

ZONING BY-LAW

Town of

SOUTH HADLEY, MASSACHUSETTS

Adopted by Vote of Town Meeting

March 16, 1946

Approved by the Attorney General

August 5, 1946

AMENDED THROUGH

October 17, 2006

PREPARED BY THE SOUTH HADLEY PLANNING BOARD

Members (2007)

Joan Rosner, Chairman
Thomas Callahan, Vice-Chairman
Mark Cavanaugh, Clerk
Natalie Keng, Financial Secretary
Ralph Blank, Member

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(As amended through October 17, 2006)

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Section 1

PURPOSE

The purpose of this By-Law is to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of South Hadley, through encouraging the most appropriate use of land, as authorized by Chapter 40A of the General Laws, Sections 1 to 17 inclusive. In pursuit of this purpose, the objectives of this By-Law include the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town by considering the recommendations of the master plan; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include but are not limited to restricting, prohibiting, permitting or regulating:

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of Sections twenty-nine through thirty-three, inclusive, of Chapter 93, and to the provisions of Chapter 93D;
3. uses of bodies of water, including water courses;
4. noxious uses;
5. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
6. density of population and intensity of use;
7. accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and
8. the development of the natural, scenic and aesthetic qualities of the community.

Section 2**ENACTMENT AND APPLICABILITY****(A) Basic Requirements**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, extended or moved, and uses of land and premises in the Town of South Hadley shall be in conformity with the provisions of this By-Law.

(B) Effective Date

The effective date of the adoption of this By-Law, and any amendments thereto, shall be the date on which such adoption or amendment is voted by a two-thirds majority of Town Meeting members, provided that it is published and posted as required by Chapter 40A, Section 5, of the Mass. General Laws.

(C) Validity and Severability

Should any section or provision of this By-Law be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this By-Law.

(D) Conflict with Other By-Laws

This By-Law shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. However, where this By-Law imposes a greater restriction upon the use of land, buildings or structures the provisions of this By-Law shall control.

(E) 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 Chapter 40A, Section 5 as amended, and Chapter 40, Section 32 as amended, of the Mass. General Laws.

In all cases where Warrant Articles for zoning amendments or changes are initiated by petition or request from individuals or groups, said individuals or groups shall pay the cost of notice of the public hearing, except that Boards and Departments of the Town of South Hadley shall be exempt from such requirement.

(F) Existing Uses, Buildings and Structures; Nonconforming Uses*(As Amended October 17, 2006 Special Town Mtg.)*

1. Applicability. This By-Law or any amendments thereto shall not apply to the use of any structure or land lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication or notice of the public hearing on such by-law required by Section 6 of the Mass. General Laws, Chapter 40A as amended, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alterations, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

2. Change, Substantial Extension or Alterations. Pre-existing nonconforming structures or uses may be changed, extended or altered only upon approval of a special permit for such purpose by the Planning Board acting as the special permit granting authority, provided that the Planning Board shall find that such change, extension or alteration will not be substantially more detrimental than the existing nonconforming use to the neighborhood in which it is located. This shall not apply to billboards, signs, and other advertising devices subject to the provisions of Sections twenty-nine through thirty-three, inclusive, of Chapter 93, and to Chapter 93D, of the Mass. General Laws.

In any twelve month period, a nonconforming use or structure may not be altered, except as ordered by the Building Commissioner to make it safe, to the extent that the cost of such alterations exceeds fifty (50%) percent of the assessed value of the use or structure at the time of the change.

- a. Waiver of Special Permit Requirement. The Planning Board may waive the requirement for a Special Permit when the changes/alterations are minor (such as, those of a cosmetic nature, those necessary for users/occupants safety, those necessary to make the facility handicapped accessible, or any changes/alterations of a similar nature) and do not increase the capacity or change the use of the facility. Persons desiring such a waiver must submit a written request to the Planning Board and detail the changes/alterations to be made. The Planning Board may act on the request at a regular posted meeting without holding a public hearing. In granting such a waiver, the Planning Board must determine that the proposed changes/alterations will not be more detrimental than the existing nonconforming use to the

neighborhood in which it is located. Granting of a waiver pursuant to this Section of the Zoning By-Law requires an affirmative vote by no less than four (4) of the Planning Board members.

3. Restoration. Any nonconforming use or structure in existence at the time of this By-Law or any amendment thereto may be reconstructed on the original foundation area if damaged or destroyed by fire or other accidental or natural cause; provided, that not more than fifty (50%) percent of the use or structure, exclusive of foundations, has been so damaged or destroyed. Rebuilding or restoration, when permitted, shall be completed within twelve (12) months after such catastrophe or disaster.
4. Abandonment. When a nonconforming use is discontinued, as evidenced by a lack of such use in a structure or vacancy, for a continuous period of twenty-four (24) months, or by substitution of a more compatible use as provided in Paragraph (2) above, such nonconforming use shall not thereafter be re-established and all future uses shall be in conformity with the provisions of this By-Law.
5. Exception to Special Permit Requirement. The requirement of Section 2, Subpart (F), Paragraph 2 that pre-existing nonconforming structures may be changed, extended or altered only upon approval of a special permit for such purpose by the Planning Board shall not apply where the proposed expansion/alteration of the structure will conform to the Zoning Bylaw Dimensional Requirements specified in Section 6, Subpart (B) of the Zoning Bylaw. This exception shall only apply to change, extension, or alteration of nonconforming structures and not nonconforming uses. Nothing in this Section shall relieve the requirements for a Special Permit where a Special Permit is required under Section 5, Subpart (D) or Section 7 or Section 8 of the Zoning Bylaw. Neither shall anything in this Section relieve the requirements for Site Plan Review of any change, extension, or alteration where Site Plan Review is required under Section 5, Subpart (D) or Section 12 of the Zoning Bylaw. *(As Amended October 17, 2006 Special Town Mtg.)*

Section 3

DEFINITIONS

In construing this By-Law the following words shall have the meaning herein given, unless a contrary intention clearly appears.

(A) Construction of Language

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word “shall” is mandatory, and the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”; the word “building” includes the word “residence”; the word “lot” includes the words “plot” or “parcel”.

Terms not defined shall have the customary dictionary meaning.

(B) Definitions

1. Accessory. A structure, building or use which: (1) is subordinate in function to and serves a principal building or principal use; (2) is subordinate in area or extent to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants or the principal building or use; and (4) is located on the same lot as the principal building or use.
2. Affordable Housing. Those units that may be rented or purchased by those who meet the guidelines for maximum annual income for a low-income or moderate-income family or household. The income limit for “low income” shall be 80% of median income for South Hadley, and the income limit for “moderate income” shall be 120% of median income for South Hadley. Median income for South Hadley will be as calculated by the U.S. Department of Housing and Urban Development or any successor agency, and shall be adjusted for family size.
3. Alteration. Any change or modification in the plan, construction, or structural support of a building, structure or use.
4. Aquifer. Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
5. Attached. Connected to or united with.
6. Attic. The space between the ceiling of the top story of a building and its roof and not used for living, sleeping or eating quarters. The word “attic”

shall exclude footage greater than one-half of the cubic footage enclosed in the story in the same building that is immediately below that area.

