

### **6.1 OFF-STREET PARKING AND LOADING REQUIREMENTS**

**6.1.1 General.** In any district, if any structure is constructed, enlarged, or extended, and any use of land established, or any existing use is changed, after the effective date of this By-Law, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of this By-Law shall be required to provide parking and loading spaces in accordance with the following Tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25 percent whether such increase occurs at one time or in successive stages.

**6.1.2 Existing Spaces.** Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this By-Law shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this Section, provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

**6.1.3 Computation of Spaces.** When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over one-half shall require one space. Compact Parking Spaces shall be allowed in the computation of required off-street parking spaces, provided that not more than 30% of the total parking spaces utilized in computing required off-street parking spaces shall be Compact Parking Spaces.

**6.1.4 Combined Facilities.** Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Planning Board, where it is evident that such facilities will continue to be available for the several buildings or uses. A shared parking agreement shall be submitted to the SPGA as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping and snow plowing of the shared parking area. Said shared parking agreement be recorded at the Registry of deeds and shall run with the land of the parties thereto.

**6.1.5 Location of Parking Spaces.** Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or when practical difficulties as determined by the Board prevent their establishment upon the same lot, they shall be established no further than 200 feet from the premises to which they are appurtenant. Required off-street parking spaces may be provided on a contiguous lot(s) to the lot on which the principal use is located, provided that, if a contiguous lot(s) is/are so utilized to provide off-street parking spaces to serve a principal use located on another lot, the lot on which such parking spaces are located shall be no further (at the closest point) than 250 feet from the lot which the principal use is located.

**6.1.6 Table of Off-Street Parking Requirements.**

## Table of Off-Street Parking Regulations

Use	Number of Parking Spaces per Unit
1. Single and two-family dwellings	Three for each dwelling unit.
2. Multifamily dwelling	Two for each single bedroom unit; three for each two bedroom unit; four for each three or more bedroom unit.
3. Lodging House	One for each lodging unit.
4.* Theater, restaurant, auditorium, church or similar place of public assembly with seating facilities	One for each three seats of total seating capacity.
*NOTE: Off-street parking spaces shall not be required of these uses within the Central Business District (CBD) Zone.	
5. New and used car sales and automotive service establishment and other retail and service establishment utilizing extensive display areas, either indoor or outdoor which are unusually extensive in relation to customer traffic	One per 1,000 sq. ft. of gross floor space. In the case of outdoor display areas, one for each 1,000 sq. ft. of lot area in such use.
6.* Other retail, service, finance, insurance or real estate establishment	One per each 300 sq. ft. of gross floor space.
*NOTE: Off-street parking spaces shall not be required of these uses within the Central Business District (CBD) Zone.	
7. Hotel, motel, tourist court	One for each sleeping room plus one for each four seats of total seating capacity of the combined public meeting room and restaurant space.
8. Wholesale establishment, warehouse or storage establishment	One per each 1,000 sq. ft. of gross floor space.
9. Manufacturing or industrial establishment	One per each 600 sq. ft. of gross floor space <u>or</u> 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger.

- |   |  |
|---|--|
| 10. Hospital  | Two per bed at design capacity.  |
| 11. Nursing home  | One per bed at design capacity.  |
| 12. Business, trade or industrial school or college   | One for each 200 sq. ft. of gross floor area in classrooms.  |
| 13. Other school  | Two per classroom in an elementary and junior high school; four per classroom in a senior high school plus space for auditorium or gymnasium whichever has the larger capacity.  |
| 14. Community facility town building, recreation, etc.  | One per each 400 sq. ft. gross floor space.  |
| 15. Dormitory, fraternity, sorority, YMCA, or similar use   | One for each sleeping room.  |
| 16. Public utility  | One for each 400 sq. ft. of gross floor area devoted to office use.<br>One for each 800 sq. ft. of gross floor area per other use.   |
| 17. Transportation terminal establishment   | One for each 600 sq. ft. of gross floor area.  |
| 18. Mixed use   | Sum of various uses computed separately.   |
| 19. Any use permitted by this By-Law not interpreted to be covered by this schedule   | Closest similar use as shall be determined by the Zoning Inspector.  |
| 20. Retail trade, manufacturing and hospital establishments with over 5,000 sq. ft. of gross floor area   | One per 20,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 60,000 sq. ft. or fraction thereof of gross floor area over 40,000 sq. ft. space used for ambulance receiving at a hospital is not to be used to meet these loading requirements. |
| 21. Business services, other services, community facility (school, church, town building, recreation, etc.) or public utility establishment with over 5,000 sq. ft. of gross floor area | One per 75,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 20,000 sq. ft. or fraction thereof of gross floor area over 150,000 sq. ft.   |

**6.1.7 Parking and Loading Space Standards.** All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or designed to perform the following functions:

1. All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or designed to perform the following functions:
2. To promote inbound flow within the lot, so as not to create conflicting movements;
3. To promote inbound movement for less backup onto the streets fronting the property, and to avoid conflicts with the inbound flow of cars;
4. To locate the project access point to provide visibility of the site before access is reached to prevent difficulties of motorists missing the access point and creating congestion on the streets; and
5. To create the occasion of convenience and safety for pedestrians and bicycles traversing through the lot and the access ways that abut the lot. Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable.
6. All standard sized parking spaces shall be 9' wide by 19' long. Compact parking spaces shall be 8' wide by 18' long.  
(Refer to section 6.1.3 Computation of Spaces)
7. The area shall be effectively screened on each side, which adjoins or faces the side or rear lot line of a lot situated in any "R" District.
8. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.
9. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb, which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.
10. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes in accordance with the site lighting requirements of this By-law.
11. There shall not be any vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.
12. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.

13. Parking spaces shall not be located within the required front yard area in any District except in a single-family residential district.
14. Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any street.
15. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curb line of an intersecting street.
16. Any two driveways leading to or from a street to or from a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.
17. Any entrance or exit driveway in a single-family district shall not exceed twenty-four (24) feet in width at the property line. Entrance or exit driveways in I or B Districts shall not exceed twenty-four (24) feet in width at the property line except that lots containing in excess of 24,000 square feet may increase the drive width one (1) foot for every 1,000 square feet in excess of 24,000 square feet or lot area up to a maximum of forty (40) feet in width. Curb cuts may be ten (10) feet wider than the allowed driveway width at the street line.
18. An open air parking space shall be at least 5 feet from any building or street line.
19. All off-street parking and loading spaces, access ways and maneuvering area shall be laid out so as to provide for adequate drainage, snow removal, maneuverability and curb cuts.
20. There shall be no paving within five (5) feet of any lot line or building line, except that paved access ways shall be permitted, and that such access ways shall be generally perpendicular to any lot line. Paving to any building line shall be permitted for off-street loading docks or doors. Paved walkways, five (5) feet or less in width shall be permitted in the required front yard.
21. The design of all handicapped accessible parking spaces shall conform to the Rules and Regulations of the Architectural Access Board 521 CMR, and the Americans with Disabilities Act.
22. Parking spaces must be clearly marked by painted lines and pavement markings and signs shall be installed identifying compact spaces and accessible parking spaces, in conformance with the Rules and Regulations of the Architectural Access Board 521 CMR, and the Americans with Disabilities Act.
23. All access drives and parking lot aisles shall be at least twelve (12) feet wide for one-way traffic and twenty-four (24) feet wide for two-way traffic. Turning radii at the access drives and around the building shall be sufficient for emergency vehicle access as determined by the Fire Chief or his authorized representative.
24. Site circulation shall be clarified with the use of directional signage and painted pavement markings. Directional signage shall be located on the site so as to provide safe and adequate passage into, out of, and through the site. Directional signage and pavement markings shall be designed to produce quick

recognition without distraction on and off the site. Construction details of all signs and pavement markings must be provided.

25. Where possible, driveways shall be located opposite similar driveways.

26. Sharing of access driveways by adjoining properties and uses is encouraged, subject to the provisions of subsection 16, above..

27. Left-hand turns and other conflicting turning movements shall be minimized where appropriate.

28. Driveways shall be located and designed to discourage the routing of vehicular traffic from surrounding roadways through the site.

**6.1.8 Loading, Waste Disposal, and Outdoor Storage Areas.** Adequate loading and waste disposal areas shall be provided on site. Loading, waste disposal and outdoor storage areas shall be screened by landscaping, walls, fences, or barriers of sufficient height to conceal said areas from the street and abutting residential properties.

**6.1.9 Special Permit.** Other than the required parking for a single or two family dwelling, the provisions of this Section 6.1 may be waived by special permit granted by the Planning Board when no substantial detriment will result.

## **6.2 SIGNS**

**6.2.1 General.** All signs shall comply with the regulations for the erection and construction of signs contained in the State Building Code and other applicable Town regulations, except as shall be under the jurisdiction of the MassDOT. Signs shall be permitted in accordance with the following regulations.

### **6.2.2 Signs Permitted in Any "R" District.**

1. One professional nameplate for each medical doctor or dental practitioner, provided: such sign shall not exceed 1 square foot in surface area.

2. One identification sign for each dwelling unit, provided: such sign shall not exceed two square feet in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall not be used other than for identifying the occupancy.

3. One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility or public utility use, provided: the sign shall not exceed 10 square feet in surface area; if lighted, it shall be illuminated with white light by indirect method only; and it shall be set back at least one half of the required depth of the front yard.

4. One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided: it shall not exceed 6 square feet in surface area; and it shall be set back at least 10 feet from the street lot line.

5. One unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected, provided: it shall not exceed 4 square feet in surface area; and it

shall be set back at least 10 feet from the street lot line.

6. One unlighted temporary sign relating to a new residential subdivision during the actual period of construction, provided: it shall not exceed 20 square feet in surface area; and it shall be set back at least 10 feet from any street lot line.

### **6.2.3 Signs Permitted in Any "B" District.**

1. Signs permitted in Section 6.2.2, above, subject to the same regulations.
2. Signs limited to those which advertise goods, services, or produce manufactured or offered for sale on the premises. General advertising signs shall be prohibited.
3. One wall sign for each lot street frontage of each establishment, provided: it shall be attached and parallel to the main wall of a building; it shall not project horizontally more than 15 inches therefrom; the surface area of the sign shall not aggregate more than 10 percent of the area of the wall on which they are displayed, or 150 square feet whichever is the lesser; and if lighted, it shall be illuminated internally or by indirect method with white light only.
4. One projecting sign for each lot street frontage of each establishment, provided: it shall be attached to the main wall of a building; it shall not project horizontally beyond a line drawn perpendicularly upward from 2 feet inside the curb line; it shall be erected at a height not less than 9 feet, nor more than 30 feet above the ground or sidewalk; it shall not exceed 40 square feet in surface area; and if lighted, it shall be illuminated internally or by indirect method with white light only.
5. One pole sign for each street frontage of a drive-in establishment, provided: it shall not exceed 40 square feet in surface area; no portion of it shall be set back less than 10 feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally by white light only.
6. One ground sign for each business establishment provided it shall not exceed 40 square feet in surface area; it shall be set back at least 10 feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet in height above the ground or sidewalk; and if lighted, it shall be illuminated internally by white light only.

### **6.2.4 Signs Permitted in the "I" District.**

1. Wall signs permitted in Section 6.2.3, above, subject to the same regulations.
2. One ground sign for each establishment, provided: it shall not exceed 150 square feet in surface area; it shall be set back at least 15 feet from any street lot line; it shall not be erected so that any portion of it is over 30 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally by white light only.
3. Signs shall be limited in use to identification signs and to those signs which advertise goods, services, or products manufactured or offered for sale on the premises.

### **6.2.5 Signs Permitted in the "HB" District.**

1. Signs otherwise permitted under Sections 6.2.2 - 6.2.4, above, subject to the same regulations.
2. One wall sign for up to two walls of each establishment (if an establishment has more than one wall), provided: each such sign shall be attached and parallel to a wall of the building; each such sign shall not project horizontally more than 15 inches therefrom; the surface area of each such sign shall not exceed the lesser of (a) 10% of the area of the wall on which it is displayed, or (b) 350 square feet; and if lighted, it shall be illuminated internally or, if externally illuminated with white light only.
3. One pole sign for each street frontage of a principal building, provided it shall not exceed 120 square feet in surface area; no portion of it shall be set back less than 10 feet from any street lot line and the setback distance from the pole sign to each lot line shall be equal to or greater than one half the height of the pole sign; it shall be erected so that no portion of it is over 80 feet above the ground or sidewalk; and if lighted, it shall be illuminated internally.

### **6.2.6 Additional Sign Regulations.**

1. Roof signs shall be permitted in any "B" or "I" District. However, the top of the roof sign shall not be at such a height so that the building on which it is located shall exceed the maximum building height requirement set forth in the Table of Dimensional and Density Regulations as measured from the ground to the top of the roof sign.
2. Any traffic or directional sign owned and installed by a governmental agency shall be permitted.
3. Specifically excluded from these regulations are temporary interior window displays or temporary banners for drive-in establishments or automotive establishments, except as provided in Section 6.2.6.4, below.
4. A sign (including temporary interior window displays or banners) or its illuminator shall not by reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Therefore, flashing or animated signs of red, yellow or green colored lights shall not be permitted.
5. No more than two signs shall be allowed for any one business or industrial establishment in the "B" or "I" Districts.
6. No more than one sign shall be allowed for any one premises in the "R" District.
7. The limitations as to the number of signs permitted do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry or residence.

**6.2.7 Special Permit.** The provisions of this Section 6.2 may be waived by special permit granted by the Planning Board when no substantial detriment will result.

### **6.3 ENVIRONMENTAL PERFORMANCE STANDARDS**

**6.3.1 General.** Any use permitted by right or special permit in any District shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare, liquid or solid, refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance, conditions or element in an amount as to affect adversely the surrounding environment. The following standards shall also apply.

**6.3.2 Emissions.** Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

**6.3.3 Flammables.** All activities and all storage of flammable and explosive materials, at any point, shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

**6.3.4 Radioactivity.** No activities that emit dangerous radioactivity, at any point; no electrical disturbances adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

**6.3.5 Smoke.** No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted.

**6.3.6 Damage to Health.** No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, and in no event any emission of any solid or liquid particles in concentration exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted.

**6.3.7 Discharges.** No discharge, at any point, into a private sewage system, stream, the ground, or a municipal sewage disposal system of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

**6.3.8 Vibration.** No vibration which is discernible to the human sense of feeling for three minutes or more in any hour between 7 a.m. and 7 p.m., or for 30 seconds or more in any one hour between 7 p.m. and 7 a.m. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1 gram shall result in any combination of amplitudes frequencies beyond the "safe" range of Table 7, U.S. Bureau of Mines Bulletin No. 442.

**6.3.9 Noise.** No use or operation shall violate the standards set forth in 310 CMR 7.10 and its licensing standards.

**6.3.10 Smell.** Emission of odorous gases or odoriferous matter in such quantities as to be offensive shall not be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No

objectionable odor greater than that caused by 0.001202 per thousand cubic feet of hydrogen sulfide or any "odor threshold" as defined in Table III in Chapter 5 of Air Pollution Abatement Manual, copyright 1951, by Manufacturing Chemists Association, Inc., of Washington, D. C., shall be permitted.

**6.3.11 Lighting.** Accesses, parking areas, and pedestrian walkways shall have adequate lighting for security and safety reasons. Lighting shall be arranged and shielded so as to prevent glare from the site shining onto abutting properties and cars. Lighting shall be designed to reduce wasted light from up-lighting and from sky-glow or light loss. Lighting shall also be designed to enhance the site amenities of the properties through specialty lighting. Except in the CBD, after the closing of business hours on the site, lighting services shall be reduced for minimum level necessary for security and safety needs. To perform these conditions, the following standards shall be met:

1. The light source shall be LED. Other sources may be considered by the Board for low level landscaping lighting.
2. The luminaries should be the shoe box type or decorative in nature (with interior directional shields), consistent with the architectural theme of the development. Flood and Area lighting is unacceptable. All luminaries shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting fixture should only be visible from below.
3. Reflectors of proper (IES) distribution shall be selected for maximum efficiency. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.
4. Developments, which abut residential areas, or, with structures less than 30,000 gross square feet shall be reviewed on a case by case basis.
5. Where wall pack type luminaries are utilized for exterior illumination, the fixture shall be equipped with a prismatic lens to reduce glare. Means should be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of wall pack luminaries shall not exceed 20'-0" in height. Wall pack luminaries with visible lamping to normal viewing angles are not recommended.
6. Minimum foot-candle requirement, measured at grade level is 1.0. Maximum foot-candle requirement, measured at grade level is 8.0.
7. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted.

**6.3.12 Special Permit.** The provisions of this Section 6.3 may be waived by special permit granted by the Planning Board when no substantial detriment will result.

## **6.4 CONSERVATION AND LANDSCAPE STANDARDS**

**6.4.1 Intent.** The intent of this Section is to prevent cumulative damage to the landscape and topography and related valuable and nonrenewable natural resources of the Town of Stoughton.

It is not the intent of this Section to interfere with creative land use, but rather to set guidelines, establish procedural steps that require considered planning prior to taking action that will produce lasting consequences to the natural environment; and to provide individual review.

### **6.4.2 Applicability.**

1. All allowed uses in the Table of Use Regulations, except as set forth below.
2. All Special Permit uses as authorized in the Table of Use Regulations, except as set forth below.
3. The requirements of this Section shall not apply to any lots of two acres or less currently occupied by lawful uses or structures unless there is a change of use or expansion for which a permit is required under the Zoning By-Law.
4. The requirements of this Section shall not apply to a single, one-family detached dwelling, but shall apply to a grouping of two or more one-family detached dwellings.

### **6.4.3 General Standards.** The following standards shall apply:

1. **Removal.** The landscape shall be preserved in its natural state by minimizing tree and soil removal.
2. **Top Soil.** Top soil shall not be disturbed on a site except on areas of grading indicated on the Approved Plan required for a Permit, or within twenty (20) feet of any structure during residential construction, or for other construction within the minimum prescribed area needed for actual construction activity. Any topsoil removed from these areas during the construction process shall be replaced to a depth of not less than six (6) inches within twenty (20) days after completion of construction, but prior to issuance of a Certificate of Occupancy.
3. **Grading and Topography.** Efforts shall be taken to maintain the continuity of the natural topography when building on any site. Cut and fill shall be avoided in all instances possible; and the topography rather than the radically altering the topography to conform to structures. Except in areas where terracing is used, when excavation is necessary, grading shall be done in such a way that the resulting contours follow smooth natural curves that conform to the curves of the surrounding landscape. Straight or angular slopes or cuts which interrupt natural

topography shall not normally be allowed.

4. Abrupt Changes. Abrupt changes in topography near lot lines which might otherwise result in excessive water runoff, erosion, or hazards shall not be allowed in excess of the following conditions, except by special permit:

- a. Where an adjacent lot is lower in elevation than the lot for which a permit is sought, no slope or terrace exceeding fifty (50) percent slope and five (5) feet difference in elevation shall be allowed within twenty-five (25) feet of the lot line.
- b. Where the adjacent lot is higher than the elevation of the lot in question, no slope or terrace exceeding fifty (50) percent slope and five (5) feet difference in elevation shall be allowed within ten (10) feet of the lot line.

Slope is defined as the ratio of vertical rise over horizontal distance, and is expressed as a fraction or a decimal; e.g., 1/5 or 20%.

5. Retaining Walls. Retaining walls of design and construction approved by the Building Inspector or the Board of Appeals, but not exceeding twelve (12) feet in height, may be built on lot lines, but only where there is not sufficient room to utilize properly stabilized slopes.

6. Stabilization. Upon completion of grading and replacement of topsoil, slopes shall be appropriately stabilized to prevent erosion. The following guidelines are recommended: slopes greater than thirty-five (35) percent should be avoided in most cases; slopes between twenty-five (25) percent and thirty-five (35) percent, rip-rap, or terracing should be used; slopes between ten (10) percent and twenty-five (25) percent, sod, or established vegetation or seedlings in association with webbing material placed over the soil; slopes between four (4) percent and ten (10) percent, plant seed in association with webbing material placed over the soil, or heavy mulch or gravel.

7. Erosion. Appropriate means shall be proposed to prevent erosion during construction.

**6.4.4 Vegetation Standards.** Natural tree coverage and other desirable natural foliage shall be preserved on all lots to the maximum extent possible, and plans shall be designed accordingly.

1. There shall be no cutting of trees larger than six (6) inches in diameter (diameter measured at five (5) feet above grade), and no wholesale clearing of trees in excess of twenty (20) feet tall from any area larger than 3,000 square feet unless a special permit is granted by the Planning Board.

2. Outside the areas of actual construction activity, all trees of greater than five

(5) inches diameter (measured 5'-0" above grade), should be preserved. If a lot is covered with mature trees of greater than five (5) inches diameter (measured 5'-0" above grade), they should not be thinned by more than fifty (50) percent. Upon completion of construction, trees, flowers, and shrubs of a species suited to the soil and climate of the area and approved by the Planning Board should be planted by the developer, subject to an approved maintenance agreement. These shall be in a healthy condition, and shall be properly planted to insure survival. These new trees and shrubs are intended to replace ones required to be removed in order to facilitate construction, and shall be selected and located with this in mind.