7. Automotive Repair and Service. Establishment for principal purpose of sale of motor vehicle fuel and related products, service and repair.
8. Bed and Breakfast. An owner-occupied single-family dwelling which may rent up to a maximum of three (3) rooming units for transient occupancy, not to exceed a total of eight (8) renters (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one toilet, one bath/shower and one wash basin, separate from those required for the single-family dwelling), which share a common entrance for the single-family dwelling. The use of that portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a single-family residence and shall not change the character thereof.
9. Building. A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."
10. Business. The transacting or carrying on of a trade or commercial enterprise with a view to profit or for livelihood.
11. Business Service. Establishment primarily engaged in rendering services to business establishments on a fee or contract basis, including but not limited to the following; advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research, printing and duplication services, computer repair, etc.
12. Cemetery. A place or area of land, set apart for the burial of the dead, operated, managed and controlled under the provisions of Chapter 114 of the General Laws, or a burial place under the care and supervision of the Town or other public authority.
13. Compatible. Capable of existing together in harmony.
14. Continuing Care Retirement Community. A structure or structures containing independent living units, health care facilities, and other related services and amenities provided to three or more elderly persons by a person unrelated by consanguinity or affinity to the persons receiving such services.

15. Corner Lot. A lot bounded on two sides by intersecting streets.
16. Coverage. The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
17. Crematory. A building containing a furnace designed and intended to be used for cremating the dead and owned and controlled by a cemetery corporation or crematory corporation duly organized under the Mass. General Laws.
18. Density. The number of dwelling units per acre of land.
19. District. A specified portion of the Town, delineated on the Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of the By-Law.
20. Drive-in Service. Establishment that by design, physical facilities or services or by packaging procedures encourage or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.
21. Dwelling. A building occupied exclusively as a residence for one or more families.
22. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.
23. Extension. The expansion or enlargement of a building, structure, or use.
24. Family. One or more persons occupying a dwelling unit and living as a single housekeeping unit. For purposes of the By-Law, a family shall not exceed four (4) persons not related by blood or marriage.
25. Fence. An artificially constructed barrier of any material or combination of materials erected or grown to enclose, screen or separate areas.
26. Flag Lot. A lot not meeting minimum frontage requirements and where access to the existing public way is by a narrow, private access strip.
27. Flea Market. A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that may be either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by individuals or businesses who are generally engaged in retail trade. Flea markets may be conventional, permanent profit seeking

businesses and require all local permits and licenses. *(Adopted May 8, 2004 Town Mtg.)*

28. Frontage. The length of a front lot line adjacent to a street, provided however that the minimum frontage required by this By-Law shall be satisfied by a continuous, uninterrupted segment of such frontage.
29. Frontage – Flag Lot. The length of the flag lot front lot line parallel to and a distance back from the existing public way front lot line where the required minimum continuous uninterrupted segment of such frontage can be satisfied.
30. Gasoline Filling Stations. Establishment or principal purpose of sale of motor vehicle fuel and convenience products.
31. Groundwater. All water found beneath the surface of the ground.
32. Harmony. A relationship of agreement, consistency, or non-contradiction.
33. Hazardous Material. Material including but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of used, or otherwise managed. The term shall not include oil.
34. Hazardous Waste. A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.
35. Height. The vertical distance between the highest point of the roof of a building and the grade of land on which the building is located. For purposes of this By-Law, the term “height” shall not apply to chimneys, steeples, flag or radiopoles, antennas, aerators, required bulkheads, elevator penthouses, or other equipment appurtenances necessitated by the permitted use to which a building is put.

In addition, the term, “height” shall not apply to solar energy collectors and equipment used for the mounting or operation of such collectors, provided however that such collectors or equipment shall not impair solar access of other building or other solar installations.

36. Home Occupation. An occupation or profession which is: (1) customarily carried on in a dwelling unit or structure accessory to a dwelling unit; (2)

pursued by a member of the family in the dwelling unit; and (3) incidental and secondary to the use of the dwelling unit for residential purposes.

37. Hospital. An institution where only sick and disabled persons are given medical, surgical or convalescent care.
38. Hotel. An establishment providing lodging on a short term basis, usually less than one week; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is usually through a lobby and interior corridors.
39. House Trailer. A portable structure used for temporary living or sleeping purposes and which is equipped with wheels or similar devices used for the purpose of transporting said structure from place to place.
40. Impervious Surfaces. Materials or structures on or above ground that do not allow precipitation to infiltrate the underlying soil.
41. Junk. Articles such as old iron, brass, copper, tin, lead or other base metals, plastic, cordage, old bags, rags, waste paper, paper clippings, scraps, clips, rubber, glass, empty bottles, empty cans and all other articles discarded and no longer used as a manufactured article, composed of one or more of the materials mentioned but which may be converted into some other product by means of some manufacturing process.
42. Landscaping. The arrangement of landforms and vegetative cover for aesthetic effect.
43. Leachable Materials. Materials including but not limited to solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
44. Loading Space. Off-street space logically and conveniently located for bulk pickups and deliveries by truck, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
45. Lodging House. A residence where lodgings are let to five or more persons not within the second of kindred to the person conducting the house and which does not contain a public dining room or cooking facilities in any rented sleeping room.
46. Lot. A parcel of land which is or may be occupied by a principal building and its accessory buildings, together with such open yard areas as are required under the provisions of this By-Law. To be used for building purposes, such lot must have frontage on a street as defined below,

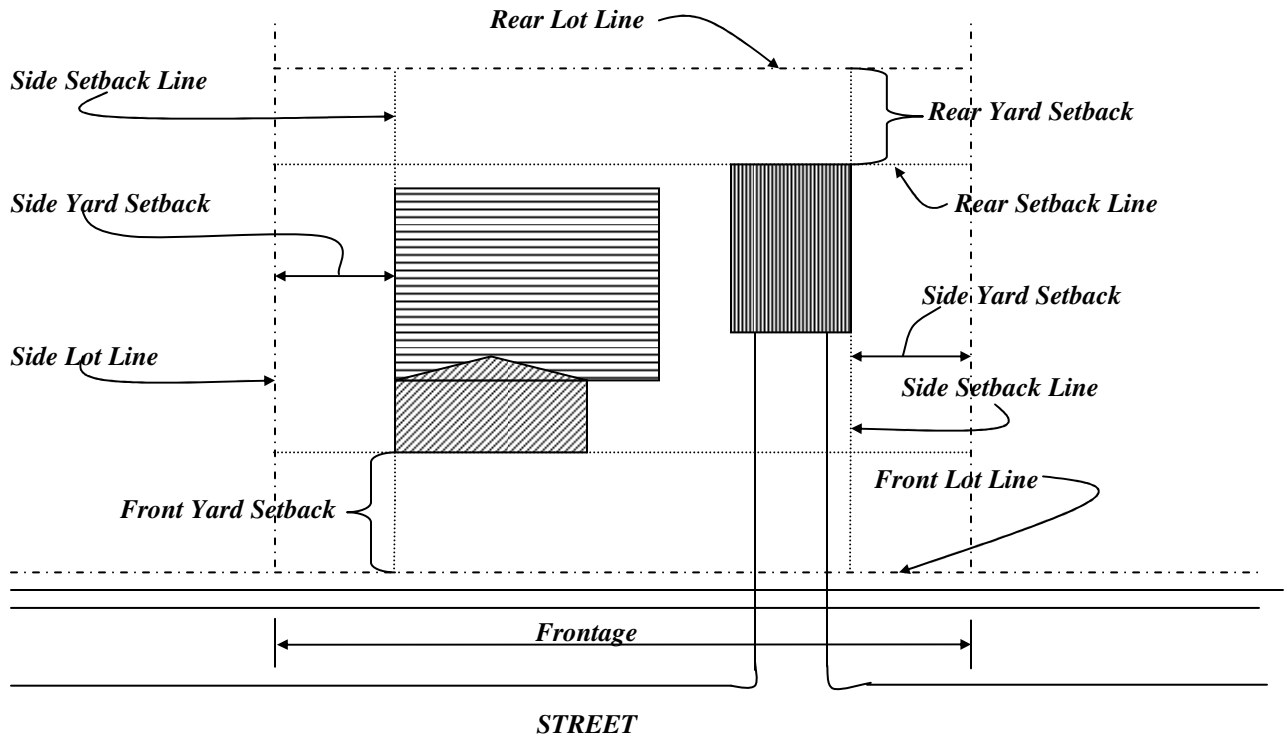
excepting only a preexisting lot exempted by the provisions of Section 6 of Chapter 40A of the Mass. General Laws. A lot line is a boundary of a lot.

47. Major Recreational Use. Recreational land use providing multiple activities, serving a population extending beyond that served by either a park or playground and having a minimum lot size of not less than fifty (50) acres.
48. Manufacturing. The fabricating, assembly, conversion, altering, finishing or other process treatment of materials, substances, parts or products.
49. Mobile Home. A structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations and sanitary and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is designed to be transported after fabrication on its own wheels to a site for use.
50. Motel. An establishment providing lodging on a short term basis, usually less than one week where access to the individual sleeping rooms is usually directly from parking spaces or by an exterior walkway.
51. Non-conforming Use. A use of a building, structure or lot in a manner not in accordance with the use or dimensional regulations of the district in which it is situated.
52. Park. A tract of land, designated and used by the public for active and passive recreation and maintained as public property.
53. Parking Space (Off-Street). For purposes of this By-Law, an off-street parking space shall consist of an area for parking an automobile with room for opening doors on both sides, together with properly related access to a street and sufficient maneuvering room, but shall be located totally outside of any street or alley right-of-way.
54. Personal Service Establishment. Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include, but not be limited to: barber shops; beauty shops; pet grooming establishments; laundering, cleaning and other garment servicing establishments; tailors; dressmaking shops; shoe cleaning or repair shops; eyeglass shops; health clubs; and other similar places of business, but not including offices of physicians, dentists and veterinarians, or any other recognized professional.
55. Playground. An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

56. Primary Aquifer Recharge Area. Areas which are underlain by surficial geological deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
57. Principal Building. The primary use to which the premises are devoted, and the main purpose for which the premises exist.
58. Principal Use. The primary use to which the premises are devoted, and the main purpose for which the premises exist.
59. Professional Engineer. A person employed in a practice of engineering as defined in Chapter 112, Section 81D, of the Mass. General Laws.
60. Professional Service. Establishment primarily engaged in rendering services by professional persons on a fee or contract basis, including, but not limited to the following: accounting, auditing, and bookkeeping; medical, dental or health; planning, engineering and architectural; education and science; attorneys and notary publics; finance, insurance and real estate (FIRE); travel agencies; etc.
61. Recreational Vehicle. A vehicle or vehicular attachment designed for temporary sleeping or living quarters, which is not a dwelling and which may include a pick-up camper, travel trailer, or tent trailer.
62. Restoration. The reconstruction or repair of a building or structure to its original plan, size and use.
63. Retail/Wholesale Sales. A use involving a combination of retail sales and wholesale sales taking place in the same establishment.
64. Sanitarium. An institution for the recuperation or treatment of persons suffering from physical or mental disorders.
65. School. A building devoted to the instruction or education in primary, secondary, high school, or post-high school grades.
66. Secondary Aquifer Recharge Area. Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface waterflow is toward public water supply wells or potential sites for such wells.
67. Secondhand. Having been used or owned by some person other than the dealer offering the same for sale and which may be used without alteration.

68. Service. The performance of any act for the benefit of another with a view to profit or for a livelihood.

69. Setback. The minimum required unoccupied space or distance between lot line, and any part of a principal or accessory building nearest such lot line, such unoccupied space or area extending the entire distance across the lot. Front, side and rear setback lines are identified in accordance with the diagram below:



70. Sign. Any word, letter, symbol, drawing, picture, design, name, identification, description, display, illustration, or device including billboards, or any combination of one or more of the foregoing, which identifies or calls attention to the premise, person, activity, or business, but not the trade name of products unless such products involve over seventy-five (75%) percent of the total sales of an establishment.

Any structure or device intended or erected for the above-described purpose shall be considered a sign for purposes of this By-Law. The area of a sign shall be determined by measuring the smallest rectangle which encompasses the outermost components of the sign exclusive of any supporting structure.

71. Special Municipal Account. Application review fees imposed on a developer to cover the costs incurred by the Planning Board and/or Zoning Board of Appeals for the employment of outside professional expertise and/or consultants due to the nature of a proposed project or a project's potential impact.