**6.4.5 Site Landscaping.** The following are the criteria used for landscape design evaluation, subject to the discretion of the Planning Board:

1. The development, through the use of landscape materials, shall be integrated into the surrounding landscape.
2. Landscape materials shall be used to protect abutting properties and enhance the aesthetic quality of the environs and the site. The type, size, and caliper of proposed trees will be evaluated in its effectiveness of enhancing the site. The mixed use of shade trees for defining spaces and providing protection from the elements, evergreens for screening and reduction of noise pollution, as well as the use of ground covers, perennials/annuals/ bulbs and shrubs shall be approved by the Planning Board.
3. Removal of mature trees and shrubs shall be minimized.
4. Objectionable features (such as dumpsters, trash compactors, grease traps, containerized storage and utility boxes) on site shall be screened from neighboring properties, and, if applicable, roadways. Any proposed fencing shall comply with the requirements of the Building Department and the Board of Health. The use of cedar stockade or chain link fence shall not be allowed without Planning Board permission.
5. Parking lot areas proposed for a site must be adequately landscaped to give relief from the visual impact of an expanse of impervious surface.
6. The final landscaping plan shall include provisions to ensure the maintenance of the installation.

**6.4.6 Standards for Landscaping.** The following standards shall apply:

1. Foundation plantings at entry and at building façade facing roadways;
2. Parking lot interior (such as planting islands);

3. Screening parking areas, loading areas, rubbish removal bins, and outside storage, if applicable; and
4. Street line plantings, and perimeter lot line plantings, if applicable.
5. Walls, fences, and other barrier material, subject to approval of facing materials;
6. Special paving materials; and
7. Other unique landscaping features not named in this By-Law, which the Planning Board may deem appropriate.

**6.4.7 General Landscaping Guidelines.** The following are general guidelines to be used for developing landscape plans:

1. Parking lots with twenty (20) or more spaces should be screened along the perimeter from abutting properties and the street.
2. For parking lots with forty (40) or more spaces, an area equivalent to at least 15% of the area of the parking lot, should be constructed and landscaped in the interior of the parking lot. The landscaped area should be evenly distributed within the parking lot and should be at least twenty-five (25) feet in area with no dimension less than five (5) feet. The quantity, species, caliper, and color of the plantings shall be approved by the Planning Board as set forth in the Board's Rules and Regulations.
3. A landscaping strip should be provided along foundation walls.
4. For projects requiring Site Plan Review, a colored landscape plan shall be prepared showing the locations, quantity, color of planting, minimum planting height and caliper, mature height, and mature spread. It is recommended that a Landscape Architect prepare the plan.

**6.4.9 Special Permit.** The provisions of this Section 6.4 may be waived by special permit granted by the Planning Board when no substantial detriment will result.

## **SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS**

### **7.1 FLEXIBLE DEVELOPMENT**

**7.1.1 Purpose.** The purpose of this section, Flexible Development, is to:

1. encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
2. preserve historical and archeological resources; to protect the natural environment, including the Town's varied landscapes and water resources;
3. protect the value of real property;
4. promote more sensitive siting of buildings and better overall site planning;
5. perpetuate the appearance of the Town's traditional New England landscape;
6. facilitate the construction, operation and maintenance of streets, utilities, and public services in a more economical and efficient manner;
7. offer an alternative to standard subdivision development;
8. promote the development of housing affordable to low, moderate, and median income families; and
9. promote the development of housing for persons over the age of fifty five.

**7.1.2 Definitions.** See Section 11, definition of "Flexible Development."

**7.1.3 Applicability.** In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels with more than ten (10) acres held in common ownership and located entirely within the Town.

**7.1.4 Procedures.** Flexible Development may be authorized upon the issuance of a special permit by the Planning Board. Applicants for Flexible Development shall file with the Planning Board seven (7) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.

3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.

4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein, but not limited to, including proposed deed restrictions and condominium documents.

**7.1.5 Design Process.** Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, houselots, and contiguous open space.

1. Understanding the Site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

2. Evaluating Site Context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

3. Designating the Contiguous Open Space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

4. Location of Development Areas. The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with

5. Lot Lines. The final step is simply to draw in the lot lines (if applicable).

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

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

2. Side and rear yards shall be at least ten (10) feet, except as otherwise provided in this Section.

**7.1.7 Basic Maximum Number of Dwelling Units.** The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

**7.1.8 Affordable Component.** As a condition of the grant of any special permit for a Flexible Development, a minimum of ten (10%) of the total number of dwelling units shall be restricted in perpetuity or for the longest period allowed by law. The restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the local Housing Authority for a period not less than 120 days after notice thereof. The affordable dwelling units shall be added onto the Basic Maximum Number of dwelling units.

**7.1.9 Types of Buildings.** The Flexible Development may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than three (3) dwelling units. The architecture of all multifamily buildings shall be residential in character, particularly providing gabled roofs, an articulated footprint and varied facades. Residential structures shall be oriented toward the street serving the premises and not the required parking area.

**7.1.10 Association Required.** The applicant shall provide to the Planning Board for its approval association documents to provide for the maintenance of the roads, stormwater management facilities, and any common areas in the Flexible Development.

**7.1.11 Roads.** The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

**7.1.12 Parking.** Each dwelling unit shall be served by two (2) off-street parking spaces, unless this requirement is reduced by the Planning Board. Parking spaces in front of garages may count in this computation.

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

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands or ledge; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a

demonstration that such inclusion promotes the purposes set forth in Section 1, above. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

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

3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to twenty (20%) percent of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.

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

**7.1.14 Ownership of the Contiguous Open Space.** The contiguous open space shall be conveyed to:

1. The Town or its Conservation Commission;
2. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
3. A corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

**7.1.15 Buffer Areas.** A buffer area of fifty (50) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation or the Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

**7.1.16 Stormwater Management.** Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

**7.1.17 Decision.** The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of Section 7.1.1 of this Flexible Development By-Law than would a conventional subdivision development of the same locus.

**7.1.18 Relation to Other Requirements.** The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

## **7.2 TEMPORARY ADDITIONAL LIVING AREA**

**7.2.1 General.** The Building Inspector may grant an occupancy permit for temporary additional living quarters provided the following conditions are met. The owner shall submit plans for approval by Building Inspector showing proposed floor plan and parking and satisfying the conditions set forth below.

### **7.2.2 Conditions.**

1. The owner must be the occupant of the residence.
2. Living areas must be within the same principal structure.
3. Not more than one (1) bedroom shall be permitted, and gross floor area shall not exceed 800 square feet.
4. Kitchen facilities shall be of a type readily removable.
5. That there shall be a maximum of two (2) people occupying the living area.
6. The applicant must provide satisfactory proof of kinship.
7. Only one (1) permit will be allowed per locus.
8. No new entrances for the living quarters will be allowed/required; existing entrances will be used by all parties involved.
9. Prior to the grant of any occupancy certificate, the owner shall record an affidavit at the Registry of Deeds stating compliance with the conditions set forth above. The Building Inspector must be notified upon cessation of occupancy. The owner shall then record a discharge at the Registry of Deeds within 60 days.

10. Any occupancy permit shall terminate upon transfer of the premises; provided, however, that a transferee may request renewal of the permit prior to sale, if said transferee qualifies as set forth above.

### **7.3 CONVERSION OF NONRESIDENTIAL STRUCTURES TO RESIDENTIAL**

**7.3.1 General.** For residential use development within existing nonresidential structures not subject to the Table of Dimensional and Density Regulations, the following conditions shall apply.

#### **7.3.2 Conditions.**

1. A site plan shall be presented for the entire development. This shall include parcels of land intended for use but separated from the main parcel by a public or private way.
2. The site plan shall be submitted to the Planning Board for approval.
3. The following uses shall be permitted: residential, community facilities for exclusive use of the residents, and commercial (retail or service establishment). The gross floor area devoted to commercial uses shall not exceed 5 percent of the total residential gross floor area and shall not be located above the first floor.
4. The proposed conversion shall comply with the dimensional and density regulations for the R-M District and to the provisions of Section 4.1.5, except that the minimum yard dimensions and maximum building area may be adjusted as deemed appropriate by the Planning Board.
5. At any one time, not more than 10 percent of the total dwelling units shall contain three or more bedrooms.
6. For multifamily units of two or more bedrooms, there shall be constructed and equipped an outdoor recreation area containing 100 square feet for each dwelling unit within the development with a minimum requirement of 2,000 square feet. Specifically exempt from this requirement are one-bedroom units and age-restricted housing.
7. The development shall be served by public water and sewerage.
8. Parking facilities shall meet the requirements of Section 6.1, except the required number of spaces shall be one additional for each five units for visitor parking. In age-restricted housing projects, the parking requirements shall be reduced by 50 percent.

9. Such other conditions as the Board may find appropriate in accordance with Section 10.5 may be imposed.

#### **7.4 BED AND BREAKFAST ESTABLISHMENTS**

**7.4.1 Standards.** A bed and breakfast with up to three guest rooms is allowed subject to site plan approval. A bed and breakfast with from four to ten guest rooms is allowed by special permit from the Planning Board. Both are subject to the following conditions:

1. Parking must be off street, on premises, with one (1) space per room rented and one (1) per owner.
2. No other uses except for customary home occupation permitted on the property.
3. No additions or external modifications may be made to the property for lodging use.
4. Certificate of occupancy required subject to annual inspection.

## **SECTION 8.0 SPECIAL NONRESIDENTIAL REGULATIONS**

### **8.1 ADULT ENTERTAINMENT ESTABLISHMENTS**

**8.1.1 Purpose.** It is the purpose of this Section governing Adult Entertainment Establishments to address and mitigate the secondary effects of Adult Entertainment Establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town and its inhabitants.

1. The provisions of this By-Law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this By-Law to restrict or deny access by adults to Adult Entertainment Establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this By-Law to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

**8.1.2 Authority.** This By-Law is enacted pursuant to G.L. Chapter 40A and pursuant to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain Adult Entertainment Establishments for the reasons set forth, above.

**8.1.3 Applicability.** An Adult Entertainment Establishment may be permitted as set forth in the Table of Use Regulations by special permit by the Board of Appeals provided a written determination is issued by said board that the special permit decision criteria of Section 10.5 have been met.

#### **8.1.4 Conditions.**

1. Adult Entertainment Establishments may not be located less than 750 (seven hundred fifty) feet from the nearest lot line of:
  - a. Each other;
  - b. Public or Private Nursery Schools;

- c. Public or Private Day Care Centers;
- d. Public or Private Kindergartens;
- e. Public or Private Elementary Schools;
- f. Public or Private Secondary Schools;
- g. Playgrounds; and
- h. Churches.

2. Adult Entertainment Establishments are to be limited to lots no greater than 150% of the minimum lot size allowed within the CBD Zone.

3. In no instance shall the Board of Appeals issue a special permit to any person convicted or violating G.L. c. 119, s. 63 or G.L. c. 272, s. 28.

4. No pictures, publications, electronic media, or other implements, items, or advertising that fall within the definition of adult merchandise shall be displayed in store windows or be visible from areas used by the general public.

5. Licensed massage therapists shall not display any signage with inappropriate or suggestive graphics or wording.

## **8.2 FAST ORDER FOOD ESTABLISHMENTS**

**8.2.1 General.** In considering special permits for Fast Order Food Establishments, the Zoning Board of Appeals shall give consideration to the following criteria, in addition to those set forth in Section 10.5.

### **8.2.2 Additional Criteria.**

- 1. Impact on traffic and parking.
- 2. Sensitivity to the visual and physical characteristics of the particular location, including siting, signing, lighting, landscaping, fencing, materials, windows, etc.
- 3. Fulfillment of a need in the neighborhood or in the Town.
- 4. Reliance on walk-in trade as opposed to drive-in or automobile related trade.

### **8.3 REMOVAL OF EARTH MATERIALS**

**8.3.1 General.** For the removal of sand, gravel, quarry, or other earth materials other than that which is incidental to and in connection with the construction of a building on a lot, and for processing and treating raw materials, the following conditions shall govern.

#### **8.3.2 Conditions.**

1. Removal and processing operations shall not be conducted closer than 50 feet to a street.
2. All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 feet from any street or from any adjoining lot line.
3. Off-street parking as required in the Table of Off-Street Parking Regulations shall be provided.
4. Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP OUT - DANGER signs.
5. Any work face or bank that slopes more than 30 degrees downward adjacent to a public street will be adequately fenced at the top.
6. Adequate provision is to be made for drainage during and after the completion of operations.
7. Lateral support shall be maintained for all adjacent properties.
8. The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.
9. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
10. The work hours of operation shall be designated.
11. Excavation shall be restricted to those areas, which are at elevations 10 feet or more above the maximum groundwater elevation as determined by the most recent testing conducted under the provisions of this section.

**8.3.3 Groundwater Elevation.** No permit shall be issued or renewed under this By-Law until the applicant has submitted to the Zoning Board of Appeals current and complete information on the actual and proposed depth of excavation and the maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts Registered Professional Engineer at the expense of the applicant and shall be submitted to the Zoning Board of Appeals over the engineer's stamp.

1. The groundwater monitoring wells shall be left in place during the period that the applicant holds a permit hereunder, and readings therefrom shall be taken during March, April or May of each year. The results of such readings shall be submitted to the Board over the engineer's stamp.

**8.3.4 Site Plan.** A site plan shall be filed with the Planning Board for any land which is used or intended to be used for the extraction of sand, gravel, rock, and associated earth materials. Site plans of the removal areas shall be prepared by a registered professional engineer and a registered land surveyor at a scale of 200 feet to the inch or such other suitable scale as may be determined by the Building Inspector and shall be in accordance with and indicate the following:

1. Lot lines;
2. Adjacent public streets;
3. Proper provisions for safe and adequate water supply and sanitary sewerage and for temporary and permanent drainage of the site;
4. Plan for regrading of all or parts of the slopes resulting from such excavation or fill;
5. Plan for replacements of at least 4 inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization;
6. Plan for lighting, if night operation is contemplated;
7. Proper provision for vehicular traffic, service roads, control of entrances and exits to highways;
8. The relation of future buildings and operations machinery to the removal areas;
9. Delineation of removal areas;

10. Provision for a temporary fence which shall be approved by the Planning Board fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope of more than 1 foot in 2 feet. Such fence shall be located 10 feet or more from the edge of the excavation or quarry, and shall be at least 6 feet in height;

11. Provision shall be made for the submission to the Building Inspector of as-built plans of all final grading and site improvements.

**8.3.5 Reuse Plan.** A land reuse plan must be submitted to and approved by the Board subject to the regulations set forth in the following paragraphs:

1. The Building Inspector may require up to three approved alternative future land reuse plans to be submitted for such land as is used for excavation of sand, gravel, rock, and associated earth materials. It is recognized that land reuse of the removal areas is in the public interest.

2. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (0 to 5 years), and be revised as necessary as the existing physical character of the removal area changes.

3. The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

**8.3.6 Special Permit Required.** No soil, loam, sand, gravel, stone or other earth materials shall be removed from any premises within the town unless such removal will constitute an exempt operation as hereinafter provided or done pursuant to a special permit therefor issued by the Board of Appeals.

**8.3.7 Application and Reference to Planning Board.** Each application for a permit for earth material removal shall be accompanied by a plan, submitted in duplicate (the exact size and number of copies of which may be indicated by a rule of the Board of Appeals), prepared at the expense of the applicant by a Registered Land Surveyor or Civil Engineer showing the information set forth above.

1. Within ten (10) days after receipt of the plan, the Board of Appeals shall transmit a copy thereof to the Planning Board which said Board may, in its discretion, investigate the case and in writing its recommendation to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said

Planning Board has allowed thirty (30) days to elapse after receipt of such plan without submission of a report.

**8.3.8 Conditions of Permit.** In granting a special permit hereunder, the Board of Appeals shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to: (1) method of removal, (2) type and location of temporary structures, (3) hours of operation, (5) routes for transporting the material through the town. (6) area and depth of excavation, (7) distance of excavation to the street and lot lines, (8) steepness of slopes excavated, (9) reestablishment of ground levels and grades, (10) provisions for temporary and permanent drainage, (11) disposition of boulders and tree stumps, (12) replacement of loam over the area of removal, and (13) planting of the area to suitable cover, including trees.

**8.3.9 Duration.** No special permit for removal of earth material shall be issued for a period of more than one (1) year in a Residential District or more than two (2) years in a Non-Residential District, although such a permit may be renewed for additional periods in the same manner as for initial issuance. Where the duration of the period exceed one (1) month, the Board shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reasons for its finding. Where the duration of the permit is one (1) month or less, the Board may, in its discretion, require such security, as hereinafter set forth for all special permits.

**8.3.10 Existing Operations.** A sand or gravel pit, quarry, or other removal activity in lawful operation on any premises on the effective date of this By-Law may continue as an exempt operation unless and until abandoned, or if operating under a prior permit issued by the Zoning Board of Appeals, until the expiration thereof. Discontinuance for more than twelve (12) consecutive months shall be deemed constitute abandonment.

**8.3.11 Exceptions.** No soil, loam, sand, gravel, stone, or other earth material shall be removed from any premises within the Town without a Special Permit therefor issued by the Zoning Board of Appeals unless:

1. The removal by an authorized person of material from land in use by the Town or other governmental agency.
2. The removal by an authorized person of less than one hundred (100) cubic yards of material in the aggregate in any year from any one premise.
3. The removal is incidental to and in connection with the construction of a building on a lot.

4. Such removal is by an authorized person of material necessarily excavated in connection with the lawful construction of a building or structure, or a pool, driveway, sidewalk, or path incidental to any such building or structure, provided that the quantity of material removed does not exceed that actually displaced by the portion of building, structure, driveway, sidewalk, or path below the existing grade.
5. The transfer is by an authorized person of material from one part of a premise to another part of the same premises.

**8.3.12 Permits in Proposed Subdivisions.** It is the intention of this By-Law that the removal of earth materials from any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of material from the premises, even though in connection with the construction of streets shown on the plan.

## **8.4 PLANNED BUSINESS DEVELOPMENT**

**8.4.1 General.** For planned business development of land subject to maximum building coverage more than the maximum permitted in the Table of Dimensional and Density Regulations and less than the parking requirements contained in the Table of Off-Street Parking Regulations, subject to the following conditions.

### **8.4.2 Conditions.**

1. The tract shall be in single or consolidated ownership at the time of application and shall be at least 5 acres in size.
2. A site plan shall be presented for the entire tract showing 2-foot finished contours, existing and proposed drainage, sewerage, water, parking, street access and landscaping.
3. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by special permit of the Zoning Board of Appeals where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section; the development shall be served by one common parking area, exit, and entrance.
4. The ratio of the gross floor area of the building(s) to the total lot area shall not exceed 0.50.
5. The development shall be served by one common parking area and by common exit and entrance areas.

6. Reduction in parking space requirements shall not exceed more than 10 percent of those required under normal application of requirements for the particular uses proposed.
7. The development would be served by a public water system, and sewer if available.
8. Any use that requires a special permit under the Table of Uses shall require a separate application. Separate applications for special use permits, if part of the same development proposal, shall be held concurrently.
9. Property benefitting from a special permit for a planned business development or shopping center shall receive necessary approvals under the Site Plan Review By-Law prior to issuance of any construction permits pursuant to the special permit.

## **8.5 PLANNED INDUSTRIAL DEVELOPMENT**

**8.5.1 General.** For the planned industrial development of land for manufacturing or service industrial purposes subject to area regulations less than the minimum required in Table of Dimensional and Density Regulations, subject to the following conditions:

### **8.5.2 Conditions.**

1. The tract in single or consolidated ownership at the time of application shall be at least 15 acres in size.
2. A site plan shall be presented for the entire tract. It shall be referred to the Planning Board for advice and recommendation. Where the site plan constitutes a subdivision, it shall require approval by the Planning Board under the Subdivision Control Law.
3. Individual lot sizes shall not be reduced more than 10 percent below that normally required for manufacturing or service industrial purposes in the District.
4. The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the District.
5. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building.
6. The development shall be served by a public water system, and sewer if available.

**8.5.3 Common Land.** At least 10 percent of the total tract area (of which at least 50 percent shall not be wetlands) shall be set aside as common land. Such common land shall be preserved for recreation, conservation or public use. Such common land shall be restricted to open space, playfield, golf course, or conservation area. Such common land shall have suitable access to a street. Preservation shall be guaranteed at the time of approval of the plan by the appropriate Board (Board of Appeal) as follows:

1. Conveyance to and acceptance by the Town of Stoughton; or
2. Conveyance to and acceptance by the Stoughton Conservation Commission;  
or
3. Dedicated by covenant or comparable legal instrument for use by the tenants or owners in the development; or
4. Ownership shall be arranged and maintenance permanently assured through a suitable recorded land agreement through which each lot owner is involved and each lot is subject to a charge for a share of the maintenance expenses.

## **SECTION 9.0 SPECIAL DISTRICTS**

### **9.1 AQUIFER PROTECTION OVERLAY DISTRICT**

**9.1.1 Map of Aquifer Protection Areas.** Certain areas consisting of aquifers and/or aquifer recharge areas including areas that through hydrogeologic testing are considered for potential public water supply, which are delineated on a map entitled "Town of Stoughton, Massachusetts Town-wide Hydrogeologic Study, Hydrogeologic Zone Delineations and Groundwater Protection Areas, Camp Dresser & McKee, Inc., Environmental Engineers, Cambridge, Massachusetts, Scale: 1"=1200', January 1993" and as it may be amended from time to time by vote of the Town Meeting. Said map is on file with the Office of the Town Clerk. The Aquifer Protection Overlay District is comprised of Zone II and Zone IIIA on the above-referred to map.

**9.1.2 Regulations.** Those uses regulated or prohibited within the Aquifer Protection Overlay District as set forth at entries B.15, D.15, , D.18, and F.14 in the Table of Use Regulations.