72. Story. The horizontal portion through a building between floor and ceiling. The word “story” shall not include the portion of the basement or cellar of a building above grade, provided that such portion is not more than one-half (1/2) of the floor-to-ceiling height of said basement or cellar. The word “story” shall not include “attic” as defined herein.
73. Street. A way, whether public or private, set aside for the passage of persons, animals or vehicles, and which is: (1) a public way accepted by the Town or a way which the Town Clerk certifies is maintained and used as a public way; or (2) a way shown on a plan approved and endorsed by the Planning Board in accordance with Chapter 41 of the Mass. General Laws (Subdivision Control Law); or (3) a way in existence when said Subdivision Control Law became effective in South Hadley having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and having sufficient and adequate municipal services to serve such land and the buildings erected or to be erected thereon.
74. Street Line. The dividing line between a street and a lot and in case of a public way, the street line established by the public authority laying out said way upon which the lot abuts.
75. Structure. A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, tower, fence, sign, pole, mast, or the like. The word “structure” shall be construed, where the context allows, as though followed by the words “or part or parts thereof.”
76. Subdivision. The division of a lot, tract or parcel of land into two or more lots, sites, or divisions of land, in such a manner as to require provisions for a street for the purpose as provided in Chapter 41 of the Mass. General Laws (Subdivision Control Law). The word “Subdivision” shall include “resubdivision” in relation to the processes of subdividing or to land already subdivided, when appropriate to the context.
77. Swimming Pools. A facility used for swimming, diving or water sports which may be either: (1) A below-ground artificial or semi-artificial receptacle or container of a pool of water located below surrounding grade and having a depth of at least twenty-four (24) inches, as measured from the lowest point in the pool a vertical distance to the ground level; or (2) an above-ground artificial or semi-artificial receptacle or container of a pool of water located above surface grade with a diameter of fifteen (15) feet or greater at the outside dimension and a capacity to hold water at a depth of twenty-four (24) inches or more.

78. Trucking Terminal. Business which services or repairs commercial trucks which are not owned by the business.
79. Use. The purpose for which land or a building or structure is arranged, designed, intended or erected, or for which land or a building or structure is or may be occupied.
80. Vehicle. As used in this By-Law, the term vehicle shall include within its meaning the following: cars, trucks, vans, recreational vehicles, and mobile construction equipment.
81. Watershed. Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage of such water courses and bodies.
82. Yard. The area of land on a lot not occupied by a principal or accessory building.
83. Zoning Enforcement Officer. The person or persons designated to enforce these Zoning By-Laws and Mass. General Laws, Chapter 40A; who shall be the Building Commissioner and any individual employed as a By-Law Enforcement Officer for the purpose of enforcing By-Laws, regulations and relevant statutes.

Section 4**DISTRICTS****(A) Establishment of Districts**

For the purpose of this By-Law, the Town of South Hadley is divided into twelve (12) zoning districts as follows:

1. Residence A-1 District
2. Residence A-2 District
3. Residence B District
4. Residence C District
5. Agricultural District
6. Business A-1 District
7. Business A District
8. Business B District
9. Business C District
10. Industrial A District
11. Industrial B District
12. Industrial Garden District

(B) Zoning Map

The boundaries of each district are hereby established as shown on the map entitled, "Zoning Map, Town of South Hadley, Massachusetts," prepared by the South Hadley Planning Board. This map accompanies, and is hereby declared to be a part of, this By-Law. Said map is hereinafter referred to as the Zoning Map.

(C) Interpretation of District Boundaries

Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street or utility easement center or right-of-way lines, lot or parcel boundary lines, or the channel of a stream, shall be construed to the actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto. When not locatable in any other way, boundaries shall be determined by scale from the Zoning Map.

Where natural or man-made features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered in this Paragraph, the Board of Appeals shall interpret the district boundaries.

(D) Division of Lots by District Boundaries

Where a zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this By-Law, the regulations and provisions applicable to each of the several portions of said lot shall be those pertaining to the district in which each portion is located.

(E) Overlay Districts

(Adopted February 17, 2004 Special Town Mtg.)

The following Overlay District is herein established over one or more of the districts created in Subpart 4(A):

1. Adult Use Entertainment Overlay District.
 - a. Requirements and Restrictions are Supplementary. Requirements for this district are enumerated in Subpart 7(U) of the Zoning By-Law and are supplemental to any requirements or restrictions of the underlying Zoning Districts.
 - b. Boundaries. Boundaries of the Adult Use Entertainment Overlay District are depicted on a map on file in the Office of the Planning Board, Building Commissioner, and Town Clerk. Said Overlay District shall include only the following properties as identified on the 2004 Assessor's Map:

Map 8, Parcel 73; Street Address: 500 New Ludlow Road

Map 7, Parcel 98; Street Address: 2084 Memorial Drive

Section 5

USE REGULATIONS

(A) Applicability

No lot or land shall be used, and no building or structure shall be erected or used except as set forth in Part (D), Use Regulations Schedule, of this Section.

(B) Classification of Use

Where an activity might be classified under more than one of the uses indicated in the Use Regulations Schedule, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

(C) Symbols

The following symbols used in the Use Regulations Schedule shall have the meanings defined herein:

Y – A permitted use

N – An excluded or prohibited use

SP – A use permitted only with a special permit approved by the Planning Board as provided in Section 9 herein

SA – A use permitted only with a Special Permit approved by the Board of Appeals as provided in Section 9 herein

SPR – A permitted use, but only with a Site Plan Review from the Planning Board, as provided in Section 12 herein

5(D) Use Regulations Schedule

USE CLASSIFICATIONS	DISTRICTS												Water Supply Protection Overlay
	Residence				Agric.	Business				Industrial			
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden	
Residential Uses													
<i>(As Amended through Dec. 6, 2004 Special Town Mtg.)</i>													
Single-Family dwellings	Y	Y	Y	Y	Y	N	Y	Y	SP/f	N	N	N	Y/b/e
Single-Family dwelling – flag lot	SP	SP	N	N	SP	N	N	N	N	N	N	N	SP/e
Conversion of single-family to two-family dwellings, as provided in Section 7	N	SP	Y	N	SP	N	Y	Y	N	N	N	N	SP/c/e
Two-family dwellings (new)	SP	SP	Y	N	N	N	SP	SP	N	N	N	N	SP/d/e
Three-family dwellings	SP	SP	SPR	Y	N	N	SP	SP	N	N	N	N	SP/d/e
Multi-family dwellings for more than three families/g	SP	SP	SP	SPR	N	N	SP	SP	SP/f	N	N	N	SP/d/e
Lodging housing, dormitories as provided in Section 7	N	Y/a	Y	N	N	N	Y	Y	N	N	N	N	Y/a/e
Home occupations, as provided in Section 7	SP	SP	SP	N	SP	N	SP	SP	N	N	N	N	SP/e
Mobile homes (as provided in Section 7, Parts (J) and (L))	SP	SP	SP	N	N	N	N	N	N	N	N	N	SP/d/e
Mobile Home Parks	N	N	N	N	N	N	N	N	N	N	N	N	N
Continuing Care Retirement Community	N	SP	N	N	N	N	N	N	N	N	N	N	SP/e
Bed and Breakfast	SP	SP	N	N	SP	N	N	N	N	N	N	N	SP/e
Flexible Residential Developments, as provided in Section 7	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	SP

- NOTES:**
- a. Limited to renting of rooms and the furnishing of table and board to not more than four resident persons in a dwelling occupied as a private residence.
 - b. Subject to septic disposal limitations specified in the Water Supply Protection by-law.
 - c. Allowed in underlying Agricultural district and Residence A-2 district where public sewer is provided.
 - d. Allowed in underlying Residence A-1 and Residence A-2 districts where public sewer is provided.
 - e. Only if the use is allowed in the underlying district.
 - f. Only as part of a mixed-use proposal.
 - g. Includes detached dwellings where the underlying and/or adjacent land is owned in common by an association of the dwellings' owners.

5(D) Use Regulations Schedule (Continued)

USE CLASSIFICATIONS	DISTRICTS												Water Supply Protection Overlay
	Residence				Agric.	Business				Industrial			
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden	
Open Space Uses													
<i>(As Amended through May 13, 2006 Annual Town Mtg.)</i>													
Agricultural, horticultural, or floricultural uses on parcels of 5 acres or more	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Agricultural, horticultural, or floricultural uses on parcels of less than 5 acres, as provided in Section 7	SPR	SPR	SPR	SPR	SPR	N	SPR	SPR	SPR	N	N	N	SPR/b
Cemeteries, crematories situated with cemeteries	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	N	Y/b
Portable wood working mills for use on lots of less than 5 acres	N	N	N	N	SPR	N	N	N	N	N	SPR	SPR	SP/b
Landing strips for private use of owner	N	N	N	N	Y	N	N	N	N	N	Y	Y	N
Stables or riding academies, as provided in Section 7	Y/a /SPR	Y/a /SPR	Y/a /SPR	N	SPR	N	SPR	SPR	SPR	N	SPR	SPR	SPR/b
Public-Private Recreation, as provided in Section 7	N	N	N	N	N	N	N	N	N	N	N	SP	N
Outdoor Recreation Facilities/c	N	N	N	N	SP/c	N	N	N	N	N	N	N	SP

- NOTES:**
- a. Limited to the keeping of horses and/or ponies as an accessory to a residential use. Site Plan Review is required for any stable or riding academies which are not limited to serving as an accessory to a residential use and are allowed as being exempt under Chapter 40A, Section 3, MGL.
 - b. Only if the use is permitted in the underlying district.
 - c. Subject to the criteria and provisions specified in Subpart (T).

5(D) Use Regulations Schedule (Continued)

USE CLASSIFICATIONS	DISTRICTS												Water Supply Protection Overlay
	Residence				Agric.	Business				Industrial			
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden	
Public and Institutional Uses													
<i>(As Amended through May 13, 2006 Annual Town Mtg.)</i>													
Town buildings	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	N
Public and private nonprofit educational institutions/ d/f	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
Structures used for religious purposes/ e/f	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
Federal and state government buildings	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N
Public playgrounds and parks	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Clubs, lodges, social, and community center buildings	N	SPR	SPR/a	N	N	N	SPR/a	SPR/a	SP	N	SPR/a	SPR/g	SPR/c
Hospitals, sanitariums, and charitable services	N	SPR/b	SPR/b	N	N	N	SPR/b	SPR/b	N	N	SPR/b	SPR/b	SPR/b/c

- NOTES:**
- a. Except those the chief activity of which is a gainful service or activity usually conducted as a business, including in said excepted uses, dancing or bowling and like activities; and provided that there is no display or advertising visible from the street.
 - b. Except not for contagious diseases, nor for the care of epileptics or drug or liquor patients, nor for correctional purposes, nor for the care of the insane or feeble-minded.
 - c. Only if the use is permitted in the underlying district.
 - d. Development of non-educational use facilities subject to Site Plan Review.
 - e. Development of non-religious uses (halls, assembly, function rooms) subject to Site Plan Review.
 - f. Subject to regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements.
 - g. As provided in Section 7, Part (Q).

5(D) Use Regulations Schedule (Continued)

USE CLASSIFICATIONS	DISTRICTS													Water Supply Protection Overlay	Adult Use Entertainment Overlay
	Residence				Agric.	Business				Industrial					
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden			
Business Uses															
<i>(As Amended Nov. 8, 2005 Special Town Mtg.)</i>															
Drive-in services	N	N	N	N	N	SP	SP	SP	N/j	N	N	N	N		
Retail Sales	N	N	N	N	N	SPR	SPR	SPR	SPR/k	N	SPR	SPR/l	SP/i		
Personal, business, and professional services	N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SP/i		
Gasoline filling stations	N	N	N	N	N	SP/a	SP/a	SP/a	N	N	SPR	N	N		
Automotive repair and services	N	N	N	N	N	SP/h	SP/h	SP/h	N	SPR	SPR	N	N		
Open air parking for 25 vehicles or less/d	N	N	N	N	N	N	SPR	SPR	N	N	SPR	N	N		
Public parking areas and garages (unrestricted capacity)	N	N	N	N	N	N	N	SPR	N	N	SPR	N	N		
New and second hand car dealers	N	N	N	N	N	SP	SP	SP	N	N	SP	N	N		
Marinas	N	N	N	N	N	SPR	SPR	SPR	N	N	SPR	SPR	N		
Wholesale sales and warehousing	N	N	N	N	N	N	N	SPR	N	SPR	SPR	SPR	N		
Telephone exchange buildings	N	SPR	SPR	N	N	N	SPR	SPR	N	SPR	SPR	SPR	N		
Railroad or bus passenger stations or shelters and rights-of-way	N	SPR	SPR	SP	N	SP	SPR	SPR	SPR	SP	SPR	SP	SP/i		
Amusement parks, bowling alleys, roller skating rinks	N	N	N	N	N	N	N	Y	N	N	SPR	N	N		
Motel – Hotel	N	N	N	N	N	N	N	N	SP	N	SP	N	N		
Open air theaters	N	N	N	N	N	N	N	N	N	N	N	N	N		
Sale of farm products	SP/b	N	N	N	Y/c	N	SP/b	SP/b	SP/b	N	SP/b	N	Y/b/c/i		
Training or educational institutions operated for profit	N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SP/i		
Professional Business (as provided in Section 7)	SP/e	SP/f	SP/g	N	N	Y	Y	Y	SPR	Y	Y	Y	SP/i		
Retail/Wholesale sales use	N	N	N	N	N	N	N	N	SP/m	SP	N	N	N		
Adult Entertainment Uses, as provided in Section 7	N	N	N	N	N	SP	N	SP	N	N	N	N	N		SP
Flea Market	N	N	N	N	N	SP	SP	SP	N	N	N	N	N		