### **9.2 WETLANDS, FLOOD HAZARD AND WATERSHED DISTRICTS**

**9.2.1 Short Title.** This Section shall be known as the "Wetlands Protection By-Law" of the Town of Stoughton.

**9.2.2 Purposes.** The purposes of this Wetlands Protection By-Law are:

1. To provide that the lands hereafter described in the Town of Stoughton, Massachusetts subject to seasonal or periodic flooding, shall not be used in such a manner as to endanger the health or safety of the occupants or neighbors thereof.
2. To protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve existing and potential public and private water supplies thereby assuring the public health and safety of the residents of the Town of Stoughton.
3. To assure the continuation of the natural flow pattern of the water courses within the Town of Stoughton in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.
4. To protect the community against costs and hazards to life, health and safety which may be incurred when unsuitable development occurs in watershed areas and in swamps, marshes, bogs, wet meadows, and other wetlands, along water courses, or in areas subject to floods.
5. To protect existing property owners from damages arising out of the development of Watershed Areas, Flood Hazard Areas and Wetland Areas including damages consequent to the obstruction of flood run-off and consequent to the disruption of the natural water table resulting from the alteration of existing surface or subsurface water flows.

6. To protect future property owners who, but for these regulations, would purchase, develop or use for residential, business, industrial or recreational purposes, areas subject to periodic damage by flooding.
7. To protect the Town from individual choices in the use of land, which would likely require significant and extraordinary subsequent public expenditures for public works or disaster relief.
8. To conserve in those areas not suitable for the purposes prohibited in this Section, natural condition, wildlife and open spaces for the general health, safety, and welfare of the public.

**9.2.3 Definitions.** See Section 11, “Wetlands Protection By-Law.”

**9.2.4 Use Regulations; Flood Hazard and Wetland Districts.** The Flood Hazard and Wetlands Districts shall be considered as overlying other Zoning Districts. Any use permitted in the portions of the Zoning Districts so overlaid shall be permitted (subject to the applicable provision of paragraph C of this Section 4 of this Wetlands Protection By-Law) in the Flood Hazard and Wetland Districts, provided that, except as herein otherwise specifically provided, no building or structure shall be erected, constructed, altered, enlarged or moved into or within, no dumping, paving, filling or earth transfer or relocation shall be permitted nor shall such Districts be used for any purpose except the following which shall be allowed only to the extent permitted in the underlying Zoning District and subject to all other applicable Town By-Laws and to all federal, state, or local regulations governing construction in Flood Hazard or Wetland Areas or otherwise pertaining to the proposed use:

1. Conservation of water, plants and wildlife.
2. Wildlife management areas, foot, bicycle and/or horse paths.
3. Farming, including truck gardening, forestry nurseries, and harvesting of crops, provided that such activities are more distant than ten feet from the normal high water mark for the month of April of any stream, brook, or other waterway.
4. Grazing of livestock.
5. Routine operation, maintenance and cleaning of existing dams, culverts, drainage, ditches, streams, rivers, ponds, lakes, and other waterways and water-control devices, subject to state and local laws.
6. Temporary alteration of water levels and drainage and storage patterns for emergency reasons subject to the emergency procedures set forth in Section 40 of Chapter 131 of the Massachusetts General Laws or any successor statute thereto.
7. Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted, but excluding buildings or accessory buildings except as otherwise herein permitted.

8. Structure (whether located in or outside of wetland or Flood Hazard Districts) lawfully existing prior to the adoption of this Wetlands Protection By-Law (hereafter "pre-existing structures") including enlargement and/or extension thereof, into Flood Hazard or Wetland Districts and the maintenance and reconstruction thereof, or construction of accessory structures to such pre-existing structures, provided that such construction, reconstruction, or alterations within the Flood Hazard or Wetland Districts shall not increase the area of ground coverage in the Flood Hazard or Wetland Districts of the pre-existing structures and such accessory structures considered in the aggregate by more than 40% over the area (whether such area was located in or outside of the Wetland or Flood Hazard District) which was covered by the pre-existing structures.

9. Septic systems lawfully existing within Wetland and Flood Hazard Districts prior to the adoption of this Wetlands Protection By-Law, including maintenance, reconstruction, enlargement and/or extension thereof. Nothing herein shall prohibit the enlargement and/or extension into a Flood Hazard District of septic systems lawfully existing wholly or partially outside of the Flood Hazard District at the time of the adoption of this Wetlands Protection By-Law.

10. The construction, reconstruction, enlargement or extension of paved play areas, tennis courts, driveways, swimming pools, and the like incidental to a residential structure lawfully existing prior to the adoption of this Wetlands Protection By-Law.

11. The construction, installation and maintenance by a private contractor pursuant to an approved subdivision plan or by public utilities or by the Town of Stoughton of public or municipal utilities including, without limitation, storm and sanitary sewers, sewer connecting lines (by a contractor approved by the Town of Stoughton except in a subdivision that is under covenant or bond), pumping stations, water and gas lines, electric transmission lines and telephone lines, provided that subsequent to the completion of such work the pre-existing water storage and flowage characteristics of the land are approximately restored.

12. The placement of signs, provided such signs do not affect the natural flow pattern of any water course.

13. Temporary stands for refreshment or for the sale of produce grown on the premises.

14. Temporary location of carnivals, fairs, circuses, arts and crafts displays, flea markets, concerts, and similar recreational and educational uses.

15. Any of the following uses if a special permit is, in each case, obtained from the Board of Appeals provided that subsequent to the completion of such work the pre-existing water storage and flowage characteristics of the land are approximately restored:

- a. Greens and fairways for golf courses.
- b. Range area for rifle or archery clubs.

16. Bridges, causeways, elevated walkways or access roads ancillary to permitted or permissive uses within or near the underlying Zoning Districts upon special permit from the Board of Appeals; provided that subsequent to the completion of such work, the pre-existing water storage and flowage characteristics of the land are approximately restored.

17. Construction of ponds, retention ponds, dams, and relocation of waterways, provided that a special permit is obtained from the Board of Appeals which special permit may only be granted upon a clear showing by the Applicant that the conditions set forth in this Wetlands Protection By-Law and all of the following conditions shall have been satisfied:

- a. The instantaneous overflow from such pond, retention pond, waterway, or dam (without the need for adjustment or manual control) during a 100-Year Storm, measured at the boundary of the Applicant's property, will not be greater than the instantaneous outflow as it would have been during such storm at such boundary prior to the construction of such pond, retention pond, waterway, or dam.
- b. The area inundated by such pond, retention pond, waterway, or dam, during normal conditions and during a 100-Year Storm shall not exceed the limits of the Applicant's property or such other limits as the Applicant shall have the right by valid instrument to flood.
- c. Such normal and 100-Year inundation shall not cause other structures including existing septic systems or other uses to be brought within 25 feet (or such greater distance as may be required by law) of such inundated area.
- d. The course of the run-off from said pond, retention pond, waterway, or dam shall be unaltered downstream of the Applicant's property subsequent to the construction of such pond, retention pond, waterway or dam except as affected landowners, downstream, may otherwise agree in writing.
- e. The ground water table in the area surrounding the pond, retention pond, waterway, or dam shall not be altered to the detriment of neighboring landowners, whether or not the lands of such owners abut the property of the Applicant.
- f. Except as herein otherwise provided the construction, location, capacity, and outflow of the pond, retention pond, waterway, or dam shall not be inconsistent with the overall drainage plan of the Town of Stoughton as it applies to the area in which the Applicant's property is located.
- g. Under normal and low flow conditions, the instantaneous outflow from the proposed pond, retention pond, waterway or dam measured at the boundary of the Applicant's property will be (without the need for adjustment or manual control) approximately equivalent to the instantaneous outflow at such point under similar conditions prior to the construction of such pond, retention pond, waterway or dam, and

- h. The pond, retention pond, waterway or dam shall otherwise be constructed in accordance with applicable federal, state or local laws pertaining to the construction, maintenance and operation of man-made dams, ponds, retention ponds or waterways.

**9.2.5 Use Regulations; Watershed Districts.** The Watershed Districts shall be considered as overlying other Zoning Districts and may be used to the extent permitted in the Underlying Zoning District, provided that, except to the extent permitted in Flood Hazard and Wetland Districts, no new buildings or structures shall be erected, constructed, altered, enlarged or moved into or within, and no dumping, paving, filling or earth transfer or relocation shall be permitted in the Watershed Districts (except as permitted Flood Hazard or Wetland Districts) within 25 feet of a Flood Hazard or Wetland Area and all uses in such Watershed Districts shall be subject to the applicable conditions of this Section and subject to the restrictions on use in the underlying Zoning District and all other restrictions in any other applicable Town By-Laws and regulations.

**9.2.6 Special Conditions on Otherwise Permitted Uses in Flood Hazard, Wetland and Watershed Districts.** In Flood Hazard, Wetland and Watershed Districts the following special conditions shall also apply:

1. All structures approved for construction within any Watershed District and required by law to be served by sanitary facilities or which are, in fact, to be served by such facilities, shall be connected to the Town's sewerage system, shall be connected to suitable self contained and closed sanitary systems which do not permit seepage or percolation into the soil, or shall be connected to a Board of Health approved on-lot subsurface septic system that is not within 25 feet (or such greater distance as may be required by law) of a Flood Hazard or Wetland District.
2. All drainage in any Flood Hazard, Wetland or Watershed District shall comply with the regulations of the Stoughton Conservation Commission and the Board of Selectmen acting as sewerage and drainage Commissioners.
3. The portion of any lot within the Flood Hazard or Wetland Districts may be used to meet or determine the area requirements for the underlying district in which the lot is situated, provided that the portion so utilized does not exceed twenty-five (25) percent of the minimum lot area required for the proposed use in the underlying district.
4. The entire portion of any lot within a Watershed District may be used to meet or determine the area requirements for the underlying district in which the lot is situated.
5. Portions of Flood Hazard Districts and Watershed Districts overlying industrially zoned land may be filled, paved or otherwise altered and may thereafter be used for any purpose permitted in the underlying industrial district provided that this sub-paragraph (v) shall not apply to any use allowed under Section 4.(viii) and further provided that all of the following conditions are met:

- a. The tract consists of twenty (20) or more contiguous acres, all of which is zoned for industrial uses;
  - b. The tract is under the ownership or control of the Applicant;
  - c. No more than 20% of the Flood Hazard District within the tract is filled, paved, or otherwise altered and any portion that is so filled, to the extent that it is thereafter above the adjacent Flood Hazard Area, shall not thereafter be considered as part of the Flood Hazard Districts for the purposes of this Wetlands Protection By-Law; provided that any portion of a tract of land that shall have been used at any time to compute the 20% area of a larger tract within which said portion was contained may not later be used again to compute the 20% area of any other tract to be further filled, paved, or otherwise altered under this sub-paragraph (v) whether or not such previously considered portion is later included in a lot subdivided from said larger tract even if such subdivided lot otherwise meets the requirements of this sub-paragraph (v).
  - d. No building, paving or other construction occurs within 25 feet of the boundary between the fill permitted hereunder and the adjacent Flood Hazard or Wetland District.
  - e. Ponds, retention ponds, dams and the relocation of waterways, are constructed or effected in accordance with the provisions of Section 4.A.(xvii) of this Wetlands Protection By-Law to assure that the water table on and the run-off of water from the tract, the retention of water on the tract, and the flood level at each point on the tract and on nearby tracts are substantially the same under 100-Year Flood, normal and low flow conditions as they were prior to such filling, paving or other alteration and construction.
  - f. In Zones A1-30 and AE, along watercourses that have a regulatory designation on the Stoughton FIRM or Flood Boundary & Floodway Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
6. Review all subdivision proposals to assure that:
- a. Such proposals minimize flood damage;
  - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c. Adequate drainage is provided to reduce exposure to flood hazards.

**9.2.7 Administration; Building Inspector.** Upon written application by an Applicant for a building permit, the Building Inspector shall determine whether the tract identified in the application and shown on an accompanying plot plan lies within the Flood Hazard, Wetland or

Watershed Districts, or, alternatively, is exempt from the provisions of this Wetlands Protection By-Law.

1. If the Building Inspector is satisfied that the tract does not lie, in whole or in part, within such Districts or is otherwise exempt from the provisions of this Wetlands Protection By-Law, the provisions of this Wetlands Protection By-Law shall not thereafter apply to the application.
2. If the Building Inspector is in doubt as to whether or not the tract lies, in whole or in part, within such Districts or is exempt from the provisions of this Wetlands Protection By-Law, he may request such further information of the Applicant as he may reasonably require to make his determination. Subsequent to a determination by the Building Inspector that any portion of the tract identified in the application lies within the Flood Hazard, Wetland or Watershed Districts or is subject to the provisions of this Wetlands Protection By-Law the Building Inspector shall not issue a building permit unless he has determined that:
  - a. The proposed use of the tract, any part of which is located within a Flood Hazard, Wetland or Watershed District, is shown by the Applicant to comply strictly with the uses and area restrictions permitted or required in such Districts under Sections 4.A., 4.B., and 4.C. above; and
  - b. The proposed uses otherwise comply with the provisions of this Zoning By-Law and with any other local, state or federal laws, regulations or ordinances the enforcement of which is the responsibility of the Building Inspector.
3. If the Building Inspector shall determine that no approvals, special permits or variances are required by the Applicant under this Wetlands Protection By-Law, he shall so indicate in writing on the Plan and by letter to the Applicant and all other required approvals may thereafter be sought by the Applicant including without limitation any approvals which may be required under State Wetland Protection Laws, without regard to this Wetlands Protection By-Law.
4. In all other instances relative to this Wetlands Protection By-Law, the Building Inspector shall promptly notify the Applicant by certified mail, return receipt requested, that this By-Law prohibits the contemplated use, and shall advise the Applicant of his right to appeal the Building Inspector's decision to the Zoning Board of Appeals.

#### **9.2.8 Administration; Zoning Board of Appeals.**

1. Appeals and Special Permits. An appeal may be taken to the Zoning Board of Appeals by any Applicant aggrieved by a decision of the Building Inspector and a special permit may be sought under this Wetlands Protection By-Law which appeal and/or application for Special Permit shall be instituted and prosecuted before such Board in accordance with the requirements of law and with applicable rules and regulations of such Board. Upon receipt of notice of appeal and/or applications for special permit the

Board of Appeals shall order a public hearing as to which there shall have been no less than fourteen (14) nor more than thirty (30) days prior notice in a newspaper in general circulation in the Town of Stoughton (or such other notice and posting as shall be required by law) and, after such hearing, the Board of Appeals may grant the relief hereafter set forth in this Section 6 and such other relief as it may have the authority to grant under applicable law. Appeals and Applications for Special Permits may be prosecuted simultaneously provided that the required notice shall have been satisfied and if such requirements are conflicting, the most severe requirement shall have been satisfied.

2. Appeals Claiming Improper Designation. An Aggrieved Applicant may appeal to the Board of Appeals from a decision of the Building Inspector that all or any portion of the Applicant's land is subject to this Wetlands Protection By-Law notwithstanding the classification of all or any portion of such land on the Wetland Map as being within a Wetland, Flood Hazard or Watershed District. In addition, if, and to the extent permitted by law, any person who owns or controls any land within a Wetland, Flood Hazard or Watershed District, may appeal such designation to the Zoning Board of Appeals under this Section 6.B., without having first to go to the Building Inspector for a building permit or to any other Board or Town Officer seeking permission for a special use. After a hearing as required herein, the Board of Appeals may grant permission for any uses on that portion of the Applicant's land shown by the Applicant not to be in a Wetland, Flood Hazard, or Watershed Area; provided that such uses shall be consistent with this Wetlands Protection By-Law to the extent that all or any portion of such land continues to be classified as a Wetland, Flood Hazard or Watershed District and provided further that the Applicant shall have demonstrated that all of the following four conditions have been satisfied:

- a. The request shall have been referred by the Applicant, along with a copy of the site plan to the Board of Selectmen, the Planning Board, the Board of Health, the Conservation Commission, and the Landscape Review Board and shall have been reported upon by all five Boards or thirty (30) days shall have elapsed following such referral without receipt by the Board of Appeals of such reports; and
- b. The land or the designated portion thereof shall have been shown by the Applicant not to be a Wetland, Flood Hazard or Watershed Area (notwithstanding the fact that the land or the designated portion thereof is shown on the Wetland Map to lie within a Wetland, Flood Hazard, or Watershed District) in whole or in sufficient part to permit the contemplated use. Such showing by the Applicant shall be on the basis of engineering, hydrological and topographical conditions determined by reference to the Engineering Presumption set forth in this Wetlands Protection By-Law, and should include an analysis of the vegetation on the land in accordance with the definitions in Chapter 818 of the Acts of 1974; and
- c. The proposed use, if any, will not be detrimental to the public health, safety, or welfare nor will it be inconsistent with the purposes of this Wetlands Protection By-Law; and

- d. The proposed use, if any, will comply in all respects with all applicable zoning and other provisions within the jurisdiction of the Board of Appeals which govern uses in the underlying Zoning District or Districts, and shall comply with applicable provisions herein pertaining to uses in Flood Hazard, Wetland, and Watershed Districts to the extent that all or any portion of such land continues to be classified as a Wetland, Flood Hazard, or Watershed District.

3. Application for Special Permits. An applicant may apply to the Board of Appeals for a Special Permit for any use which is permitted in this Wetlands Protection By-Law only by Special Permit which application shall be instituted and prosecuted before such Board in accordance with the requirements of law and applicable rules and regulations of such Board. Applicants for Special Permits hereunder shall submit to the Board of Appeals all of the data, drawings, site plans, maps, calculations and information set forth in this Wetlands Protection By-Law and shall be entitled to a Special Permit, subject to such conditions as the Board of Appeals shall deem appropriate and may lawfully impose, upon demonstration:

- a. That the all conditions set forth in this Section 6 shall have been satisfied and
- b. That through the use of the engineering techniques set forth herein. the construction or institution of the proposed use will not result in increased seepage or increased or decreased run-off into adjacent Flood Hazard or Wetland Areas or in contamination of existing or proposed waterways or in an alteration of the water table in the Applicant's Land or in neighboring or nearby tracts of land.
- c. That the proposed use fulfills the conditions set forth in this Section.

**9.2.9 Required Submittals for Appeals and Special Permits.** An applicant for a special permit or a person appealing from an improper designation of his land shall submit to the Board of Appeals at the time of such appeal or application for special permit, all of the data, drawings, site plans, maps, calculations and information hereafter set forth as well as such other relevant information as the Board of Appeals may reasonably require of the Applicant along with such additional material as the Applicant may desire to present to such Board:

- a. Location Plan. A location plan at a scale of 1 inch = 600 feet showing the area to be developed, lot lines within which the development is proposed, and tie-in to the nearest road intersection.
- b. Site Plan. A site plan at a scale of 1 inch = 40 feet prepared by a registered land surveyor and a registered professional engineer. Eight copies (or such other number as the Town Clerk may require) of the site plan shall be submitted to the Town Clerk who will distribute a copy to the Building Department, the Engineering Department, the Board of Selectmen, the Zoning Board of Appeals, the Planning Board, the Board of Health, the Landscape Review Board, and the Conservation Commission and such plan shall show at least the following: except that, in the case of an Applicant who is appealing from an alleged improper

designation of his land without first having applied for a building permit (if such appeal is permitted by law) the site plan required hereunder need not include information with respect to the proposed location, size and configuration of improvements, alterations or proposed activities on the land nor need it include any other information otherwise required herein under which pertains only to a specifically proposed use

- c. The location, boundaries and dimensions of each lot in question.
- d. Present and proposed contours of the entire site and affected adjacent areas. Generally two-foot contours will be satisfactory. In comparatively level terrain where contours are more than 100 feet apart, the contours shall be supplemented with spot elevations. Such spot elevations shall be spaced no greater than 100 feet apart in each direction to form a rectangular grid. Wherever interpolation of the contours will not show correct elevations such as summits, depressions, ditches, swales, saddles and road intersections, spot elevations shall be shown. Elevations shall refer to the U.S.G.S. base and the bench mark used shall be noted.
- e. All brooks, creeks, streams, ponds, lakes and wetlands (or any bank, flat, marsh, meadow or swamp bordering such area), whether continuous or intermittent, natural or man-made, should be delineated, if they affect the site or will be affected by the proposed changes in the site.
- f. Present and proposed location of waterways or other alterations.
- g. Present and proposed location, elevation, size, and invert of all sewers, drains, ditches, culverts, and other drainage or waste water conductors immediately upstream and downstream of the site.
- h. Location, extent and area of all present and proposed structures and paved areas.
- i. Locations and elevation of the basement floor, sub-basement floor, and first floor and elevation of the top of the foundation walls of all present and proposed structures.
- j. Location of any existing and proposed underground utilities, rights-of-way or easements.
- k. The location and type of existing and proposed sanitary sewerage facilities.
- l. An estimate of the maximum ground water elevation usually occurring between the months of December through April based upon at least one sample including calendar dates of such samples.

- m. Location of areas where earth is proposed to be removed, dredged, filled, temporarily stored, or otherwise altered in any way along with volumes of material so altered in each area and areas to be left untouched.
- n. Erosion and Sedimentation prevention plans for both during and after construction.
- o. Soil characteristics in representative portions of the site, including depth of peat and muck in wetlands. Sampling sites shall be specified.
- p. Cross sections showing slope, bank and bottom treatment of each water course to be altered. Locations of cross sections shall be specified.
- q. Location of proposed water retention areas.
- r. All calculations necessary to show the effect of the proposed activity on drainage, soil, and water.
- s. A general description of the vegetation on the land.

**9.2.10 Conservation Commission.** Nothing herein shall limit the authority obligations and duties of the Stoughton Conservation Commission or any successor thereto under the provisions of Section 40 of Chapter 131 of the Massachusetts General Laws including any amendments or successor statutes thereto.

**9.2.11 Extent of Section.** The provisions of this Section are not intended to repeal, amend, abrogate, annul, or interfere with any lawfully adopted by-laws, covenants, regulations or rules of the Town of Stoughton. Where this Section imposes greater restrictions, however, the provisions of this Section shall govern to the extent permitted by law.

### **9.3 STOUGHTON CENTER MIXED USE OVERLAY DISTRICT (SCMUOD)**

**9.3.1 Purpose and Intent.** There is hereby established a Stoughton Center Mixed Use Overlay District (SCMUOD) zoning by-law and overlay zoning district by-law map. The benefits of the SCMUOD Zoning By-Law shall accrue only to those parcels located within the boundary of the SCMUOD. The SCMUOD is intended to apply only to the Town Center portions of the Central Business District (CBD), General Business (GB) District, Industrial (I) District, and Residential Urban (RU) District as shown on the attached overlay zoning district by-law map. The SCMUOD is established for the accomplishment of the following purposes:

1. To maintain the cultural and architectural integrity of the Center;
2. To promote a range and balance of residential and commercial uses in the Center;
3. To promote efficient use of land within the Town;

4. To facilitate integrated physical design and synergies between activities;
5. To facilitate an increase in the variety of housing stock available in the Center;
6. To enhance vitality in the Center during both day- and night-time;
7. To promote a pedestrian-friendly living and working environment that encourages transit use and bicycling;
8. To facilitate economic development of the Center while remaining consistent with the established Design Guidelines and sensitive to environmental impacts;
9. To encourage building reuse and appropriate infill development;
10. To promote innovative and sustainable building and site design.

**9.3.2 Scope of Authority.** The SCMUOD shall not restrict the owner’s rights relative to the underlying zoning districts. However, if the owner elects to use the SCMUOD for development purposes, the development shall conform to the requirements of the Stoughton Center Mixed Use Overlay District By-Law.

1. Where provisions of this SCMUOD By-Law refer to the provisions in the underlying zoning by-laws and there is a conflict between these provisions, the provisions of this SCMUOD By-Law shall prevail.

**9.3.3 Definitions.** See Section 11, “Stoughton Center Mixed Use Overlay District.”

**9.3.4 District Areas.** The SCMUOD shall be divided into two distinct areas: SCMUOD Area A and SCMUOD Area B, as shown on the SCMUOD map.

1. Unless specified otherwise in this Section, all use, dimensional and design requirements for developments in SCMUOD Area B shall be the same as those within SCMUOD Area A, as amended.
2. SCMUOD Area B displays a particular physical character that warrants a slightly different planning approach to the remainder of the SCMUOD. The goal of creating Area B is to preserve the physical character of the Area while allowing architecturally appropriate additions and re-use of buildings.

**9.3.5 Special Permit Granting Authority.**

1. For all purposes pursuant to Section 9.3.6 of the SCMUOD, the Planning Board is hereby designated as the Special Permit Granting Authority (SPGA). All Special Permit applications made pursuant to the SCMUOD By-Law shall conform to the standards and criteria and procedural provisions of the SCMUOD By-Law and all relevant procedural provisions in Section 10.4.

2. The SPGA shall adopt and maintain Stoughton Center Design Review Guidelines to support the standards and criteria contained within the SCMUOD By-Law.

**9.3.6 Uses.** All uses allowed by right in the underlying zoning district are allowed as of right in the SCMUOD unless listed below as being allowed by special permit or prohibited. No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as allowed as of right or by special permit. These uses may be combined within a single structure.

1. Within the SCMUOD, the SPGA may issue a special permit for the following uses:
  - a. Dwelling units located above a retail, restaurant, professional office and service, personal service, or other non-residential use(s) at ground level, provided that no more than 10% of the total number of dwelling units at any one time be units of 3 or more bedrooms;
  - b. Multistory parking structures, provided that the structure complies with the design standards for parking structures identified in this By-Law, as amended;
  - c. Artist studio/residence;
  - d. Retail stores and offices including, but not limited to salesrooms and showrooms, consumer service establishments, business and professional offices, executive and administrative offices, banks and other financial institutions;
  - e. Drive-in automatic teller machines only if located in a secondary “kiosk” style building that is detached from the principle building on the site and the principle building includes 2 or more stories;
  - f. Restaurant and other on-premises eating and drinking establishments.
2. Prohibited uses. The following uses are prohibited in the Overlay District:
  - a. Adult Entertainment Establishment;
  - b. Drive-in establishments other than those described in the permitted uses section of this By-Law;
  - c. Funeral establishments;
  - d. Animal or veterinary hospital;
  - e. Sale of new or used automobiles and trucks, automobile tires and other accessories, aircraft, boats, motorcycles, and household trailers;

- f. Automotive repair, automobile service station or garage, including the sale of gasoline;
  - g. Storage trailers and outdoor storage of goods associated with a commercial use;
  - h. Dwelling units located below ground level.
3. Within SCMUOD Area B, the following uses shall be prohibited:
- a. Retail
  - b. Eating and Drinking Establishments

**9.3.7 Special Use Provisions for Ground Floor Uses.**

- 1. Ground floors of buildings fronting streets or public access ways shall be reserved for commercial uses except as specified below.
- 2. Dwelling units shall be allowed on ground floors of buildings only where:
  - a. The building is set behind another building which has commercial uses on the ground floor; or
  - b. The residential portion of the first floor of a building is set behind street-front retail/office/restaurant uses within the same building; or,
  - c. In other cases where the SPGA feels that street-front residential uses will not have an adverse impact on the continuity of the commercial street front uses.
  - d. Ground floor commercial uses within the SCMUOD Area B are to be limited to professional offices.

**9.3.8 Special Permit Criteria.** In addition to the specific requirements of this Section, the SPGA shall consider the following criteria, where relevant before issuing a special permit for development within the SCMUOD:

- 1. Adequacy of the site in terms of the size of the proposed use(s);
- 2. Adequacy of the provision of open space, its accessibility to the general public, and or its association with adjacent or proximate open space areas;
- c. Suitability of the site for the proposed uses(s);
- d. Impact on traffic and pedestrian flow and safety;

- e. Adequacy of pedestrian access to buildings and between public spaces;
- f. Impact on the visual character of the Center business area and surrounding neighborhood;
- g. Adequacy of utilities, including sewage disposal, water supply and storm water drainage;
- h. Impact of the proposal on the existing mix of structures and businesses in the Town Center; and
- i. The alignment of future road(s) that may be developed in the Town Center.

The SPGA may disapprove a proposal that results in the loss of architecturally or historically significant buildings or groups of buildings (for example, converted residential buildings fronting Faxon Park, Pearl Street or Canton Street) that contribute to the existing physical character of the Town Center, or which provide for uses key to the success of economics of the Center.

### **9.3.9 Dimensional Requirements.**

1. Minimum Lot Size; Area A. The minimum lot size in the SCMUOD shall be no less than 10,000 square feet, unless stated otherwise in this By-Law.
2. Minimum Lot Size; Area B. The minimum lot size within the SCMUOD Area B shall be not less than 7,000 square feet.
3. Lot coverage. In order to enable higher density development within the core business area and lower intensity development nearer to abutting residential districts, the lot coverage requirement within the SCMUOD shall be the same as in the underlying zoning district where the development is proposed. No building area shall be greater than the maximum building area percent shown in the current Zoning By-Law Table of Dimensional and Density Regulations.
4. Minimum Lot Width and Frontage. Lots within the SCMUOD shall have the following minimum frontage and width, as defined in the current Stoughton Zoning By-Law:
  - a. Minimum lot frontage shall be 20 feet.
  - b. Minimum lot width shall be 20 feet.
5. Dwelling unit size. The size of dwelling units shall be as per the required unit size identified in the current Stoughton Zoning By-Law.
6. Setbacks and yard regulations for buildings. Buildings shall be constructed in accordance with the following front, side and rear yard distances, as defined in the current Stoughton Zoning By-Law:

- a. Minimum Front Yard depth – 0 feet. Note that this depth is to allow zero-setback structures where appropriate in the CBD; it is not meant for all portions of the SCMUOD, where front yard landscaping would be an appropriate amenity.
  - b. Maximum Required Front Yard depth – 20 feet or the average of the setbacks to buildings on the same side of the street or way within 200 feet of the lot in question, whichever is the lesser.
  - c. Minimum Side Yard Width – 0 feet except where the subject property shares a lot line with a residential home (or Residential District), in which case, minimum is 25 feet (note: minimum is 0 feet in CBD).
  - d. Minimum Rear Yard Depth – 10 feet, except where the subject property shares any lot line with parcel in a residential district and not included within the SCMUOD, in which case, minimum is 25 feet.
7. No lot on which a building is located shall be reduced or changed in size or shape so that the building or lot fails to comply with the frontage, building coverage, yard distances, or other dimensional provisions of the SCMUOD By-Law.
8. Height.
- a. The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is forty feet.
  - b. The height limit does not apply to necessary appurtenances usually carried above roof not used for human occupancy in accordance with the current Section 4.0.

**9.3.10 Affordable Housing.** In all developments of more than five dwelling units under the provisions of the SCMUOD, not less than 10% of the total number of units shall be affordable to moderate income households. The affordable units may be available for either rental or ownership. A moderate income household is as defined by the U. S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.

- 1. In computing the number of required affordable units, fractions shall be rounded up.
- 2. The affordable units shall be developed under the Local Initiative Program of the Massachusetts Department of Housing and Community Development or another subsidy program that allows housing to count towards the statutory affordable housing requirement of Chapter 40B of Massachusetts General Law.
- 3. The affordable units must be subject to use restrictions, deed restrictions, or other legally binding instruments to ensure that the units remain affordable and available in perpetuity exclusively to people with qualifying incomes. The units must be sold or rented on a fair and open basis, and the owners of the units must adopt an affirmative fair marketing plan.

4. Affordable residential units shall be subject to a Monitoring Agreement to ensure continued compliance with these provisions. The Town may require, for itself or its designee, an option to purchase or lease affordable units for rents, sale prices, or resale prices that are affordable to eligible households. The option shall apply to the initial and any subsequent sale or lease of affordable units.

**9.3.11 Accessory Buildings and Structures.** Detached accessory buildings or structures shall conform to the requirements of this By-Law.

**9.3.12 Open Space.** A minimum of 10% of the site shall remain as open space, designed and intended for appropriate public use. Open space areas shall be maintained as continually open. In order to be included in the required open space calculation, the open space shall be usable, unobstructed space that is not used for vehicle parking, vehicle circulation, loading spaces, nor pedestrian pathways within vehicle parking lots.

**9.3.13 Public Spaces.** All site development other than the re-use of space in existence on the date of passage of this By-Law may be required to include the provision of “public spaces” (pedestrian amenities) such as sidewalks, outdoor seating, patios or courts. Such public spaces may include areas such as outdoor cafes clearly identified for a private purpose that increases the street oriented activity of the site itself.

1. These public spaces shall integrate with the existing network of streets and walkways within and adjacent to the SCMUOD to the maximum extent possible, to ensure free movement of motor vehicles, pedestrians and bicycles within the SCMUOD and adjacent neighborhoods. Public spaces that provide for pedestrian connections across the front of the site and between the front of the site and parking facilities located on the property shall be encouraged by the SPGA. These connections may be provided either within the structure or immediately adjacent to the structure within the site's setback area or other areas deemed appropriate by the SPGA.

2. Public spaces provided within the lot may count towards the minimum open space requirements for the site.

**9.3.14 Landscaping Requirements.** All developments, other than the re-use of space in existence on the date of Town Meeting acceptance of this By-Law, shall be landscaped with appropriate low-water vegetation and shall comply with all relevant landscaping standards and guidelines in the current Stoughton Site Plan Review By-Law.

1. Landscaping and screening plant materials within the SCMUOD shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic or blocks views of signs within the roadway alignment.

**9.3.15 Vehicular Access, Parking and Loading Requirements.**

1. Vehicle Access. Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide. Curb cuts shall be minimized and subject to

Design Review by SPGA. Special permit approvals by the SPGA shall encourage off-site pedestrian and vehicular access to existing or future developments on abutting properties in order to facilitate greater pedestrian access and to minimize curb cuts in the SCMUOD.

2. Vehicle Parking. Adequate off-street parking shall be provided and maintained in connection with all development pursuant to the SCMUOD By-Law. In determining adequacy, the SPGA shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.

- a. To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.
- b. The number of off-street parking spaces required in the SCMUOD shall be as per the SCMUOD Table of Parking Space Requirements.

**SCMUOD Table of Parking Space Requirements**

<b>Use</b>	<b>Parking</b>
Permitted commercial uses (including Retail, Offices, and Restaurants)	As per the Table of Off-Street Parking Regulations in the current Stoughton Zoning By-Law
Residential uses: Studio units and one bedroom dwelling units	1 space per unit, plus 1 space per 10 units or part thereof for guest parking
Dwelling units with 2 or more bedrooms	1 space per dwelling unit, plus 1 space per 10 units or part thereof for guest parking

- c. Where the calculation of the number of required parking spaces results in the requirement of a fractional space, any fraction over one-half shall require one space.

3. Loading. Off-street loading shall be provided in accordance with the Off-Street Loading Standards in the current Stoughton Zoning By-Law.

4. Bicycle Parking. Long-term bicycle parking shall be provided for all new developments in the SCMUOD. Long-term parking shall be at least 50% sheltered from the elements.

- a. Bicycle parking or storage spaces are to be located as close as possible to the building entrance(s). Bicycle parking location and design shall be in accordance with relevant provisions in the Stoughton Center Design Guidelines.

- b. At least 1 long-term bicycle parking or storage space shall be created for every 1 residential unit created.
- c. Condo association documents shall be worded to allow bicycle parking within vehicle parking garages.
- d. At least 2 long-term bicycle parking or storage spaces shall be created for commercial uses within the site.
- e. At least 10 long-term bicycle parking or storage spaces shall be created for structured parking lots.
- f. Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner within the same block to meet these requirements. This shared agreement shall be submitted to the SPGA as part of the Special Permit request.

**9.3.16 Special Parking Provisions.**

1. Shared motor vehicle parking. Shared use of motor vehicle parking is strongly encouraged; however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. A shared parking agreement shall be submitted to the SPGA as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping and snow plowing of the shared parking area.

2. Off Site Motor Vehicle Parking. Off site motor vehicle parking for any use may be considered by the SPGA if located within 500' walking distance of the subject site boundary. Said walking distance shall be by way of marked pedestrian crossings. A legally binding agreement from the owner of the subject property containing the proposed off site motor vehicle parking shall be submitted to the SPGA with the Special Permit request. This agreement shall state that easement(s) will be provided for the off site parking upon issuance of a Special Permit. All Special Permits granted pursuant to the SCMUOD by-law shall require that easement(s) be provided for all off site parking. Completed easement documentation shall be presented to the Building Inspector prior to issuance of a Building Permit.

**9.3.17 Loading and Waste Disposal.** Loading and waste disposal areas installed after the date of passage of this By-Law in the SCMUOD shall follow all relevant current State Board of Health regulations and comply with the Loading and Waste Disposal requirements in the current Stoughton Site Plan Review By-Law.

**9.3.18 Lighting.** All lighting installed in the SCMUOD after the date of passage of this By-Law shall comply with the site lighting requirements in the current Stoughton Site Plan Review By-Law. Cobra head light fixtures are not permitted.

### **9.3.19 Stoughton Center Design Review.**

1. Purposes. The Stoughton Center Design Review Standards are established for the accomplishment of the following purposes:

- a. To ensure that Stoughton Center continues to be a unique and identifiable place and destination for residents and visitors and is readily understood as "the heart of Stoughton";
- b. To enhance the social and economic viability of Stoughton's Center by preserving property values and promoting the attractiveness of Stoughton's Center as a place in which to live, work, visit and shop;
- c. To preserve and enhance Stoughton Center's cultural, economic and historic resources;
- d. To promote and encourage building design and building alterations that are compatible with the existing physical environment and are of superior quality or appearance; and
- e. To promote flexibility and variety in future development to enhance the natural and aesthetic qualities of Stoughton Center.

2. Administrative Procedures. All applications made pursuant to the SCMUOD By-Law shall be subject to Design Review by the SPGA in accordance with the following Design Review Standards and the supporting Stoughton Center Design Review Guidelines. The Stoughton Center Design Review Guidelines shall be made available to anyone upon request. Design review procedures shall follow all relevant Site Plan Approval Procedures within the current Stoughton Site Plan Review By-Law and shall also include the following:

- a. SPGA shall consult with all other relevant Town Boards, Commissions and Societies, prior to making a determination on an application. The SPGA may request the Stoughton Historical Society provide input relative to the historic significance of structures in areas proposed for redevelopment under the SCMUOD By-Law.
- b. The applicant shall submit 12 copies of all plans, elevations and illustrations that require Design Review to the members of the SPGA. The SPGA may require submission of a scale model of the proposed development to assess the impacts of the proposal.

**9.3.20 Design Review Standards.** New buildings shall be of a design similar or complementary to the historic architecture in Stoughton Center in terms of scale, form, massing, roof shape, spacing and exterior materials. The following design review standards are intended to provide for quality development that maintains a sense of history, human scale and pedestrian-oriented village character.

1. Scale. Buildings shall relate well to the pedestrian scale by:
  - a. Including appropriate architectural details to add visual interest along the ground floor of all facades that face streets, squares, pedestrian pathways, parking lots, or other significant pedestrian spaces;
  - b. Articulate the base, middle, and top of the facade separated by cornices, string cornices, step-backs or other articulating features.
  - c. Continuous length of flat, blank walls adjacent to streets, pedestrian pathways, or open spaces shall not be permitted.
2. Entrances. For visibility and accessibility, all primary commercial and residential building entrances shall be visible from the right-of-way and the sidewalk, shall have an entrance directly accessible from the sidewalk.
  - a. Doors shall not extend beyond the exterior facade into pedestrian pathways.
  - b. Where parking is located to the rear of a building, entrances to dwelling units within the building are to be visible and accessible from the parking lot. All entrances are to have sufficient illumination at night time.
3. Architectural details - existing historic buildings. If a proposed development includes alteration of or addition to an existing historic building, the change shall employ materials, colors, and textures as well as massing, size, scale and architectural features which show consideration for the original structure. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic building shall be preserved whenever possible.
4. External materials and appearance. Except for windows and minor trim, the building shall avoid the appearance of reflective materials such as porcelain enamel or sheet metal.
  - a. Ground floor commercial building facades facing streets, squares, or other significant pedestrian spaces shall contain transparent windows encompassing a minimum of 50% of the facade surface.
  - b. Predominant wall materials shall have the appearance of wood, brick or stone painted or coated in a non-metallic finish.
5. Roof form. New construction, including new development above existing buildings, may incorporate any form of flat or pitched roof, but such roofs shall be complementary to the roofs of historic buildings in the SCMUOD.
  - a. Flat roofs shall be concealed with parapets along all street frontages and shall not include scuppers or downspouts that outlet above ground level directly into any pedestrian ways.

b. Mechanical equipment shall be screened, organized and designed as a component of the roofscape, and not appear to be leftover or add-on element.

6. Signs. All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements as set forth in the current Stoughton Zoning By-Laws.

a. Flashing signs, moving signs, and roof signs are not permitted.

b. Signs shall be externally lit from the front. Back lighting of signs is prohibited.

7. Service areas, utilities and equipment. Service and loading areas and mechanical equipment and utilities shall be unobtrusive or sufficiently screened so that they are not visible from streets or primary public open spaces and shall incorporate effective techniques for noise buffering from adjacent uses.

8. Parking structures. To the extent reasonably feasible, all parking structures shall meet the following design criteria:

a. Where parking structures front streets, retail and other non-residential uses shall be encouraged along the ground level frontage to minimize interruptions in pedestrian interest and activity.

b. Pedestrian scale elements, awnings, signage and other architectural details and elements (such as adequate landscaping, openings, sill details, emphasis on vertical proportions) and other architectural features shall be incorporated into the design to establish pedestrian scale at the street. The architectural design shall be compatible with existing historic buildings within the immediate vicinity of the site and within the SCMUOD in terms of style, mass, scale, material, height, and other exterior elements.

c. Auto entrances shall be located to minimize pedestrian/auto conflicts.

9. Sustainable building design. New buildings constructed in the SCMUOD after the date of passage of this By-Law shall comply with the current Leadership in Energy and Environmental Design (LEED) criteria, as promulgated by the U.S. Green Building Council to the extent that is feasible for a developer.

10. Sustainable site design. The SPGA shall encourage the use of the latest best management practices for storm-water management such as Low Impact Development (LID). This may include the use of roof-top landscaping on buildings that have a flat roof.

## **9.4 WIRELESS COMMUNICATIONS OVERLAY DISTRICT**

**9.4.1 Purpose.** The purpose of the Wireless Communications Overlay District (WCOD) is to outline the permitting process to site a wireless communication facility within the Town of Stoughton, while minimizing potential damage and adverse visual impacts of Wireless Communication Facilities on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of necessary wireless communication services in an orderly way; and to promote shared use of existing facilities to reduce the need for new facilities.

**9.4.2 Special Permit Granting Authority.** For all purposes pursuant to this Section, the Zoning Board of Appeals is designated as the Special Permit Granting Authority ("SPGA").

**9.4.3 Definitions.** See Section 11, "Wireless Communications Overlay District."

**9.4.4 Exemptions.** The following shall be exempt from this Section.

1. Wireless Communication Facilities primarily and exclusively used for Town or State emergency services.
2. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communications Commission and used solely for that purpose.
3. Wireless Communication Structures and devices used expressly for home television reception.

**9.4.5 Special Permit Required.** No Wireless Communication Facility shall be erected, constructed, or installed without a special permit from the SPGA or in conformance with this Section.

**9.4.6 General Standards.**

1. Wherever feasible, Wireless Communication Devices shall be located on existing towers, on Municipally Owned Land, or other non-residential structures, minimizing proliferation of new towers.
2. Wireless Communication Structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.