- NOTES:**
- a. Provided that not more than thirty thousand (30,000) gallons of gasoline shall be stored on the premises. An enclosed lubricatorium for two (2) motor vehicles shall be permitted.
 - b. Provided minimum parcel size is two (2) acres and all of the products are raised on the premises.
 - c. Provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop raised on the land of the owner or lessee, the major portion of the product(s) are grown or produced on the premises.
 - d. Such use shall be defined to include public parking provided for a fee, and areas used for vehicle storage. These regulations shall not be construed to prohibit parking for residents, employees, customers or visitors as required by the provisions of Section 8, Part (H).
 - e. **Route 33**, only from Route 202 south to Chicopee city line.
Route 202, only from intersection of Route 33 to Granby town line.
Route 116, beginning 830+/- feet south of Leahey Avenue on the west side of College Street south to Rita Circle and 1,115+/- feet south of Burnett Avenue on the east side of College Street south to a point 58+/- feet north of Belmont Avenue.
Route 116, beginning 830+/- feet south of Leahey Avenue on the west side of College Street south to Rita Circle and 1,115+/- feet south of Burnett Avenue on the east side of College Street south to a point 58+/- feet north of Belmont Avenue.
 - f. From Rita Circle on the west side of Route 116, and from 58+/- feet north of Belmont Avenue on the east side of Route 116, to the intersection with Route 202.
 - g. Bridge Street, Lamb Street, Main Street only.
 - h. Repairing of motor vehicles out of doors is prohibited. Automotive repair and service shops are subject to provisions of Section 7. An enclosed lubricatorium for two (2) motor vehicles shall be permitted, and not more than 30,000 gallons of gasoline shall be stored on the premises.
 - i. Only if the use is permitted in the underlying district.
 - j. Drive-in bank, drive-in pharmacy allowed by Special Permit.
 - k. No single use will occupy more than 65,000 square feet.
 - l. As provided in Section 7, Part (Q).
 - m. No single establishment engaged in the "Retail/Wholesale Sales" business in the Business C zoning district may occupy more than 30,000 square feet of building floor area.

5(D) Use Regulations Schedule (Continued)

USE CLASSIFICATIONS	DISTRICTS												
	Residential				Agric.	Business				Industrial			Water Supply Protection Overlay
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden	
Industrial Uses													
General manufacturing uses not commonly considered hazardous or noxious	N	N	N	N	N	N	N	SP/a	N	SPR	SPR	SPR	N
Other manufacturing uses commonly considered hazardous or noxious, as provided in Section 7	N	N	N	N	N	N	N	N	N	N	SP	N	N
Other													
Accessory uses to permitted principal uses, as provided in Section 7	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
Major earth removal, extraction, and/or fill activities/b	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Other earth removal, extraction, and/or fill activities/b	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Extension or alteration of existing non-conforming use or structure as provided in Section 2, Part (F)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Wireless Communications Antennas/c/d	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Wireless Communications Tower/d	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP

- NOTES:**
- a. Provided that not more than one person shall be employed for each seventy (70) square feet for floor area and in no case shall a total of more than seven-thousand (7,000) square feet of the premises be devoted to such use.
 - b. Subject to the criteria and provisions specified in Section 8, Part (E) and also (when the activity is located within the Water Supply Protection District) subject to the criteria and provisions contained in Section 7, Part N.
 - c. Both uses are subject to the provisions of Subpart 7(S) of the Zoning By-Law and include any and all equipment (including Equipment Shelters), cable, and related fixtures.
 - d. The Wireless Communications Antennas' use only applies to such antennas and related equipment (including Equipment Shelters), cable, and related fixtures to be affixed to existing structures not primarily erected or used for wireless communications purposes. If such antennas are to be affixed to structures the use is to be considered as requiring a Special Permit approved by the Planning Board.

Section 6

DIMENSIONAL REGULATIONS

(A) Applicability

No building or structure shall be erected or used unless such building or structure conforms to the requirements set forth in Part (B), Dimensional Regulations Schedule, of this Section.

6(B) Dimensional Regulations Schedule for Buildings and Structures

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback (feet)			Maximum Height	
				Front	Side	Rear	Stories	Feet
Residence A-1 Zoning District <i>(As Amended through May 13, 2006 Annual Town Mtg.)</i> <i>Basic Requirements:</i>								
Principal Uses	22,500	125/a	30	40/b	20/c	25	3	35
Accessory Uses	--	--	10	40/b	20/c/g	10/d	2	25/e
<i>Principal Uses in Water Supply Protection Overlay District - Unsewered</i>	40,000/h	125/a	30	40/b	20/c	25	3	35
<i>Special Requirements – if Different from Above:</i>								
Flag Lot Special Permit – Principal Use	45,000	125	30	40	20	25	3	35
Flag Lot Special Permit – Accessory Use	--	--	10	40	20	25	2	25/e
Flag Lot Special Permit in Water Supply Protection Overlay District - Unsewered	80,000	125	30	40	20	25	2	35
Flexible Development/i/j/k								
Principal Uses	2,000	20	k	15	0 to 7	10	3	35
Accessory Uses	--	--	k	15	0 to 7	10	2	25
Other uses with Special Permit:	87,120/f		20	30	50	50		
Telephone exchanges, lodges, social and community center buildings							3	
Churches, schools, colleges, libraries, town buildings, and similar uses							6	60

NOTES:

- a. Frontage when measured on an inside curve may be less than 125 feet. It must, however, be a minimum of 125 feet on the front setback line, and the minimum total lot area must be 22,500 square feet or according to footnote "h".
- b. Front yard setback of any building or structure shall be as least as great as that of the nearest building on either side thereof facing the same street and within 500 feet or within the same block or district whichever is the lesser distance. When the setback required by this provision exceeds 40 feet, such setback need not be greater than 80% of the distance so required if said distance is between 40 feet and 50 feet, and need never be more than 50 feet. The front setback for a dwelling or its attached garage on a lot with a side lot line adjoining a business or industrial district, need not exceed 15 feet.
- c. On a corner lot, no building or structure shall be erected or altered to be less than 40 feet from any street line. On a lot recorded or registered at the time of adoption of this By-Law with a frontage of 100 feet or less, the minimum side yard dimension shall be 10 feet.
- d. Minimum rear yard dimension shall be 5 feet for a one-story accessory building.
- e. Maximum height of one-story accessory buildings shall be 17 feet.
- f. Except mobile homes, which are subject to basic lot size requirement on individual lots, and provisions of Section 7, Part (J), Paragraph (7) in residential cluster subdivisions.
- g. Minimum side yard dimension shall be ten (10) feet for a utility shed of 50 square feet or less.
- h. Where not serviced by a public sewer, 10,000 square feet per bedroom or 40,000 square feet, whichever is greater.
- i. The minimum frontage, front yard, side yard, and rear yard dimensional requirements for a Flexible Development shall be subject to increase by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
- j. The maximum height dimensional requirements for a Flexible Development shall be subject to decrease by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
- k. The minimum lot size shall be set as a condition of the Special Permit as stated in Section 7, Subpart J.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Residence A-2 Zoning District <i>(As Amended through May 13, 2006 Annual Town Mtg.)</i> <i>Basic Requirements:</i>								
Principal Uses	12,500	100/a	40	25/b	10/c	20	3	35
Accessory Uses	--	--	10	25/b	10/c	10/d	2	25/e
<i>Principal Uses in Water Supply Protection Overlay District - Unsewered</i>	40,000/g	100/a	40	25/b	10/c	20	3	35
<i>Special Requirements – if Different from Above:</i>								
Flag Lot Special Permit – Principal Use	25,000	125	40	40	15	20	3	35
Flag Lot Special Permit – Accessory Use	--	--	10	40	15	20	2	25/e
Flag Lot Special Permit in Water Supply Protection Overlay District - Unsewered	80,000	125	40	40	15	20	2	35
Flexible Development/h/i/j								
Principal Uses	2,000	20	j	10	0 to 5	8	3	35
Accessory Uses	--	--	j	10	0 to 5	8	2	25
Other uses with Special Permit:	87,120/f		20	30	50	50		
Telephone exchanges, lodges, social and community center buildings							3	
Continuing Care Retirement Community							3	55
Churches, schools, colleges, libraries, town buildings, and similar uses							6	60

NOTES:

- a. Frontage when measured on an inside curve may be less than 100 feet. It must, however, be a minimum of 100 feet on the front setback line, and the minimum total lot area must be 12,500 square feet or according to footnote "g".
- b. Front yard setback of any building or structure shall be as least as great as that of the nearest building on either side thereof facing the same street and within 300 feet or within the same block or district whichever is the lesser distance. When the setback required by this provision exceeds 35 feet, such setback need not be greater than 70% of the distance so required if said distance is between 35 feet and 40 feet, and need never be more than 40 feet. The front setback for a dwelling or its attached garage on a lot with a side lot line adjoining a business or industrial district, need not exceed 10 feet. Open porches which are 20 feet or more from the street line may be permanently enclosed on one or more sides.
- c. On a corner lot, no building or structure shall be erected or altered to be less than 25 feet from any street line. On a lot recorded or registered at the time of adoption of this By-Law with a frontage of 80 feet or less, the minimum side yard dimension shall be 8 feet.
- d. Minimum rear yard dimension shall be 3 feet for a one-story accessory building.
- e. Maximum height of one-story accessory buildings shall be 17 feet.
- f. Except mobile homes, which are subject to basic lot size requirement on individual lots, and provisions of Section 7, Part (J), Paragraph (7) in residential cluster subdivisions.
- g. Where not serviced by a public sewer, 10,000 square feet per bedroom or 40,000 square feet, whichever is greater.
- h. The minimum frontage, front yard, side yard, and rear yard dimensional requirements for a Flexible Development shall be subject to increase by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
- i. The maximum height dimensional requirements for a Flexible Development shall be subject to decrease by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
- j. The minimum lot size shall be set as a condition of the Special Permit as stated in Section 7, Subpart J.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Residence B Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	7,500	75	40/f	15/a	10/b	20/c	3	45
Accessory Uses	--	--	15/f	15/a	10/b	10/c	2	25/d
<i>Special Requirements – if Different from Above:</i>								
Flexible Development/g/h/i								
Principal Uses	2,000	20	i	5	0 to 5	8	3	45
Accessory Uses	--	--	i	5	0 to 5	8	2	25
Uses with Special Permit (except housing for the elderly & handicapped)	7,500/e	75/e		10	50			
Housing for elderly/handicapped with Special Permit							6	60
Churches, schools, colleges, libraries, town buildings, and similar uses							6	60

- NOTES:**
- a. No part of any building or other structure shall be erected or altered so as to be nearer to the street line of any street on which it faces than the nearest building on either side thereof facing on the same street and within the same block and district such setback need not be greater than 25 feet in any case.
 - b. For a 1-story and 2-story building minimum side yard shall be 6 feet.
 - c. Minimum rear yard dimension shall be 3 feet for a one-story accessory building.
 - d. Maximum height of one-story accessory buildings shall be 17 feet.
 - e. On any tract or lot there shall be a minimum of 3,000 square feet of land area for each family unit located thereon plus 300 square feet of land area per bedroom in each unit. In the case of a row or town house sold to an individual owner each individual lot shall have a minimum land area of 2,000 square feet and a minimum frontage of 20 feet. No entrance to a building or dwelling shall be greater than 100 feet from an access street or drive, or greater than 200 feet from an off-street parking area which shall be located on the same lot or tract of land.
 - f. Total lot coverage of principal and accessory uses shall not exceed 40%.
 - g. The minimum frontage, front yard, side yard, and rear yard dimensional requirements for a Flexible Development shall be subject to increase by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
 - h. The maximum height dimensional requirements for a Flexible Development shall be subject to decrease by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
 - i. The minimum lot size shall be set as a condition of the Special Permit as stated in Section 7, Subpart J.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Residence C Zoning District <i>(As Amended through May 13, 2006 Annual Town Mtg.)</i> <i>Basic Requirements:</i>								
Principal Uses	87,120/a	None/a	20/b	30	50	50	3	35
Accessory Uses	--	--	10/b	30	50	50	2	35

- NOTES:**
- a. On any tract or lot there shall be a minimum of 3,000 square feet of land area for each family unit located thereon plus 300 square feet of land area per bedroom in each unit. In the case of a row or town house sold to an individual owner each individual lot shall have a minimum land area of 2,000 square feet and a minimum frontage of 20 feet for each family unit. Such provision is not to be interpreted as a reduction in the previous density provision for the overall lot or tract. Minimum distance between any two buildings shall be 20 feet. No entrance to a building or dwelling shall be greater than 100 feet from an access street or drive, or greater than 200 feet from an off-street parking area which shall be located on the same lot or tract of land.
 - b. At least 50 percent of each lot shall be devoted to open space uses including (1) landscaping elements such as lawns, plantings, walks, and terraces; (2) recreational uses such as play area for children, swimming pools, tennis courts, and gardens, and (3) household service activities, such as open air clothes drying. Streets, drives, and off-street parking spaces are not to be interpreted as open space. Total lot coverage of principal and accessory uses shall not exceed 20%.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Agricultural Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	30,000	150/a	30/f	40/b	20/c	25	None/e	None/e
Accessory Uses	--	--	10/f	40/b	20/c	10/d	None/e	None/e
<i>Principal Uses in Water Supply Protection Overlay District</i>	40,000/g	150/a	30/f	40/b	20/c	25	None/e	None/e
<i>Special Requirements – if Different from Above</i>								
Flag Lot Special Permit – Principal Use	60,000	150	30	40	20	25	2	35
Flag Lot Special Permit – Accessory Use	--	--	10/f	40	20	25	2	35
Flag Lot Special Permit in Water Supply Protection Overlay District - Unsewered	80,000	150	30	40	20	25	2	35
<i>Flexible Development/h/i/j</i>								
Principal Uses	2,000	20	J	15	0 to 7	10	2/e	35/e
Accessory Uses	--	--	j	15	0 to 7	10	2/e	25/e
<i>Other uses with Special Permit:</i>								
Telephone exchanges, lodges, social and community center buildings							3	
Churches, schools, colleges, libraries, town buildings, and similar uses							6	60