**9.4.7 Siting on Municipal Land.** Wireless Communication Structures shall be allowed on land owned and controlled by the Town of Stoughton upon the issuance of site plan approval per Section 10.6.

#### **9.4.8 Siting and Height Requirements.**

1. Setbacks. The minimum Distance from the base of the Wireless Communication Structure to any property line or road right-of-way shall be at least 1.25 times the height of the structure to ensure an adequate fall zone.
2. The setbacks for the Wireless Communication Building shall comply with the setback requirements for the zoning district.
3. The Wireless Communication Structure shall be a minimum distance of three times the height from school buildings, playgrounds, athletics fields, and abutting residences to prevent the structure from appearing to "tower" over; adversely affecting property values.
4. The height shall be the minimum height necessary to accommodate anticipated and future use.
5. The Wireless Communication Structure shall, when possible, be sited off ridge lines and where their visual impact is the least detrimental to valuable historic and scenic areas.

**9.4.9 New Structures.** No new Wireless Communication Structure shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the SPGA that no existing Wireless Communication Structure can accommodate the Applicant's proposed Wireless Communication Device or that there is no Municipally Owned Land where a structure could be erected to provide suitable coverage. Evidence submitted to demonstrate that no existing structure can accommodate the applicant's proposed device may consist of any of the following:

1. No existing Wireless Communication Structures or Municipally Owned Land where a structure could be constructed are located within the geographic area required to meet the applicant's engineering requirements.
2. No existing Non-Residential Structure could accommodate a proposed device within the geographic area to provide suitable coverage.
3. Existing Wireless Communication Structures or non-residential structures are not of sufficient height to meet the applicant's requirements.
4. Existing Wireless Communication Structures or Non-Residential Structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed Wireless Communication Device.
5. The proposed Wireless Communication Device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed Wireless Communication Device.

6. The fee, costs, or contractual provisions required by the owner in order to share an existing Wireless Communication Structure or to adapt an existing structure for use are unreasonable. Costs are unreasonable if they are equal to or greater than twice the cost of building a new structure.
7. The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.

#### **9.4.10 Design Requirements.**

1. Wireless Communication Structures shall be designed to accommodate the maximum number of users as technologically possible.
2. There shall be no signs or advertisements, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
3. All Wireless Communication Devices shall be colored, molded, and/or installed to blend into the structure and/or the landscape.
4. The facility shall be fenced to control access (not necessarily the whole property).
5. Night lighting of the facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting should be submitted with the application.
6. There shall be a maximum of one parking space for each facility to be used in connection with maintenance of the site and not to be used for the storage of vehicles or other equipment.
7. Existing on-site vegetation shall be preserved to the maximum extent possible.
8. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.

#### **9.4.11 Application Process.**

1. Application and Technical review fees shall be submitted concurrently with any application submitted in conformance with this By-Law.
2. New Wireless Communication Structures. To site a new Wireless Communication Structure, the Applicant shall submit site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts,

on 24" x 36" sheets at a scale of 1"=40, or 1"=200, where appropriate, on as many sheets as necessary which shows the following:

- a. North arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for reviewing licensed engineer's seal.
- b. Name and address of landowner and name and address of abutters.
- c. Property lines and location of permanent structures or buildings, within 500-foot radius of proposed wireless communication structure.
- d. Existing (from a topographical survey completed within 2 years of application submittal date by professional surveyor licensed to practice in Massachusetts) and proposed contour lines at a maximum of 2-foot intervals and spot elevations at base of all the proposed and existing structures.
- e. Vegetation to be removed or altered.
- f. Plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure.
- g. Delineation of wetlands, if any.
- h. Location of Wireless Communication Structure, including supports or guy wires, if any.
- i. Plans for anchoring and supporting the structure, including specifications of hardware and all other building material.
- j. Plans for accessory buildings.
- k. Layout and details of surfacing for access road and parking.
- l. Amenities such as lighting, fencing, and landscaping.
- m. Four view lines in a one- to three-mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals, plus additional view lines from any historic, scenic, or other prominent areas of Town determined by the SPGA.
- n. A map showing the areas covered/served by the proposed Wireless Communication Structure and device of different signal strengths, and the interface with adjacent service areas.
- o. A locus map at a scale 1"=1000 (or whatever is necessary to show where

in town the proposed tower is sited) which shall show streets, and landscape features.

- p. A description of the soil and subsurface geology at the proposed site.
- q. A narrative report written by the carrier and licensed professional engineer which shall:
  - 1. Describe the justification of proposed site.
  - 2. Describe the structure and the technical, economic, and other reasons for the facility design.
  - 3. Describe the capacity of the structure, including the number and type of additional facilities it can accommodate.
  - 4. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
  - 5. Describe the projected future needs of the carrier, and how the proposed Wireless Communications Facilities fit "with future projections to serve the Town and adjacent towns.
  - 6. Describe leasing agreement should another carrier desire to co-locate.
  - 7. Describe special design features to minimize the visual impact of the proposed Wireless Communication Facility.
- r. Proof of approval of all other necessary permits needed for construction and operation.
- s. Any commercial or industrial site that is proposing a cell tower must have a complete 21E Assessment done on the entire parcel of the property, and it must be done by a licensed engineering firm qualified to do so.
- t. Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the proposed facility. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised, by the applicant, at least 7 days in advance of the first test date in a newspaper with a general circulation in the Town of Stoughton. The applicant shall inform the SPGA, in writing, of the times of the test at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between the hours of 8:00 a.m. and 6:00 p.m. on the dates chosen, which shall be on a weekend.

- u. Applicants proposing to erect Wireless Communications Facilities and Structures on Municipally Owned Land shall provide evidence of contractual authorization from the Town of Stoughton to conduct wireless communications services on said property.
- v. The Special Permit Granting Authority may require any additional information, including but not limited to 21E Reports, it deems necessary in its review of an application.

3. Existing Wireless Communication Structure or Non-Residential Structures. To site a Wireless Communication Device on existing Wireless Communication Structures or Non-Residential Structures, such as buildings, steeples, water towers or other non-residential structures, including co-location with another carrier, provided that the new use does not add to the height of the structure, the Applicant shall submit site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40, or 1"=200, on as many sheets as necessary which shows the following:

- a. North arrow, date, scale, the seal(s) of the licensed professionals who prepared the plans and a space for the reviewing licensed engineer's seal.
- b. Plans for supporting and attaching the device including specifications of hardware and all other building material.
- c. Building plans for accessory buildings, if any.
- d. Layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
- e. A map showing the areas covered by proposed device(s) of different signal strengths and the interface with adjacent service areas.
- f. A narrative report written by the carrier and licensed professional engineer which shall:
  1. Include a draft of the contract between the structure/building owner (whichever appropriate) and the Applicant.
  2. Demonstrate that the Wireless Communication Structure or non-residential structure to which the device will be mounted has the structural integrity to support such device.
  3. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.

4. Describe the projected future needs of the carrier, and how the proposed facility fits with future projections.
5. Proof of approval of all other necessary permits needed for construction and operation.
6. If the proposed facility adds more than five feet to the height of the structure at the effective date of this By-Law and will exceed zone height restrictions, the SPGA may require a balloon test as described herein.

**9.4.12 Decision Process.** Action on an application submitted under this By-Law shall occur only after a public hearing noticed in accordance with G.L. c. 40A, §11. Decisions on an SPGA application shall be filed in the office of the Town Clerk and are appealable pursuant to G.L. c. 40A, §17. In granting a special permit for Wireless Communication Facilities, in addition to the findings required by the Town's Zoning By-Law for Special Permits, the SPGA shall find:

1. That the Applicant has demonstrated to the satisfaction of the SPGA that the requirements of this By-Law have been met.
2. That the size and Height of the structure is the minimum necessary.
3. That the proposed Wireless Communication Facilities will not adversely impact historic structures or scenic views.
4. That there are no feasible alternatives to the location of the proposed Wireless Communication Facilities, including co-location that would minimize their impact and the applicant has exercised good faith in permitting future co-location of facilities at the site.
5. When considering an application for a Wireless Communication Facility, the SPGA shall place great emphasis on the proximity of the facility to residential dwellings, its impact on these residences, and will encourage the use of existing structures.

**9.4.13 Subsequent Changes.** Any extension, or construction of new or replacement towers or transmitters shall be subject to an amendment to the Special Permit, following the same procedure as siting a new wireless communication device on an existing structure.

**9.4.14 Bond.** The applicant shall post an initial bond to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site, and structure(s) and to cover the removal of facility in the event of non-operation in an amount approved by the SPGA. An access road may include existing town roads not designed for heavy traffic.

**9.4.15 Regulatory Compliance.** Annual certification demonstrating structural integrity and continuing compliance with current standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector by the Special Permit Holder, and shall be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder.

1. If the FCC or the FAA regulations are changed, the owner or operator shall bring the facilities into compliance within six months or earlier if a more stringent compliance schedule is included in the regulation.
2. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, devices at the owner's expense.
3. If the device is moved lower on the structure and the top of the structure is no longer needed, then the non-operational part of the structure shall be removed within 120 days.

**9.4.16 Removal and Repair.**

1. An applicant must execute a covenant with the SPGA agreeing to remove, within 180 days of notice from the town, the Wireless Communication Facility not in operation for a period of twelve months, unless the reason for non-operation is the result of major damage.
2. If the facility is not removed within 180 days, the Town will remove said facility at the owner's expense.
3. In the event of major damage, repair must begin within six months of damage. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

**9.5 MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES AND MARIJUANA CULTIVATION OVERLAY DISTRICT**

**9.5.1 Purpose and Intent.** There is hereby established a Medical Marijuana Treatment and Dispensing Facilities (MMTDF) and Marijuana Cultivation Overlay District and overlay zoning district bylaw map. The benefits of this district shall accrue only to those parcels located with the boundary of the Medical Marijuana Treatment Center and Dispensing Facilities and Marijuana Cultivation Overlay District which shall include Map 88, Lot 141 and Map 88, Lot 143. The Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District is intended to apply only to a portion of the Industrial Zone as shown on the attached overlay zoning district bylaw map. The intent of this section is to:

1. Establish specific zoning standards and regulations for medical marijuana treatment centers, and medical marijuana growing and cultivation operations;

2. Protect the public health, safety and welfare of Stoughton residents;
3. Provide for limited establishment of MMTDF and marijuana cultivation in appropriate places and under strict conditions;
4. Regulate the siting, design, placement, safety, monitoring, modification, and removal of MMTDF; and marijuana cultivation;
5. Limit the overall number of MMTDF and marijuana cultivation activity in the Town to what is essential to serve the public necessity; and
6. To minimize the adverse impacts of Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said facilities.

#### **9.5.2 Applicability.**

1. The commercial cultivation (unless it meets the requirements for an agricultural exemption under Chapter 40A Section 3), production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Section 9.5.
2. No Medical Marijuana Facility shall be established except in compliance with the provisions of this Section.
3. Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
4. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

**9.5.3 Scope of Authority.** The Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District shall not restrict the owner's right relative to the underlying zoning districts. However, if the owner elects to use the Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District for development purposes, the development shall conform to the requirements of the Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District.

**9.5.4 Special Permit Granting Authority.** For all purposes pursuant to this Section 9.5, the Zoning Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA). All Special Permit applications made pursuant to this bylaw shall conform to the standards and criteria and procedural provisions in the Town of Stoughton Zoning Bylaw Section 10.5.

**9.5.5 Standards and Criteria.** In addition to the specific criteria contained within this Section the SPGA shall consider the following criteria, where relevant before issuing a special permit for development within the Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation:

1. Adequacy of the site in terms of the size of the proposed use(s);
2. Suitability of the site for the proposed use(s);
3. Impact on traffic and safety;
4. Impact on the visual character and the surrounding neighborhood;
5. Adequacy of utilities, including sewage disposal, water supply and stormwater drainage.

**9.5.6 Cultivation Activities.** Cultivation, as defined in this bylaw, by any qualifying patient, personal care-Giver, or Medical Marijuana Treatment and Dispensing Facility in any location other than where specifically permitted shall be disallowed. This disallowance shall include cultivation, even where proposed as an accessory use, by any qualified patient, personal caregiver, or Medical Marijuana Treatment and Dispensing Facility.

**9.5.7 Requirements.**

1. All Medical Marijuana Treatment and Dispensing Facilities shall be designed and constructed in accordance with the underlying industrial zoning district and the requirements of all applicable provisions of the Stoughton Zoning Bylaw including Section 9.5 and the Overlay District as per plan for Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation.
2. Any Medical Marijuana Treatment and Dispensing Facilities or Cultivation application shall be subject to all of the Town of Stoughton Zoning Bylaws, and provisions in this bylaw.
3. Application and Technical review fees shall be submitted concurrently with any application submitted in conformance with this bylaw. Additional technical review fees will be assessed by the Engineering Department if warranted by excessive technical engineering reviews of the project.

**9.5.8 Dimensional and Density Requirements.** The Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation Overlay District shall conform to the Stoughton Zoning Bylaws, Section VI, Dimensional and Density Regulations Table under the category “I” which is entitled Industrial Zone. All requirements of the Industrial zone shall be adhered to.

**9.5.9 Signs.** All signs shall be reviewed before the Zoning Board of Appeals at the time of application. In addition, upon penalty of Special Permit revocation, no permitted Medical

Marijuana Treatment and Dispensing Facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Off site signage or advertising in any form, including billboards shall not be allowed.

1. Flashing signs, moving signs, and roof signs are not permitted.
2. Rear building signs are prohibited.

**9.5.10 Disallowance.** No Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation Special Permit shall be issued to any person convicted of violating the provisions of Massachusetts General Law, Chapter 119, Section 63, or General Law, Chapter 94C, or similar laws in other jurisdictions. Any applicant for Special permit under this bylaw must allow for a criminal background check which includes jurisdiction beyond the state of Massachusetts.

## **9.6 SOLAR POWER OVERLAY DISTRICT**

**9.6.1 Purpose.** The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

**9.6.2 Applicability.** This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed. This section pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

**9.6.3 Definitions.** See Section 11, definition of Solar Power Overlay District.

**9.6.4 General Requirements for all Large Scale Solar Power Generation Installations.** The following requirements are common to all solar photovoltaic installations to be sited in a designated location.

1. Compliance with laws, ordinances and regulations: The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
2. Building Permit and Building Inspection: No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

**9.6.5 Site Plan Review.** Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall be subject to the Town of Stoughton Site Plan Review Bylaw by the Planning Board prior to construction, installation or modification as provided in this section.

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts. Pursuant to the Site Plan Review process, the project proponent shall provide the following documents. 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. Blue prints or drawings of the solar photovoltaic 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 photovoltaic installation, associated components, and electrical interconnection methods, with all national Electrical 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, as well as all co-proponents or property owners, if any; and
8. The name, contact information and signature of any agents representing the project proponent.

**9.6.6 Required Documentation.** The following documents are also required:

1. Documentation of actual or prospective access and control of access site (See 9.6.7);
2. An operation and maintenance plan; (see 9.6.8 and 9.6.13);
3. Proof of liability insurance; and
4. Description of financial surety (see 9.6.15).

**9.6.7 Site Control.** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

**9.6.8 Operation & Maintenance Plan.** The project proponent shall submit a plan for the operation and maintenance of the large scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

**9.6.9 Utility Notification.** No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Town of Stoughton that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

**9.6.10 Dimension and Density Requirements.** Setbacks for large-scale ground-mounted solar photovoltaic installations shall be as follows:

1. Front Yard: the front yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Conservation area or Residential district, the front yard shall not be less than 50 feet.
2. Side Yard: each side yard shall have a depth of at least 20 feet; provided, however, that where the lot abuts a Conservation area or Residential district, the side yard shall be 50 feet.
3. Rear Yard: the rear yard depth shall be at least 40 feet; provided, however, that the lot abuts a Conservation area or Residential district, the rear yard shall be 50 feet.

**9.6.11 Design Standards.**

1. Lighting: Lighting of solar photovoltaic 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 photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. Signage: Signs on large-scale ground-mounted solar photovoltaic installations shall comply with the sign regulation of the Town of Stoughton Zoning Bylaws. The sign will be required to identify the owner and provide a 24-hour emergency contact telephone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
3. Utility Connections: Reasonable efforts, as determined by the Planning Board, Town Engineer and the department of Public Works, shall be made to place all utility connections from the solar photovoltaic 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.

#### **9.6.12 Safety and Environmental Standards.**

1. Emergency Services: The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

2. Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

#### **9.6.13 Monitoring and Maintenance.**

1. Solar Photovoltaic Installation Conditions: The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

2. Modifications: All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval of the Planning Board and the Engineering Department.

#### **9.6.14 Abandonment or Decommissioning.**

1. Removal Requirements of any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this Section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. 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 designated below-grade foundations in order to minimize erosion and disruption to vegetation to the satisfaction of the Town Engineer.

2. Abandonment Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered

abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation at the owner's expense.

**9.6.15 Financial Surety.** Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of the 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 and the Town Engineer, 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. Such surety will not be required for municipally or stated owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

## **9.7 FLOODPLAIN OVERLAY DISTRICT (FPOD)**

**9.7.1 Purpose.** The purpose of the Floodplain Overlay District (FPOD) is to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazard to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions; and
6. Reduce damage to public and private property resulting from flooding waters.

**9.7.2 FPOD Boundaries; Base Flood Elevation; Floodway Data.** The District shall include all special flood hazard areas designated as Zone A and AE as shown on those maps entitled, "Flood Insurance Rate Map (FIRM) of Norfolk County, Massachusetts prepared by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The Maps consist of a Map Index Map Number 25021CIND0A and 13 individual Map Panels drawn at 1"=500' as Panel numbers, 25021C0194E, 25021C0212E, 25021C0213E, 25021C0214E, 25021C0216E, 25021C0218E, 25021C0357E, 25021C0359E, 25021C0376E, 25021C0377E, 25021C0378E, 25021C0379E, and 25021C0381E dated July 17, 2012. Such maps shall be kept by the Building Commissioner and copies in the office of the Town Clerk of the Town of Stoughton and shall be certified by the Town Clerk of the Town of Stoughton as being true and complete copies of said FIRM, and as the same may from time to time be

amended or updated by action of the Town Meeting through the process required by law for the adoption of Zoning Bylaw changes. All references in this section of the Bylaw to “Maps” shall be deemed to be referenced to the FIRM unless the context otherwise specifically requires.

1. The exact boundaries of flood hazard areas may be defined by the 100 year base flood elevations shown on the FIRM and further defined by the Norfolk Count Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Engineering Department, Building Commissioner and Conservation Commission.

**9.7.3 Definitions.** See Section 11 “Floodplain Overlay District.”

**9.7.4 Permitted Uses.** The following uses are of low flood damage potential and cause no obstructions to flood flows and, are therefore, encouraged, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas, etc;
4. Conservation of water, plants and wildlife;
5. Wildlife management areas and foot, bicycle and/or horse paths;
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
7. Building lawfully existing prior to the adoption of these provisions.

**9.7.5 Other Use Regulations.**

1. In Zone AE, along watercourses that have a regulatory floodway designated within the Town of Stoughton on the Norfolk County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. All subdivision proposals must be designed to assure that:
  - a. Such proposals minimize flood damage;
  - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c. Adequate drainage is provided to reduce exposure to flood hazard.

**9.7.6 Base Floodway and Flood Elevation Data.**

1. Floodway Data. In Zones A and AE, along watercourses that have had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall

be used to prohibit encroachments in the floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

**9.7.7 Notification of Watercourse Alteration.** In a riverine situation, the Zoning Board of Appeals shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities;
2. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and
3. NFIP Program Specialist, Federal Emergency Management Agency, Region 1, 99 High Street, 6th Floor, Boston, MA 02110.

**9.7.8 Reference to Existing Regulations.** All developments in the District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

1. Sections of the Massachusetts State Building Code which address floodplain and coastal high hazard areas (currently 780 CMR) which address flood plain and coastal construction;
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00) and as adopted by the Stoughton Conservation Commission;
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13:00);
4. Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
5. All applicable provisions of the Stoughton Bylaw and maps that form a part of such Bylaw.

Any variances from the provisions and requirements of the above – referenced state and/or local regulations may only be granted in accordance with the required variance procedures of these regulations.

**9.7.9 Interpretation.** To the extent that different requirements for flood hazard areas are set forth in Section 9.2, the provisions of this section 9.7 shall control.

## **SECTION 10.0 ADMINISTRATION AND PROCEDURES**

### **10.1 ADMINISTRATION**

**10.1.1 Administrative Official.** It shall be the duty of the Building Inspector to administer and enforce the provisions of this By-Law.

**10.1.2 Permit Required.** It shall be unlawful for any person to erect construct, reconstruct or alter a structure without applying for and receiving from the Building Inspector a building permit. It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure, or lot without applying for and receiving from the Building Inspector a use permit.

**10.1.3 Previously Approved Permit.** The status of previously approved permits shall be governed by G.L. c. 40A, s. 6.

**10.1.4 Certificate of Occupancy Required.** It shall be unlawful to occupy any structure or lot for which a building or use permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy. The Building Inspector shall take action within ten days of receipt of an application for a certificate of occupancy. Failure of the Building Inspector to act within ten days shall be considered approval.

1. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning By-Law and of the State Building Code in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformance with the provisions of this By-Law and of the State Building Code at the time of issuance. A certificate of occupancy shall be conditional on prior approval of the Board of Health where applicable, on the adequacy of parking space and other facilities as required by this By-Law and shall lapse if such areas and facilities are used for other purposes.

2. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this By-Law:

- a. Occupancy and use of a building hereafter erected or structurally altered.

- b. Change in use of an existing building or the use of land to a use of a different classification.

- c. Any change in use of a nonconforming structure or use.

3. Certificates of occupancy shall be applied for coincidentally with the application of a building permit, and shall be issued within ten days after the lawful erection or alteration of the building is complete and after the Building

Inspector has received a plan(s) for the erection or alteration as it was actually constructed, commonly referred to as "as-built plans". Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than ten days after issuance. A temporary certificate of occupancy may be issued where a bond or similar means is used to secure the construction for a designated period of time.

4. Prior to the issuance of a certificate of occupancy for a building or structure under this Section, the Building Inspector and/or the Building Official must be satisfied that the roadway system abutting and/or providing access to a lot which the building or structure is located has been finished with at least one course of bituminous concrete surfacing or other required bituminous road surfacing material. If a street or way is not under the jurisdiction of the Planning Board by an approval under the Subdivision Control Law, such street or way shall be subject to the submission of a certified check or similar security payable to the Town of Stoughton in a sufficient amount to cover the required surfacing, subject to approval of the Town Manager, prior to the time a building permit is issued.

**10.1.5 Permit and Certificate Fees.** Fees shall be as established by the Board of Selectmen.

**10.1.6 Permit Time Limits.** Any work for which a permit has been issued by the Building Inspector shall be actively prosecuted within six (6) months and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Inspector.

## **10.2 ENFORCEMENT**

**10.2.1 Violations.** The Building Inspector shall serve a Notice of Violation and Order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this By-Law, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals, or general welfare.

**10.2.2 Prosecution of Violation.** If the Notice of Violation and Order is not complied with promptly, the Building Inspector or the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed three hundred (\$300.00) dollars for

each offense. Each day or portion of a day that any violation is allowed to continue shall constitute a separate offense.

**10.2.3 Noncriminal Disposition.** In addition, this By-Law may, in the discretion of the Town Official who is the designated enforcing person be enforced by way of the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing person as used in this section shall mean the Building Inspector and any Police Officer in the Town of Stoughton.

**10.2.4 Fines.** Fines shall be as follows:

First offense, within preceding twelve month period	\$ 50.00
Second offense, within preceding twelve month period	\$100.00
Third offense and each subsequent offense, within preceding twelve-month period	\$300.00

### **10.3 BOARD OF APPEALS**

**10.3.1 Membership.** There shall be a Board of Appeals of five members and five associate members.

**10.3.2 Appointment.** As terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.

**10.3.3 Powers of the Zoning Board of Appeals.** The Zoning Board of Appeals shall have the following powers:

1. Appeals. To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official, or any person aggrieved by any order or decision of the Building Inspector or any other administrative official in violation of any provision of Chapter 40A, General Laws, or of this By-law.
2. Special Permits. To grant a special permit when designated as the Special Permit Granting Authority by this By-law.
3. Variances. To authorize upon petition or appeal with respect to a particular parcel of land or structure thereon a variance from the terms of this by-law where the Zoning Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or the location of structures especially affecting such land or structures but not generally the district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise to the appellant or petitioner and that desirable relief may be granted without substantial detriment

to the public good and without nullifying or substantially derogating from the intent and purpose of this By-law. Use variances shall be prohibited.

4. Comprehensive Permits. To grant a comprehensive permit pursuant to G.L. c. 40B.

**10.3.4 Rules and Regulations; Fees.** The Zoning Board of Appeals shall adopt rules and regulations, including fees, for the conduct of business and for the purpose of this By-law and Chapter 40A of the General Laws, and shall file a copy of such rules and fees with the Town Clerk.

## **10.4 PLANNING BOARD**

**10.4.1 Establishment.** The Planning Board shall consist of five (5) appointed members.

**10.4.2 Powers.** The Planning Board shall have the following powers:

1. To hear and decide applications for special permits as provided in this By-law.
2. To hear and decide applications for site plan approval pursuant to Section 10.6.

**10.4.3 Rules and Regulations; Fees.** The Planning Board shall adopt rules and regulations, including fees, for the conduct of business and for the purpose of this By-law and Chapter 40A of the General Laws, and shall file a copy of such rules and fees with the Town Clerk.

## **10.5 SPECIAL PERMITS**

**10.5.1 Special Permit Granting Authority.** The Board of Appeals, Planning Board, and the Board of Selectmen shall be the Special Permit Granting Authority (SPGA) as specified in the various sections of this By-law and shall hear and decide applications for special permits.

**10.5.2 Criteria.** Special permits shall be granted by the SPGA, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;

3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment taking into account any proposed mitigation.

**10.5.3 Application.** The SPGA may adopt additional rules relative to the issuance of special permits and shall file a copy with the Town Clerk. The rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for submission and approval of such permits.

**10.5.4 Conditions.** The SPGA may impose additional conditions and limitations as it may deem necessary.

**10.5.5 Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this section.

**10.5.6 Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

**10.5.7 Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

## **10.6 SITE PLAN APPROVAL**

**10.6.1 Purpose.** The purpose of Site Plan Approval is to protect the health, safety, convenience, and welfare of the inhabitants of the Town of Stoughton by providing a comprehensive review of the land and development plans submitted to the Town for approval to ensure that the following conditions have been met:

1. The location of buildings, uses and other site development are properly and legally located on a site as prescribed by the Zoning By-Law.
2. Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful fumes and glare of lights.
3. Significant natural features on a site are preserved as much as possible (i.e., hills, water bodies, wetlands, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats and other areas of aesthetic and ecological interest).

4. Adequate facilities for off street parking and loading, drainage, snow removal, fire protection and methods of solid waste disposal are provided on site.
5. Pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility and public safety.
6. Economic development is promoted by “smart” land use decisions.

**10.6.2 Projects Requiring Site Plan Approval.** All buildings, other than single-family and two-family residences and structures accessory thereto, which are to be constructed, removed and reconstructed or demolished and reconstructed, or enlarged, which enlargement is equal to or greater than the percentage of the total building gross square footage listed in Table 1 or 5,000 square feet, whichever is less, shall be subject to Site Plan Approval by the Planning Board. In addition, any change in the use, other than a single or two family residence, which has an increased requirement for parking as defined by this By-Law, or an increase in impervious surface, other than building footprint, shall also be subject to Site Plan Approval.

<b>Table 1</b>	
<b>Size of Building Footprint</b>	<b>% of Increase Requiring Site Plan</b>
Under 1,000 g.s.f.	40%
1,000 - 4,999 g.s.f.	30%
5,000 - 19,999 g.s.f.	20%
20,000 - 50,000 g.s.f.	10%
Over 50,000 g.s.f.	5%

Note: g.s.f. = gross square footage of the building. g.s.f. shall be calculated using the outside dimension of the building footprint times the number of floors.

**10.6.3 Exemptions.** The following alterations or construction operations are exempt from the provisions of this Site Plan Review By-Law:

1. Increase in Landscaping, or shifting of landscaping locations, subject to no change in the Plant List quantities, size, or vegetation types (i.e., groundcovers, shrubs, flowering trees, shade/street trees), with exception to landscaping approved for buffering or to meet buffering requirements of this By-Law.
2. Changes to infrastructure and utility provisions/apparatus with written approval by the Engineering Division and the agency responsible for the utility, with exception to traffic mitigation (to be considered a minor modification).
3. Relocating of less than 5% of total approved parking spaces.

4. Moving of Handicapped Parking pursuant to 521 CMR as most recently amended.

**10.6.4 Recommended Pre-Filing Procedure.** Prior to filing a Site Plan Application, the applicant is encouraged to request, in writing, to schedule a meeting to review the proposed site plan with the Engineering and Building Departments. The purpose of this recommended pre-filing procedure is to review with the applicant the requirements and criteria for site plan approval and address questions in order to give the applicant advice and comments prior to submitting a Site Plan Application and thus avoid unnecessary time and costs to the applicant due to unforeseen problems and issues with a submitted site plan.

**10.6.5 Application Submittal and Circulation.** At the time of filing, the applicant must submit twelve (12) copies of a completed Site Plan Application and twelve (12) copies of the Site Plan, and one electronic copy, conforming to all requirements listed in this By-Law, along with any pre-filing comments received, to the Planning Board, in care of the Engineering Department. Additionally, a copy of the Site Plan Application (without plans) shall be filed with the Town Clerk. The Site Plan Application and plans will be forwarded to the following departments for comment:

Building Department  
Public Works Department  
Board of Health  
Conservation Commission  
Fire Department  
Police Department  
Engineering Department

Each department shall make every effort to have all comments submitted to the Planning Board within thirty (30) days of receipt of a Site Plan Approval Application. These comments shall be available for review at the Engineering Department prior to the public hearing.

**10.6.6 Public Notice.** No less than fourteen (14) days prior to the date of the public hearing, the Applicant shall advertise the public hearing in a newspaper of local circulation, and shall send written notice, by first class mail, in conformance with G.L. c. 40A, §11. Legal advertisement and all required postage shall be paid by Applicant. The legal advertisement and abutter notification shall include, at a minimum, the following information:

1. The name and, if applicable, the business name and address of the applicant.
2. The street address and the assessor's map and lot number of the property as specified on the Site Plan Application on which construction or expansion is planned.
3. A brief description of the type of construction or expansion planned.

4. The designated Town office where the Site Plan Application can be reviewed.
5. The date, time and place of the public hearing.

**10.6.7 Public Hearing.** A public hearing on the site plan application shall be scheduled within forty-five (45) days of filing. Failure of the Planning Board to hold a public hearing within this forty-five (45) days shall be deemed as constructive approval, upon which the Town Clerk shall issue a certificate to this effect and a notation on the Applicant's Site Plans.

**10.6.8 Waiver of Filing Requirements.** Upon request of the Applicant, the Planning Board may, at its discretion, waive any of the requirements, or portions thereof, of this Section. Action by the Planning Board granting either approval or approval with conditions shall be sufficient evidence of an affirmative waiver by the Board of any of the filing requirements not fulfilled by the Applicant. Waivers of filing requirements shall be explicitly requested by the Applicant in writing, and responded to in writing indicating grant or denial by the Planning Board. Requirements of this By-Law may not be waived except as properly voted by the Planning Board.

**10.6.9 Preparation and Contents of Site Plan.** Site Plans shall be preferably be 24" x 36". Larger plans may be submitted, at the discretion of the Engineering Department. The scale shall be a minimum of 1" = 40', except for elevation views and floor plans which shall be at a scale of 1/8" = 1' or 1/4" = 1'. The site plan set shall include a Cover Sheet, Existing Conditions Plan, Proposed Site Layout, Landscape Plan, Utility and Grading Plan and Construction Details. The site plan shall include the following criteria and any other criteria deemed as sound planning and engineering practice by the Planning Board and/or the Engineering Department:

1. Name and address of Record Owner/Applicant.
2. Legend depicting all pertinent existing and proposed site features.
3. The date and north arrow shall be shown on the plans.
4. All site plans must be stamped by a Registered Professional Civil Engineer and a Professional Land Surveyor. The land surveyor shall perform an instrument boundary survey and shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions to property lines.
5. Zoning Chart depicting "Required" vs. "Provided" for all applicable Zoning Criteria including Lot Size, Frontage, setbacks, Building Height, Lot Coverage, Parking Spaces, Landscaping Requirements.
6. Locus map, at a scale of 1"=600' or suitable scale to accurately locate the site in Town, oriented on the plan in the same way as the large scale plan.

7. The location, width, status (public or private), and name of all streets within 100' of the project.
8. On-site and abutting lot lines. On site lot lines shall be described by bearings and distance. Abutting lot lines shall be shown in a general way.
9. All easements with bearings and distances.
10. Zoning District lines, including Flood Plains, Wetland Protection Districts and wellhead protection zones I and II or any other applicable overlay districts (if applicable).
11. Existing surveyed and proposed topography contour lines at one (1) or two (2) foot intervals. A minimum of two (2) benchmarks shall be shown on the plans. The datum shall be noted.
12. The location of existing or proposed building (s) on the lot shall be shown with total square footage and dimensions of all buildings.
13. Any streams, brooks, or wetland resource area boundaries within 100' of the property lines. Wetland resource areas shall be as defined in the most recent version of the Stoughton Wetland Protection bylaw.
14. Information on the location, size and type and number of existing landscape features.
15. Information on the location, size and capacity of existing and proposed on-site and abutting utilities, (water, sewer, drainage, natural gas, electrical cable, etc.) including utilities in abutting side streets, if applicable.
16. Detailed locations and dimensions of all existing and proposed buildings and uses on site and on abutting properties, including sill elevations, overhangs and exterior details relating to the building footprint. All existing and proposed setbacks from property lines. Any minimum, or below minimum, setback distances shall be clearly noted as such on the plan.
17. Information and details for all site and directional on-site signage shall be submitted.
18. Location, specifications, and construction details for all site signage.
19. Elevation and facade treatment plans of all proposed structures. Color renderings are required.
20. Information on the location, size and type of parking, loading, storage and service areas. A parking calculation schedule noting existing, required and proposed spaces for the entire site shall be provided.

21. Details and specifications (if applicable) for proposed site amenities, including, but not limited to fences, recreation facilities, walls or other barrier materials; and special paving materials.
22. All proposed erosion control measures shall be shown on the plan. Anti-tracking area shall be provided at all entrances.
23. Proposed construction schedule.
24. Limit of Work delineation.
25. Any additional information in which the Board finds reasonable and sound practice.

**10.6.10 Development Impact Report (DIS).** A Development Impact Report will be required for all projects. The Planning Board may waive in part, or in whole, any requirements contained in the DIS which it deems inapplicable to the project proposal.

1. Traffic Impacts

- a. The Traffic Report shall include the following for the study area:
- b. Existing average daily traffic and pedestrian volumes during peak hours.
- c. Accident history shall be included for a 3 year period.
- d. Internal traffic circulation analyses including emergency vehicle access.
- e. Sight Line Evaluation shall include documentation of posted speed limits, calculations of stopping sight distances for both directions and field measurements of available sight distances at each proposed point.
- f. Queuing and lane storage capacities available under existing and proposed conditions.
- g. Traffic Signal Warrant Analysis, if necessary.
- h. Analyses of average daily traffic and peak hour levels resulting from the project including future conditions for peak hour traffic volumes under “no-build” and “build” scenarios based on 5 year horizon from existing conditions. “No build” to include average annual growth and projects approved or projected in the area. “Build” to represent no-build traffic volumes adjusted to add site generated traffic volumes.
- i. An analysis of existing and resulting intersection levels of service (LOS). (Please refer to the most current edition of the Manual of the Institute of Transportation Engineers for the definition of level of service.)

- j. Directional vehicular flows resulting from the proposed project.
  - k. Identification of any pedestrian and bicycle crossing issues on-site or off-site.
  - l. Proposed methods to mitigate the estimated traffic impacts.
  - m. The methodology and sources used to derive existing data and estimates.
2. Visual Impacts. The Visual Impact Assessment shall be prepared by a registered Landscape Architect and shall include:
- a. Evaluation of the relationship of proposed new structures or alteration of nearby pre-existing structures in terms of character and intensity of use (e.g. scale, materials, color, odor, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
  - b. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes;
  - c. A colored site plan rendering representing the actual colors and materials being used.
3. Environmental Impacts. The purpose of this assessment is to describe the impacts of the proposed development with respect to on-site and off-site environmental quality.
- a. The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact(s).
  - b. The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on-site or on neighboring properties; and shall not increase the pre v. post rates of runoff from the site. A summary of compliance with the DEP Stormwater Standards shall be provided. Provision for attenuation of runoff pollutants and for groundwater recharge shall be included in the proposal.
  - c. The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized, and special attention shall be given to the planting of replacement trees.
  - d. The design of the development shall minimize earth removal. Cuts of more than 4 feet shall be prohibited, unless otherwise waived by the Planning Board. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.

e. Proper sewage disposal in accordance with the State Environmental Code and any local regulations and/ or policies must be demonstrated.

4. Economic Impacts. The purpose of the Economic Impact assessment is to evaluate the fiscal and economic impacts of the proposed development on the Town. The scope of the assessment shall address the following issues:

a. Projections of costs arising from increased demands for public services and infrastructure. Cost factors shall include the project effects of police and fire protection, highway, water, sewer, solid waste disposal, education services, recreation facility impacts, and health services.

b. Projections of benefits from increased tax revenues, employment (construction & permanent), and value of public infrastructure to be provided. Revenue factors shall include the effects on property taxes, vehicular taxes, licenses and fees, fines and miscellaneous taxes.

c. Projections of the impacts of the proposed development on the values of adjoining properties.

d. Five-year projection of Town revenues and costs resulting from the proposed development.

5. Community Impact. The purpose of this assessment is to evaluate the project design based on its compatibility with the surrounding community. The scope of the assessment shall address the following issues:

a. Design elements shall be compatible with the character and scale of neighboring properties and structures.

b. The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc.

c. The design of development shall be consistent or compatible with existing local plans (if any); including plan elements adopted by the Planning Board, Conservation Commission, and other Town bodies having such jurisdiction.

d. The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.

e. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.

**10.6.11 Stormwater Management Plan and Report.** The contents of the stormwater management plan shall contain sufficient information for the Engineering Department to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. Summary data shall be provided in terms understandable to the Planning Board and the general public. The stormwater management design shall be prepared in compliance with the Stormwater Standards of the latest edition of the Stormwater Management Regulations and the Stormwater Handbook of the Department of Environmental Protection. Additionally, the project shall comply with the Environmental Protection Agency's most current National Pollutant Discharge Elimination System (NPDES) MS4 Permit requirements and any local Stormwater Requirements. The following plans and documents shall be submitted for review:

1. Completed and signed Stormwater Management Checklist Form from the latest edition of the Stormwater Management Regulations demonstrating compliance with all Standards
2. Narrative describing the project and all sub-catchment areas (cover type, soil conditions, etc.). A summary table showing changes in pre and post-development peak runoff flows for the 2, 10, 25, and 100-year storm events. Post development peak runoff rates shall not exceed pre-development rates. The Narrative shall explain all Best Management Practices proposed to improve water quality and recharge. All areas where vegetation is being altered and all areas to be covered with impervious areas shall describe in the Narrative.
3. Hydrological Calculations for Pre-development and Post-development.
4. Pre-and Post-development Watershed Sub-catchment Maps showing sub-catchment boundaries, Time of Concentration paths, cover types, and final discharge points.
5. Plans shall show enough topographic information outside of the site to show pre and post discharge impacts.
6. Provide Curve Number calculations.
7. Hydraulic calculations shall be prepared based on the 25-year storm event. A hydraulic summary table shall be provided.
8. Test Pit Data. All test pit locations shall be shown on the plan. The Estimated Seasonal High Ground Water Elevation for each test shall be provided. Test pits are required to be performed in the vicinity of any stormwater basin in accordance with the DEP Stormwater Management Regulations.
9. Existing topography and proposed grading shall be described in one foot or two foot contour intervals, depending on how much detail is required to review drainage impacts of the proposed project.

10. Locations, specifications and construction details for all stormwater structures and Best Management Structures shall be provided in the plan.

11. Site runoff shall be infiltrated to maximum extent practicable. The use of Low Impact Development design is encouraged.

12. An Operation and Maintenance Plan shall be submitted for stormwater structures.

**10.6.13 Additional Required Written Submittals.** An application for Site Plan Approval shall also be accompanied by the following:

1. Name and address of Record Owner/Applicant. Cover letter from applicant describing project in detail.

2. A list of names and addresses of all property owners of record who share a common property line with any portion of the subject property, and abutters to the abutters within three hundred feet (300').

3. An itemized list of all applicable permits required for the subject site prior to the issuance of a building permit, and any approvals, variances and applications applied for and obtained for the project and property, including, as may be applicable, an application for municipal sewer connection, application for construction of an individual sewerage disposal system, application for municipal water connection, or application for well permit.

4. Written permission from the owner of the property to apply for Site Plan Approval, if the applicant is not the owner.

5. For projects proposing demolition of an existing structure, a written finding by the Stoughton Historical Commission that the building or structure is not historically significant.

6. If any waivers are sought from the Planning Board, they shall be clearly listed with their descriptions on the drawing. If any waivers are requested, they shall be listed on a separate sheet and submitted as part of the site plan submission material along with a statement of reasons for same.

7. Proposed construction schedule.

**10.6.14 Certification of Plans.** The site plan must be signed and stamped by a professional deemed appropriate by the planning Board. This may include, but not limited to a registered Professional Civil Engineer, Professional Land Surveyor, Landscape Architect, or Architect.

**10.6.15 Site construction.** Site work for the proposed development shall conform to the following general requirements:

1. All access routes and parking areas shall be graded, paved, and drained to the satisfaction of the Engineering Department.
2. Curbing, berms wheelstops, guardrails, and/or bollards shall be placed at the edges of all surfaced parking areas as appropriate. Wheelstops shall be provided wherever a parking area directly abuts a sidewalk.
3. All utility connections shall be constructed in accordance with the requirements of the Engineering Department, Public Works and the Building Department, and other utility owners as applicable.

**10.6.16 Maintenance.** All access ways, parking areas, fences, walls, landscaping, lighting, drainage, and waste disposal areas shall be adequately maintained and repaired or replaced wherever and whenever necessary for continued compliance with the appropriate site plan. A formal operation and maintenance plan for the site shall be submitted to the Planning Board for review.

**10.6.17 Planning Board Action.** The Planning Board shall take formal action on the Site Plan Application within thirty (30) days of the close of the public hearing. Planning Board action shall be by vote of a majority of the members, or majority of a voting quorum, and shall consist of any one of the following:

1. Approval, if the Site Plan meets the requirements of this By-Law;
2. Approval with conditions, if the Site Plan would meet the requirements of this By-Law upon satisfaction of certain conditions; or
3. Disapproval, if the Site Plan does not meet the requirements of this By-Law.

**10.6.18 Decision.** The Planning Board shall file a written decision with the Town Clerk after initialing all pages contained in said decision, with copies filed with the Building Department and Engineering Department.

**10.6.19 Endorsement upon Approval.** In addition to the written decision, the Planning Board approval, or approval with conditions, shall be indicated by endorsement on the Site Plan by a majority of the Planning Board, with a reference to any specific conditions which may be contained in the written decision. Once approved, one (1) copy of the approved Site Plan, signed by the Planning Board, or their Authorized representative, shall be forwarded to the Building Inspector and Engineering Department within five (5) days of final Planning Board action.

**10.6.20 Constructive Approval.** Failure of the Planning Board to take final action within the prescribed thirty (30) day period shall be deemed as approval, upon which the Town Clerk shall issue a certificate to this effect and a notation on the Applicant's Site Plans. For the purposes of this By-Law, "formal action" shall be construed to mean

completion of every act required of the Planning Board under this By-Law.

**10.6.21 Disapproval for Failure to Meet Filing Requirements.** The Planning Board may, in its discretion, record a vote of disapproval of a Site Plan if the Applicant has failed to meet any of the requirements of filing set forth in this By-Law.

**10.6.22 Certificate of Occupancy.** No occupancy permits shall be issued for any building or structure, or portion(s) thereof, until:

1. The Building Inspector receives certification from a registered architect, engineer or land surveyor, that all construction (including utilities) has been done in accordance with the approved site plan (not required for site plans for structures less than 5,000 sq. ft.); and
2. The Building Inspector and Engineering Department verify that all conditions of the approved site plan have been met.

**10.6.23 Security for Incomplete Work.** At the option of the Applicant, an occupancy permit may be issued if the only incomplete work shown on the site plan is exterior, cosmetic or landscaping, and if surety, the amount to be set by the Planning Board at a regular meeting, is posted to ensure that the incomplete work is completed within a reasonable time. The Planning Board shall establish a deadline for completion of not more than one (1) year from posting of security. The Planning Board may, at its discretion, allow surety to be posted for site work in addition to landscaping if an unusual or unexpected event prevents the applicant from completing the site work. This allowance is subject to the review by the Planning Board by a site inspection to insure the safety and health for those who occupy the structure and use the site.

1. Surety may not be used for incomplete stormwater management areas or wetlands replication that may be required by the Conservation Commission.

**10.6.24 Modification to Approved Site Plans.** In the event a modification is made to an approved site plan, the applicant shall submit to the Planning Board revised plans showing the modification. Listed below are situations warranting major review as the original filing, minor reviews requiring Board review at a regular meeting, or no review by the Planning Board. A meeting with the Engineering and Building Departments prior to filing is recommended.

1. Major Modifications. The following modifications to a site plan approval constitute "Major Modifications," requiring the same review and application of the original filing:
  - a. Changes to the principal use structure paved areas, drainage structures, or lot configuration.
  - b. Phasing development to allow structures to be constructed in specific separate time frames.

- c. Any other modification which the Planning Board finds to be a substantial alteration of the approved Site Plan.

2. **Minor Modifications.** The following modifications to a site plan approval constitute "Minor Modifications." The Planning Board may review these following changes to determine the insignificance and consistency within the original approved plan:

- a. Reduction in Landscaping or Parking.
- b. Requests by applicant to revise conditions of previous decision.
- c. Façade changes to the structure without any increase in volume.
- d. Any other modification not listed herein, which the Planning Board deems not to be a substantial alteration of the approved site plan.

**10.6.25 Lapse.** An approved site plan shall lapse if within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

**10.6.26 Appeal.** The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Massachusetts General Laws Chapter 40A, §17.

## **10.7 SITE PLAN REVIEW FOR SECTION 3 USES**

**10.7.1 Purpose.** The purpose of this Section is to provide for site plan review of religious, educational, and child care centers otherwise "exempt" pursuant to G.L. c. 40A, s. 3.

**10.7.2 Site Plan Review Required.** Prior to the issuance of any building permit or certificate of occupancy, the establishment, alteration, change, extension, or reconstruction of use B.1, B.2, or B.13 shall as set forth in the Table of Use Regulations shall require site plan approval from the Planning Board pursuant to this Section.

**10.7.3 Scope of Site Plan Review.** Under this Section, Site Plan Review shall be limited to two inquiries:

1. Whether the use qualifies for protection under G.L. c. 40A, s. 3; and, if so,
2. What reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any, should be imposed on the use.

**10.7.4 Required Information.** All applications for Site Plan Review shall be in writing and provide, at a minimum, the following information:

1. Name and address of applicant person or entity;
2. Name and address of property owner;
3. Description of the proposed use and any documents necessary to establish threshold compliance with G.L. c. 40A, s. 3;
4. Reason that relief is requested from otherwise applicable zoning requirements;
5. If necessary to reach a decision on the application, the Planning Board request further information from the applicant consistent with G.L. c. 40A, s. 3, specifying in detail the information required.

**10.7.5 Site Plan; Contents.** In addition, the applicant shall submit a site plan with the following information:

- a. Legend depicting all pertinent existing and proposed site features.
- b. The date and north arrow shall be shown on the plans.
- c. All site plans must be stamped by a Registered Professional Civil Engineer and a Professional Land Surveyor. The land surveyor shall perform an instrument boundary survey and shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions to property lines.
- d. Zoning Chart depicting “Required” vs. “Provided” for all applicable Zoning Criteria including Lot Size, Frontage, Setbacks, Building Height, Lot Coverage, Parking Spaces, Landscaping Requirements.
- e. Locus map, at a scale of 1”=600’ or suitable scale to accurately locate the site in Town, oriented on the plan in the same way as the large scale plan.
- f. The location, width, status (public or private), and name of all streets within 100’ of the project.
- g. On-site and abutting lot lines. On site lot lines shall be described by bearings and distance. Abutting lot lines shall be shown in a general way.
- h. Zoning District lines, including overlay districts if applicable.
- i. The location of existing or proposed building (s) on the lot shall be shown with total square footage and dimensions of all buildings.

- j. Any streams, brooks, or wetland resource area boundaries within 100' of the property lines.
- k. Information on the location, size and type and number of existing and proposed landscape features.
- l. Information on the location, size and capacity of existing and proposed on-site and abutting utilities, (water, sewer, drainage, natural gas, electrical cable, etc.) including utilities in abutting side streets, if applicable.
- m. Detailed locations and dimensions of all existing and proposed buildings and uses on site and on abutting properties, including exterior details relating to the building footprint. All existing and proposed setbacks from property lines. Any minimum, or below minimum, setback distances shall be clearly noted as such on the plan.
- n. Information and details for all site and directional on-site signage shall be submitted.
- o. Elevation and facade treatment plans of all proposed structures. Color renderings are required for new construction.
- p. Information on the location, size and type of parking, loading, storage and service areas. A parking calculation schedule noting existing, required and proposed spaces for the entire site shall be provided.
- q. Details and specifications (if applicable) for proposed site amenities, including, but not limited to fences, recreation facilities, walls or other barrier materials; and special paving materials.

**10.7.6 Decision.** The Planning Board may approve, approve with conditions, or deny an application for site plan approval. In making its decision, the Planning Board shall be guided exclusively by G.L. c. 40A, s. 3. The Planning Board shall file a written decision with the Town Clerk within 60 days of receipt of the application. Failure to file a decision within 60 days shall constitute approval of the site plan.

**10.7.8 Appeal.** Any appeal of the Planning Board's decision shall be made pursuant to G.L. c. 40A, s. 17, to a court of competent jurisdiction.

## **10.8 REQUEST FOR REASONABLE ACCOMMODATION**

**10.8.1 Purpose.** Under the FHA, it is a discriminatory practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B). The same standard applies under the ADA, which also addresses nonresidential facilities providing services to persons with disabilities. 42 U.S.C. 12112(b)(5).

The purpose of this Section is to facilitate housing and/or services for persons with disabilities and to comply fully with the spirit and the letter of the FHA and, where applicable, the ADA.

**10.8.2 Request.** Any person eligible under the FHA or any provider of housing to persons eligible under the FHA, or any person eligible to operate a nonresidential facility providing services to persons eligible under the ADA, may request a Reasonable Accommodation as provided by the Fair Housing Act and/or the ADA. A Request for a Reasonable Accommodation does not affect a person's or provider's obligations to act in compliance with other applicable laws and regulations not at issue in the requested accommodation.

**10.8.3 Zoning Board of Appeals.** All requests for Reasonable Accommodation under the FHA and/or the ADA shall be submitted to the Zoning Board of Appeals (ZBA).

**10.8.4 Information.** All requests for Reasonable Accommodation shall be in writing and provide, at a minimum, the following information:

1. Name and address of person (s) or entity requesting accommodation;
2. Name and address of property owner;
3. Name and address of dwelling or facility at which accommodation is requested;
4. Description of the requested accommodation and specific regulation or regulations for which accommodation is sought;
5. Reason that the requested accommodation may be necessary for the person or persons with disabilities to use and enjoy the premises; and
6. If the requested accommodation relates to the number of persons allowed to occupy a dwelling, the anticipated number of residents, including facility staff (if any).
7. If necessary to reach a decision on the request for Reasonable Accommodation, the ZBA may request further information from the applicant consistent with the FAH and/or ADA, specifying in detail the information required.

**10.8.5 ZBA Procedures.** The deadlines imposed in G.L. c. 40A, s. 11 or s. 15 may be extended upon the request of the applicant and the approval of the ZBA. The ZBA may seek information from other Town agencies in assessing the impact of the requested accommodation on the rules, policies, and procedures of the Town. Upon written notice to the ZBA, an applicant for a Reasonable Accommodation may withdraw the request without prejudice. The ZBA shall consider the following criteria when deciding whether a request for accommodation is reasonable:

1. Whether the requested accommodation would require a fundamental alteration of a legitimate Town policy; and

2. Whether the requested accommodation would impose undue financial or administrative burdens on the Town government.

**10.8.6 Decision.** After conducting an appropriate inquiry into the request for Reasonable Accommodation, the ZBA may:

1. Grant the request;
2. Grant the request subject to specified conditions; or
3. Deny the request.

The ZBA shall issue a written final decision on the request in accordance with G.L. c. 40A, s. 15. If the ZBA fails to render its decision on a request for Reasonable Accommodation within the time allotted by G.L. c. 40A, s. 15, the request shall be deemed granted. The ZBA's decision shall be filed with the Town Clerk and sent to the applicant by certified mail.

**10.8.7 Appeal.** The ZBA's decision pursuant to this section may be appealed to a court of competent jurisdiction in accordance with G.L. c. 40A, s. 17.

**10.8.8 File.** The ZBA shall maintain a file of all requests for Reasonable Accommodation under the FHA and/or the ADA and a file of all decisions made on such requests. The file(s) may be reviewed in the Office of the ZBA upon request during regular business hours.

**10.8.9 Other Laws.** While a request for Reasonable Accommodation is pending, all laws and regulations otherwise applicable to the premises that is the subject of the request shall remain in full force and effect.

**10.8.10. Effective Date.** The provisions of this Section shall apply only to requests for Reasonable Accommodation made after November 18, 2015. Any person who has previously submitted a request for Reasonable Accommodation may resubmit the request for processing pursuant to the procedures set forth in this Section.

## SECTION 11.0 DEFINITIONS

For the purpose of this By-Law certain terms and words shall have the following meaning. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered" to be used or occupied; the words "building", "structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in dictionary in current circulation. Uses listed in the Table of Use Regulations under classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

**Abandonment:** The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or building by a conforming use or building.

Adult Entertainment Establishments shall include and be defined as follows:

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, electronic media, or coin operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Sexual Conduct" as that term is defined in G.L. c. 272, Sec. 31; "Sexual Devices" or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including: dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

**Adult Motion Picture Theater:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating "Sexual Conduct" as defined in G.L. c. 272, Sec. 31 for observation by patrons therein.

**Adult Mini Motion Picture Theater:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to "Sexual Conduct" as defined in G.L. c. 272, Sec. 31 (as defined below) for observation by patrons therein.

**Adult Live Entertainment Establishments:** Establishments which feature live entertainment which consists of entertainers engaging in "Sexual Conduct" or "Nudity" as defined in G.L. c. 272, Sec. 31.

**Massage Service Establishments:** Massage shall mean any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electric apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor. The practice of massage as adult entertainment shall not include the following individuals while engaged in the personal performance of duties or their respective professions:

Physicians, surgeons, chiropractors, osteopaths, or physical therapists or massage therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.

Nurses who are registered under the laws of the Commonwealth of Massachusetts.

Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

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

**Basement:** As defined by the State Building Code.

**Bedroom:** Any area in a dwelling unit with a door and a closet and at least 80 square feet which is or could be used for the provisions of private sleeping accommodations for residents of the premises, whether such area is designated as a bedroom, guestroom, maid's room, dressing room, den, study, library, or by another name. Any room intended for regular use by all occupants of the dwelling unit such as living room, dining room, or kitchen shall not be considered a bedroom, nor shall bathrooms, halls or closets having no horizontal dimensions over six (6) feet.

**Board:** The Zoning Board of Appeals of the Town of Stoughton, Massachusetts.

**Building:** A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls, built to form a structure for the shelter

of persons, animals or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**Building, Accessory:** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building Area:** The aggregate of the maximum horizontal cross-section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces, expressed as a percentage of total lot area.

**Building, Attached:** A building having any portion of one or more walls in common with adjoining buildings.

**Building, Detached:** A building having open space on all sides.

**Building Line:** The line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located; except in the case of a rear lot, the building line shall be that line to the rear of the rear property line of the front lot, and it shall not be less than the depth of the required front yard for the zoning district in which the lot is located.

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

**Building, Semi-Detached:** A building, which has one (1) party wall in common with an adjacent building.

**Business Office or Service:** A business establishment, which does not offer a product or merchandise for sale to the public but offers a professional service to the public. However, personal services, such as barber and beauty shops, and repair shops, such as radio, television, and automotive, are not to be included in the definition of business offices.

**Camper Trailer:** A folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

**Child Care Center:** A child care center as that term is defined in G.L. c. 15D, s. 1A.

**Common Land:** Land in a subdivision not required for lots which shall be set aside for recreation, park purposes, or retained as natural woodland, accessible from all sections of the development, designed and intended for the use and enjoyment of the residents within the subdivision or community.

**Community Facilities:** Premises owned and operated by a governmental or chartered nonprofit organization, but not including fraternal, sports, or similar membership organizations. A Community Facility shall include a Multi-Family Senior Housing ("MFSH") Use, provided the

property at which the MFSH use is conducted shall be owned and operated by Town, including the Stoughton Housing Authority, and provided the Board of Selectmen voted to approve the use of the property for a MFSH use by majority vote before the use commences and provided that residency within the MFSH Use shall be restricted to persons 60 years of age or older and low income handicapped persons who otherwise meet the eligibility criteria as provided in Mass. Gen. Laws c. 121B and the regulations promulgated thereunder and provided that preferences to Stoughton residents and veterans may be afforded; further provided, however, that the MFSH Use shall be developed, permitted, rented and operated in a manner so that all of the units shall be eligible for inclusion in the Town's Subsidized Housing Inventory as maintained by the Department of Housing and Community Development. An MFSH Use conducted by the Town, including by the Stoughton Housing Authority, may be combined with municipal office uses, provided that said office uses are owned and operated by the Town, including the Stoughton Housing Authority.

**Compact Parking Space:** An open space on a lot or in a garage used for parking motor vehicles, the dimensions of which are not less than eight (8) feet wide by eighteen (18) feet long and to which there is an access from a street, plus not less than 81 square feet of access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle, and further being surfaced with a bituminous or cement concrete pavement.

**District:** A zoning district as established by Section 2.0 of this By-Law.

**Donation box:** A storage bin or cube for the deposit of used clothing, books, or other goods intended for distribution by charitable entities.

**Drive-In Establishment:** A business establishment that includes service that is provided from a drive-up or drive-through window or other similar arrangement that allows the service of a patron while the patron remains in a vehicle, whether parked or live parked. The term shall include eating establishments and service establishments such as banks, dry cleaners, pharmacies, photo shops and the like and automotive service stations and gasoline stations are the like.

**Driveway:** A paved or unpaved area located on a lot built for access to a garage, or off-street parking or loading space.

**Dwelling:** A privately or publicly owned permanent structure containing a dwelling unit, or dwelling units. The term "dwelling" shall not include hotel, lodging house, hospital, membership club, trailer or dormitory.

**Dwelling, Single Family:** A detached building containing one dwelling unit.

**Dwelling, Two Family:** A detached building containing two dwelling units. Only one such building shall be developed on any one lot.

**Dwelling, Multifamily:** A detached building containing three or more dwelling units.

**Dwelling Unit:** One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

**Electric Charging Station, Level Two:** A facility equipped with a compatible cable such as J-1772, for the recharging of the batteries of motor vehicles.

**Essential Services:** Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems, excluding power plants or transfer stations. Facilities necessary for the provisions of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety and general welfare.

**Family:** One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more persons not related by blood or marriage shall not be deemed to constitute a family.

**Family day care home, large:** An accessory use as defined in G.L. c. 15D, s. 1A.

**Family day care home, small:** An accessory use as defined in G.L. c. 15D, s. 1A.

**Fast Order Food:** Food which is (a) primarily intended for immediate consumption; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; (d) served on disposables or in paper containers, consumed with plastic utensils; and (e) of a self-service nature, that is, no waitresses or waiters are involved. Patrons place their order at a counter or remotely and take it to a table on the premises or leave the premises.

**Fast Order Food Establishment:** An establishment whose primary business is the sale of fast order food for consumption on or off the premises.

**Flexible Development:** The following terms shall have the following definitions for the purposes of Section 7.1:

**Affordable to persons or families qualifying as low income:** Affordable to households or persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income, adjusted for household size.

**Affordable to persons or families qualifying as moderate income:** Affordable to households or persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income, adjusted for household size.

**Contiguous open space:** Open space suitable, in the opinion of the Planning Board, for the purposes set forth in Section 7.1. Such open space may be separated by the road(s) constructed within the Flexible Development. Contiguous open space shall not include required yards.

**Floodplain Overlay District (FPOD):** In the FPOD, Section 9.7, the following definitions shall apply:

**Area of Special Flood Hazard:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, VI-30, VE, or V.

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filing, grading, paving, excavation or drilling operations.

**District:** The Floodplain Overlay District.

**Federal Emergency Management Agency (FEMA):** the agency administering the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**Flood Insurance Rate MAP (FIRM):** An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS):** An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, unable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**New Construction:** For floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purposes of determining insurance rates, New Construction means structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**One-Hundred Year Storm:** See Base Flood.

**Regulatory Floodway:** See Floodway.

**Special Flood Hazard Area:** An area having special flood and/or flood-related erosion shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, VI-30, VE.

**Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

**Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, alteration affects the external dimensions of the structure.

**Zone A:** The 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

**Zone AE** (for new and revised maps): The 100-year floodplain where the base flood elevation has been determined.

**Zone X:** Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

**Floor Area, Gross:** The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this By-Law, or any such floor space intended and designed for accessory heating and ventilating equipment.

**Funeral Home:** Facility for the conducting of funerals and related activities such as embalming.

**General Service Establishment:** Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service person, mason, painter, plumber or roofer.

**Greenhouse:** A structure and establishment for the growing of plants for wholesale or retail sale, otherwise not exempt as an agricultural use pursuant to G.L. c. 40A, s. 3.

**Height:** The height of a building shall be measured as set forth in the State Building Code.

**Historical Association or Society:** A nonprofit corporation devoted to the preservation of historical matters.

**Home Occupation:** An accessory use which by custom has been carried on entirely within a dwelling unit or a lawful accessory building.

**Hospital:** A building providing 24-hour in-patient services for the diagnosis, medical and surgical treatment and care of human ailments.

**Hotel:** A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances including an inn, motel, motor inn and tourist court, but not including a boarding house, lodging house, or rooming house.

**Junkyard:** An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary landfills.

**Loading Space:** An off-street space used for loading or unloading not less than fourteen feet in width, forty-five feet in length and fourteen feet in height, and containing not less than 1,300 square feet including both access and maneuvering area.

**Lodging House:** A lodging, boarding or rooming house, as defined in the State Building Code.

**Lodging Unit:** One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, tourist houses, or rooming houses.

**Lot:** An area or parcel of land or part thereof, not including water area, in common ownership, designated on a plan filed with the administrator of this By-Law by its owner or owners as a separate lot.

**Lot, Contiguous:** A lot which physically abuts another lot or lots under common ownership, or a lot which is physically separated from another lot or lots under common ownership only by a street in which the fee ownership is retained by the party owning the abutting lots.

**Lot, Corner:** A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended lot lines, being not more than 135 degrees.

**Lot Depth:** The horizontal distance between the front lot line and the rear lot line.

**Lot Frontage:** The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

**Lot Line, Front:** The property line dividing a lot from a street (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

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

**Lot Line, Side:** Any lot line not a front or rear lot line.

**Lot, Nonconforming:** A lot lawfully existing at the effective date of this By-Law, or any subsequent amendment thereto, which is not in accordance with all provisions of this By-Law.

**Lot, Through:** An interior lot, the front and rear lot lines of which abut streets, or a corner lot two opposite lines of which abut streets.

**Lot, Width:** The horizontal distance between side lot lines, as required by the Table of Dimensional and Density Regulations, is to be measured at the minimum front yard depth (required setback distance), at the minimum required lot depth, and at all intermediate side line points.

**Manufacturing:** A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Medical Clinic:** A facility as defined in 105 CMR 145.020, including a mobile clinic.

**Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation**

**Overlay District:** The following definitions shall apply in Section 9.5:

**Medical Marijuana Treatment Center (MMTDF):** A not-for-profit entity, as defined by Massachusetts law only, registered under the state law, 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 qualifying patients or their personal caregivers. No Medical Marijuana Treatment Center shall be located within 500 feet of the property line of a property used for residential dwelling, public or non-profit school or public park or playground. A special permit issued to a Medical Marijuana Treatment Center is non-transferable and non-assignable. A Medical Marijuana Treatment Center shall not be allowed as an accessory use to any other use.

**Marijuana for Medical Use:** Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions.

**Marijuana Cultivation:** The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to medical marijuana treatment centers, personal cultivation by qualifying patients or cultivation by personal caregivers on behalf of qualifying patients.

**Agricultural:** Agricultural use shall mean the science, art and business of cultivating the soil, and raising livestock, useful to man. Agricultural shall not include any uses or activities associated with Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation.

**Personal Caregiver:** A person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient.

**Membership Club:** A social, sports, or fraternal association or organization, which is used exclusively by members and their guests, which may contain bar and/or eating facilities.

**Mobile Home:** Any manufactured, transportable, year-round structure on one (1) or more chassis and containing a flush toilet, bath or shower, and a kitchen sink; designed to be connected to a piped water supply, sanitary sewage system and electric or gas service.

**Motel:** A building or group of buildings containing one (1) or more guest rooms with

separate outside entrances for each room or suite of rooms and for which room or suite of rooms automobile parking space is provided.

**Motor Vehicle Hourly Rental Station:** A facility at which, by contract, motor vehicles are made available for rent for a period not longer than 24 hours.

**Motor Vehicle Light Service Station:** A building or premises used for the dispensing, sales or offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any repairs shall be activities minor in scope and clearly subordinate to the sale of motor fuels, oils and lubricants. No drive-through facilities are permitted without further zoning relief.

**Motor Vehicle Repair:** A building or use which is designed or intended to be used for the storage, servicing, repair, maintenance, or cleaning of motor vehicle equipment.

**Motor Vehicle Sales:** Premises for the sale of used or new motor vehicles, including supplying of fuel, oil, lubrication, washing, or repair services, but not to include body work or painting.

**Multifamily Townhouse (Townhouse, Condominium):** An attached or semi-detached building or structure with continuous or common walls containing three or more dwelling units.

**Multi-Family Senior Housing (MFSH) Use:** A residential rental use owned and operated by the Town, including by the Stoughton Housing Authority, with three or more dwelling units, which shall be restricted to occupancy by persons 60 years of age or older and low income handicapped persons who otherwise meet the eligibility criteria as provided in Mass. Gen. Laws c. 121B and the regulations promulgated thereunder and which shall be permitted and operated only as a Community Facility Use and shall satisfy all requirements for a Community Facility Use.

**Nonprofit Day Camp:** A day or overnight camp operated by a not for profit entity.

**Nonprofit Recreational Facility:** A recreational facility operated by a not for profit entity.

**Offices:** Space or rooms used for professional, administrative, clerical, and similar uses.

**Open Space:** The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage of total lot area.

**Owner:** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**Parking Space:** An open space or a garage, on a lot used for parking motor vehicles, the dimensions of which are not less than nine (9) feet wide by nineteen (19) feet long and to which there is an access from a street, plus not less than 100 square feet of access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle, and further being surfaced with a durable pavement.

**Personal Service Establishment:** A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, personal fitness center, and the like.

**Planned Business Development:** See Section 8.4.

**Planned Industrial District:** See Section 8.5.

**Planned Multifamily District:** See Section 4.5.

**Planned Unit Development:** A development permitting single family, two family, and multifamily dwelling units, community facilities and commercial facilities on a single tract of land arranged in such a manner so that the number of dwelling units and/or facilities on said tract of land is consistent with the zoning in which the tract is located (namely, RU, RC, RB, RA, and R-M) and further that the number of dwelling units and/or facilities in all other zones (namely GB, HB, NB, I) shall be consistent with R-M zoning.

**Power Plant:** A facility generating electricity for public or private use, but not including any solar energy system.

**Principal Structure:** The structure in which the principal use is engaged on the locus.

**Professional Office or Service:** An office for the conducting and operating of a profession. For the purposes of this By-Law, professional occupations shall be limited to the practice of accounting, insurance, real estate, medicine, law, dentistry, architecture, planning and engineering.

**Quarrying:** The business or occupation of extracting stone from an open excavation. Quarrying does not include the excavation and removal of sand and gravel.

**Recorded:** Recorded in the Norfolk District of Registry of Deeds or registered in the Norfolk District Registry of Land Court.

**Research Laboratory:** Laboratory or research establishments including biotechnology companies, but excluding laboratories categorized as Level 4 by the National Institutes for Health.

**Retail:** A facility selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

**Retail, Large:** A retail facility with more than 8,001 square feet of gross floor area and less than 20,000 square feet of gross floor area.

**Retail, Small:** A retail facility with less than 8,000 square feet of gross floor area.

**Rooming House:** Any building or portion thereof which contains at least three (3), nor more than nine (9) guest rooms which are designed for lodging, with or without meals, and are provided for compensation.

**Rooms:** As applied to all residential dwelling units, a room shall be defined as a living room, kitchen, and/or bedrooms. A kitchenette which does not include space for eating, and a dining area of which one full wall opens into a living room shall be counted as one-half (1/2) room each. A bathroom shall not count as a room.

**School Aged Child Care Program:** A school aged child care program as that term is defined in G.L. c. 15D, s. 1A.

**Planned Business Development:** One or more retail stores or commercial buildings of 20,000 square feet of gross floor area individually or in the aggregate or more, or a shopping center, with a unified plan and/or architectural scheme (as determined by the Zoning Board of Appeals in the Special Permit), on a single parcel of land or on single parcels contiguously arranged, and shall include, but shall not be limited to the following:

- (a) A department store, general merchandise store, or a food market having a total gross floor area of at least 20,000 square feet of gross floor area; and
- (b) One or more retail stores having a total gross floor area of at least 20,000 square feet of gross floor area; or

A single store containing a minimum of 175,000 square feet of gross floor area in the aggregate, of which a minimum of 50,000 square feet of gross floor area is devoted to retail sales of one or more of the following: dry goods, apparel and accessories, furniture and home furnishings, home equipment, hardware, or the like. Such store may also contain other uses permitted in the district by right or by Special Permit and such other, accessory, uses as the Zoning Board of Appeals permits in the Special Permit for the Planned Business Development.

Parking for the Planned Business Development shall be permitted as determined by the Zoning Board of Appeals in the Special Permit, provided the minimum requirements of Section 8.4 are satisfied.

**Sign:** Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

**Sign, Business:** A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

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

**Sign, Surface Area Of:** For a sign, either free standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with background, whether open or enclosed, on which they are displayed, but not including any supporting framework. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols.

**Slope:** The ratio of vertical rise over horizontal distance and is expressed as a fraction or percentage; e.g., 1/5 or 20 percent.

**Solar Power Overlay District:** For the purposes of Section 9.6, the following definitions shall apply:

**As-of-Right Siting:** As-of-Right Siting shall mean that the development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws.

**Large Scale- Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

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

**Site Plan Review:** Review by the Planning Board to determine conformance with the zoning bylaw.

**Solar Overlay District:** The location designated will be A. where ground mounted-mounted large scale solar photovoltaic installations may be sited as-of-right. Said locations are delineated on the Solar Power Overlay District Map shown as Map 104, Lot 003.

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

**Zoning Enforcement Authority:** the person or board charged with enforcing the zoning bylaws.

**Story:** That part of a building as designated by the State Building Code.

**Stoughton Center Mixed Use Overlay District (SCMUOD):** In the SCMUOD, Section 9.3, the following definitions shall also apply:

**Artist Studio/Residence:** A place of work and residence of one or more persons who are engaged actively, and either gainfully employed or as a vocation, in commercial graphic arts; fine arts, including but not limited to painting, printmaking, sculpting, or ceramics; art and document restoration; the performing and visual arts, including but not limited to dance, choreography, photography or filmmaking, or the composition, recording, practice or performance of music. This definition does not include any use included in the Adult Entertainment Establishment in the Stoughton Zoning By-Laws, as amended.

**Mixed Use Development:** A combination of residential and non-residential uses, as permitted within the SCMUOD, arranged vertically (in multiple stories of buildings), or horizontally (adjacent to one another in one or more buildings) within a lot.

**Street:** A way which is over 24 feet in right-of-way width which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certified is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the "Subdivision Rules, Regulations, and Requirements, in Stoughton, Massachusetts" and a way having, in the opinion of the Stoughton Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected on or to be erected thereon.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, swimming pool, or the like.

**Structure, Nonconforming:** A structure lawfully existing at the effective date of this By-Law or any subsequent amendment thereto, which does not conform to one or more provisions of this By-Law.

**Town Building:** A Town Building shall include any building owned and operated by the Town, including by the Stoughton Housing Authority, but shall expressly exclude any residential use - except a Multi-Family Senior Housing Use that is conducted as a Community Facility Use as defined hereunder, which use shall be allowed.

**Trailer:** Any vehicle which is immediately portable, and is arranged, intended, designed, or used for sleeping, eating, or temporary business use in conjunction with construction, or is a place in which persons may congregate including a house trailer or camper.

**Trailer and Recreational Vehicle:** A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and/or vacation.

**Truck Terminal:** A facility for handling freight with or without maintenance facilities.

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

**Use, Accessory:** A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure. Accessory use by area shall be interpreted not to exceed 40 percent of the area of the total use of the structure or lot on which it is located, but this area limitation shall not be applicable either to: (i) accessory off-street parking and loading spaces, whether or not in excess of that required in Section VIII, (ii) accessory filling of water, wet area or depression, or (iii) accessory removal of gravel, sand, or other earth material incidental to and in connection with the construction of a building or a lot.

**Use, Nonconforming:** A use lawfully existing at the time of adoption of this By-Law or any subsequent amendment thereto, which does not conform to one or more provisions of this By-Law.

**Use, Principal:** The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this By-Law. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this By-Law shall be considered an accessory use.

**Use, Substantially Different:** A use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics from the use to which it is being compared.

**Variance:** Such departure from the terms of this By-Law as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Section 10.3.

**Warehouse:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

**Warehouse, Mini or Self Storage:** Establishment providing individual storage units for long or short term rental to persons or businesses.

**Wetlands Protection By-Law:** The following definitions shall apply under Section 9.2.

**Flood Hazard/Wetland/Watershed Maps of the Town of Stoughton:** Those maps entitled, "Flood Hazard/Wetlands/Watershed Maps, Town of Stoughton, Massachusetts, dated October 1976, revised December 3, 1976" (hereinafter "Official Maps") which have been prepared by C. E. Maguire, Inc., and which consist of one hundred and one (101)

individual maps drawn to the scale of one inch equals one hundred (100) feet and an index sheet which are incorporated as a part of this By-Law and the Federal Flood Insurance Rate Map and Flood Boundary and Floodway Map, Town of Stoughton, Massachusetts, Norfolk County Community Panel Numbers - 250253 0001; 250253 0001B; 250253 0002; 250253 0002B; 250253 0004; 250253 0004B; whichever map being the more restrictive in any particular area shall govern for that area and which shall be kept by the Building Inspector and copies in the office of the Town Clerk of the Town of Stoughton and shall be certified by the Town Clerk of the Town of Stoughton as being true and complete copies of said Wetlands Maps as adopted by the Town Meetings as the same may from time to time be amended or updated by action of the Town Meeting through the process required by law for the adoption of Zoning By-Law changes. All references in this Wetlands Protection By-Law to "Wetlands Maps" shall be deemed to be referenced to the "Official Maps" unless the context otherwise specifically requires. Adopted by action of Annual Town Meeting, April 26, 1982, Article #48.

**Informational Flood Hazard/Wetland/Watershed Map:** For the convenience of those persons who wish to obtain copies of a map which, with reasonable accuracy, delineates the Flood Hazard, Wetland, and Watershed Districts of the Town of Stoughton the Building Inspector and the Town Engineer shall prepare and have available for inspection and for copying (at the expense of the person requesting such copying) a single map of the entire Town of Stoughton which shall be drawn to a scale of one inch equals six hundred (600) feet and which shall indicate, with as much accuracy, as such scale will permit, all of the Flood Hazard, Wetland and Watershed Districts indicated on the Official Maps. In addition, the Building Inspector and the Town Engineer may prepare for general circulation and for convenience of reference only such other copies of the Official Maps and the Informational Map drawn to such other scales, as they shall deem necessary or appropriate.

**Wetland Areas:** Wetland Areas are defined as all areas in which the water table is seasonably at or near the surface of the ground although such areas may not be entirely covered by standing or flowing water during a 100-Year Storm intending hereby to include generally all rivers, creeks, streams, brooks, ponds, lakes, and other waterways, and in addition all "bogs", "freshwater wetlands", "marshes", "swamps", and "wet meadows" as those terms are defined by Chapter 818 of the Acts of 1974 of the Commonwealth of Massachusetts.

**Flood Hazard Areas:** The Flood Hazard Areas are defined as all areas subject to inundation during a 100-Year Storm.

**Watershed Areas:** Watershed Areas are defined as all areas in the Town of Stoughton which border and lie within 100 feet of Flood Hazard Areas, Wetland Areas, rivers, brooks, lakes, ponds or stream systems.

**Applicant:** An Applicant shall be a prospective purchaser who shall have signed a binding purchase and sales agreement for a Landowner's property or a Landowner or the duly appointed agent or representative of such Landowner or prospective purchaser and

who shall have applied for a building or special permit, or a variance, or who shall have taken any other action under or pertaining to this Wetlands Protection By-Law.

**Wetland, Flood Hazard and Watershed Districts:** The Wetland, Flood Hazard, and Watershed Districts are designated on the Wetlands Maps. These Districts have been delineated after careful study and represent as accurately as possible the Wetland, Flood Hazard, and Watershed Areas in the Town of Stoughton.

**Excluding Flood Hazard, Wetland, and Watershed Districts:** All Flood Hazard, Wetland, and Watershed Districts, designated on the Official Maps which meet the following size and configuration specifications have been marked through with an "X". These Districts are not subject to the provisions of this Wetlands Protection By-Law and may be used for any purpose permitted in the underlying Zoning District in which they are located. Such excluded Districts are isolated Flood Hazard and Wetland Districts which comprise an aggregate surface area of 10,000 square feet or less computed by adding the total surface areas of all such isolated Flood Hazard and Wetland Districts which lie within a continuous Watershed District, and those isolated Industrial Zoned Wetland Districts within a continuous Watershed District that do not exceed an area of 4,500 square feet and are no closer than 100 feet to a Flood Hazard District or Wetland District. Notwithstanding the foregoing, no Flood Hazard or Wetland District is excluded from the provisions of this Wetlands Protection By-Law if it is part of a stream, creekbed, brook, river, or other waterway. Furthermore, such excluded Districts are still subject to any other federal, state or local laws governing activities in Flood Hazard, Wetland and Watershed Areas.

**Drainage Report:** The term "Drainage Report" shall mean the report entitled "Update of 1963 Report on Drainage Facilities for Stoughton, Massachusetts, Section 1", dated October, 1976 as amended through December 30, 1976, and as adopted by the Board of Selectmen on April 12, 1977, and prepared by C. E. Maguire, Inc., Architects and Engineers, which is incorporated as a part of this By-Law. The master copy of the Drainage Report shall be kept by the Building Inspector and shall be certified by the Town Clerk as being a true and complete copy as adopted by the Town Meeting. Any changes or updates to such Drainage Report shall be incorporated into this Wetlands Protection By-Law only through the process required by Law for adoption of Zoning By-Law changes.

**Engineering Presumption:** The term "Engineering Presumption" shall mean that there shall be a strong presumption that the formulae, assumption, constants, theories and engineering approaches incorporated directly or by reference in the Drainage Report including, without limiting the generality of the foregoing, the assumptions pertaining to the intensities and durations of 100-Year Storms, Co-efficients of Run-Off, Time of Concentration, Flow in Conduits, Flow in Open Channels, Friction Co-efficients and Drainage Areas are correct and complete and produce accurate results when applied to problems involving the movement and storage of water along or under the surface of the ground. The term shall mean further that an Applicant shall be able to rebut this presumption of accuracy only by a showing, using competent engineering data, that it is

more likely than not that the use of formulae, assumptions, constants, theories and engineering approaches other than those which are given the benefit of the Engineering Presumption herein, will produce more accurate results than those which have the benefit of such presumption.

**Wholesale:** Sale of goods not at retail.

**Wireless Communications Overlay District:** The following definitions shall apply in Section 9.4:

**Distance:** Shall be measured on a horizontal plane.

**FAA:** Shall mean the Federal Aviation Administration.

**FCC:** Shall mean the Federal Communications Commission.

**Height:** Shall be the distanced measured from ground level to the highest point on the structure.

**Municipally Owned Land:** Shall mean land/parcel owned and controlled by the Town of Stoughton, except for land/parcel owned by the School Department with a structure used as a school or for educational purposes.

**Nonresidential Structure:** Shall mean such structures as, but not limited to, buildings, grain silos, and water towers, but does not include houses, or apartments.

**Wireless Communication Building:** Shall mean any building or shelter used to house equipment primarily for the installation and operation of equipment for generating and detecting electromagnetic radiation, and is an accessory to a wireless communication structure.

**Wireless Communication Device:** Shall mean any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

**Wireless Communication Facility:** Shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

**Wireless Communication Structure:** Shall mean any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

**Yard:** A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

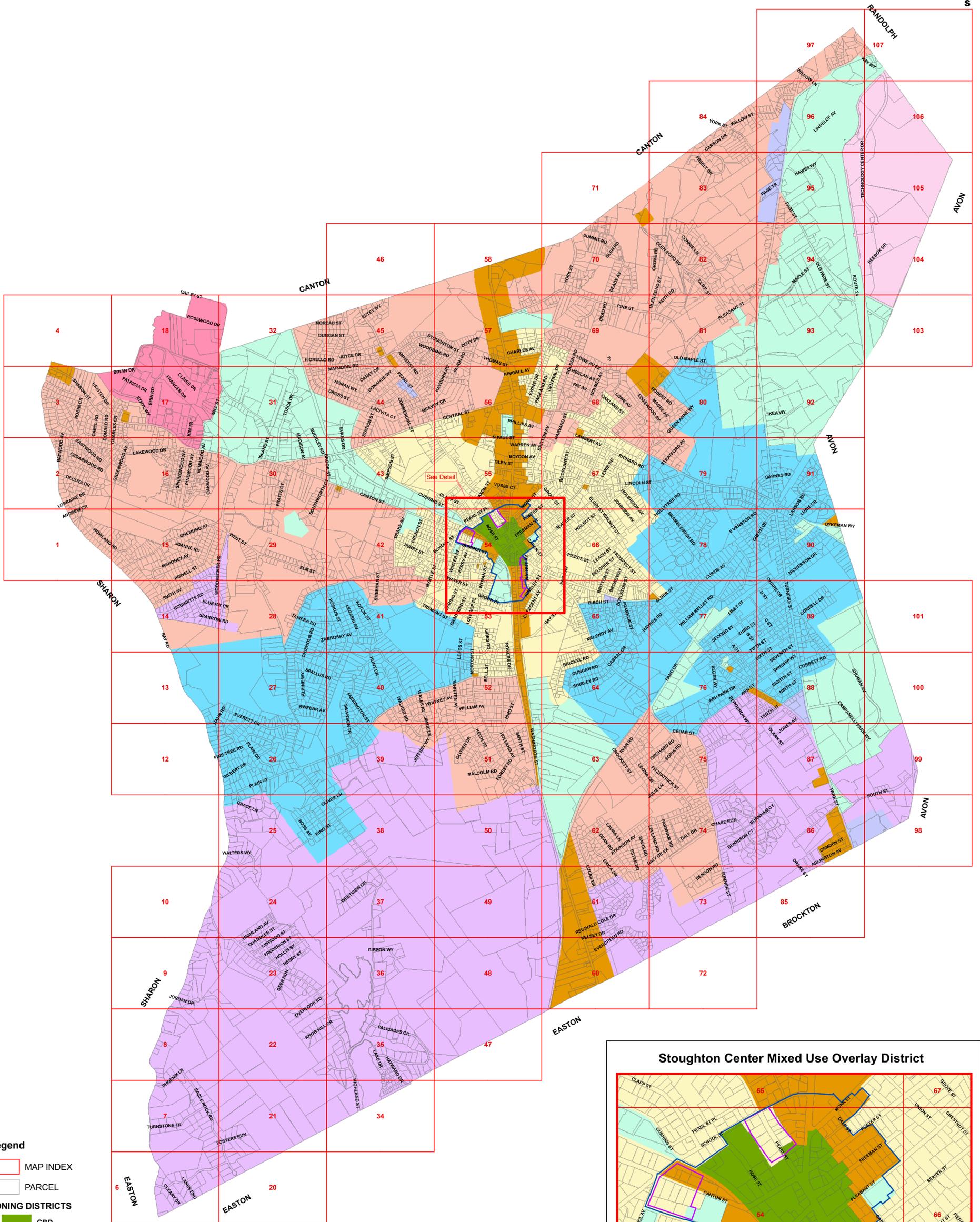
**Yard, Front:** A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

**Yard, Rear:** A yard except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard, Side:** Yard extending for the full length of a building between the nearest building wall and the side lot line.



# ZONING MAP



See Detail

- Legend**
- MAP INDEX
  - PARCEL
- ZONING DISTRICTS**
- CBD
  - GB
  - HB
  - I
  - NB
  - RA
  - RB
  - RC
  - RM
  - RU
  - Area "A"
  - Area "B"

1 inch = 1,250 feet