- NOTES:**
- a. Frontage when measured on an inside curve may be less than 150 feet. It must, however, be a minimum of 150 feet on the front setback line, and the minimum total lot area must be 30,000 square feet or according to footnote “g”.
 - b. (Same as note “b” for Residence A-1 district.)
 - c. (Same as note “c” for Residence A-1 district.)
 - d. (Same as note “d” for Residence A-1 district.)
 - e. For residential buildings only, height provisions of Residence A-1 districts shall apply.
 - f. Total lot coverage of principal and accessory uses shall not exceed 30%.
 - g. Where not served by a public sewer: 10,000 square feet per bedroom or 40,000 square feet, whichever is greater.
 - h. The minimum frontage, front yard, side yard, and rear yard dimensional requirements for a Flexible Development shall be subject to increase by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
 - i. The maximum height dimensional requirements for a Flexible Development shall be subject to decrease by the Planning Board as a condition of the Special Permit as stated in Section 7, Subpart J.
 - j. The minimum lot size shall be set as a condition of the Special Permit as stated in Section 7, Subpart J.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Business A-1 Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	25,000	125	30/c	35/a	15/b	50/d	2	35
Accessory Uses	--	--	15/c	35/a	15/b	50/d	2	35

- NOTES:**
- a. A minimum of 8 feet abutting any public way shall be seeded. Egress to the lot shall be by drives located at locations designated by the governing public authority.
 - b. There shall be a side yard of at least 35 feet between a building and any street line. There shall be a side yard of at least 50 feet between a business building and any adjacent residential zone.
 - c. Total lot coverage of principal and accessory uses shall not exceed 30%.
 - d. Where the subject property abuts property located in the Business A, Business A-1, Business B, Business C, Industrial A, Industrial B, or Industrial Garden District zoning districts, the rear minimum yard setback shall be the greatest of either i.) the setback required by the zoning for the abutting property or ii.) 25 feet.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Business A Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	10,000	50	75/a/b	10/a	6/a	10/a	3/a	35/a
Accessory Uses	None	None	25/a/b	10/a	6/a	10/a	3/a	35/a
<i>Special Requirements if Different from Above:</i>								
Uses with Special Permit			40/c	10	10/d	20	3	45

- NOTES:**
- a. A building or structure used in whole or in part for residential purposes shall comply with the requirements for the Residence B district.
 - b. Total lot coverage of principal and accessory uses shall not exceed the principal use coverage.
 - c. On any tract or lot there shall be a minimum of 3,000 square feet of land area for each family unit located thereon plus 300 square feet of land area per bedroom in each unit. In the case of a row or town house sold to an individual owner each individual lot shall have a minimum land area of 2,000 square feet and a minimum frontage of 20 feet for each family unit. Such provision is not to be interpreted as a reduction in the previous density provision for the overall lot or tract. Minimum distance between any two buildings shall be 20 feet. No entrance to a building or dwelling shall be greater than 100 feet from an access street or drive, or greater than 200 feet from an off-street parking area which shall be located on the same lot or tract of land.
 - d. Minimum side yard dimension is 6 feet for one or two story buildings.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Business B Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	12,000	100	85/a/b	5/a	6/a	5/a	8/a	80/a
Accessory Uses	None	None	25/a/b	5/a	6/a	5/a	8/a	80/a
<i>Special Requirements – if Different from Above</i>								
Uses with Special Permit (except housing for the elderly & handicapped)			40/c	10	10/d	20	3	45
Housing for the elderly & handicapped with special permit							6	60

- NOTES:**
- a. A building or structure used in whole or in part for residential purposes shall comply with the requirements for the Residence B district.
 - b. Total lot coverage of principal and accessory uses shall not exceed the principal use coverage.
 - c. On any tract or lot there shall be a minimum of 3,000 square feet of land area for each family unit located thereon plus 300 square feet of land area per bedroom in each unit. In the case of a row or town house sold to an individual owner each individual lot shall have a minimum land area of 2,000 square feet and a minimum frontage of 20 feet for each family unit. Such provision is not to be interpreted as a reduction in the previous density provision for the overall lot or tract. Minimum distance between any two buildings shall be 20 feet. No entrance to a building or dwelling shall be greater than 100 feet from an access street or drive, or greater than 200 feet from an off-street parking area which shall be located on the same lot or tract of land. However, the foregoing provisions in this note shall not apply to housing for the elderly and handicapped.
 - d. Minimum side yard dimension is 6 feet for one or two story buildings.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Maximum Square Feet for Any Single Use	Minimum Yard Setback			Maximum Height	
					Front	Side	Rear	Stories	Feet
Business C Zoning District									
<i>Basic Requirements:</i>									
Principal Uses	20,000	100	50/a	65,000	25	25	50	2	35
Accessory Uses	None	--	25/a		25	15	50	2	35

NOTES: a. Total lot coverage of principal and accessory structures shall not exceed the maximum lot coverage for principal structures.

6(B) Dimensional Regulations Schedule for Buildings and Structures (Continued)

Zoning District - Requirement	Minimum Lot Area (Sq. Ft.)	Min. Lot Frontage (Feet)	Max. Lot Coverage (%)	Minimum Yard Setback			Maximum Height	
				Front	Side	Rear	Stories	Feet
Industrial A Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	40,000	200	40/b	25	20/c	20/c	--	40
Accessory Uses	--	--	15/b	25	20/c	20/c	--	40
Industrial B Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	None	None	75/a/b	None/a	None/a	None/a	6/a	75/a
Accessory Uses	None	None	20/a/b	None/a	None/a	None/a	6/a	75/a
Industrial Garden Zoning District								
<i>Basic Requirements:</i>								
Principal Uses	75,000	250	35/b	75	50	50	3	40
Accessory Uses	--	--	15/b	75	50	50	3	40

- NOTES:**
- a. A building or structure used in whole or in part for residential purposes shall comply with the requirements for the Residence B district.
 - b. Total lot coverage of principal and accessory uses shall not exceed the maximum permitted for principal use.
 - c. Minimum side and rear yard dimensions are 50 feet when abutting a residential zone.

Section 7**SUPPLEMENTAL DISTRICT REGULATIONS****(A) Home Occupations**

(As Amended Dec. 6, 2004 Special Town Mtg.)

Home Occupations shall include, but not be limited to the following: the office or studio of a physician or surgeon, dentist, artist, lawyer, handicraft person, architect, professional engineer, realtor or real estate broker, insurance agent or broker, psychologist or counselor, notary public, teacher of scholastic subjects, accountant, hairdressers, beauty parlor operators, or teachers of piano residing on the premises.

Existing occupants with operating home occupations from the above list at the time of the adoption of this section are automatically grandfathered and their grandfathered status will expire when the occupant moves or in any way relinquishes the occupation for a period of one year or more.

All occupants wishing to operate a new home occupation either from the above list of occupations or in any other occupation must apply for a special permit. In conformance with the provisions of Section 9, and subject to the additional requirements and standards described herein, the Planning Board acting as the special permit granting authority may approve a special permit allowing for a home occupation in such districts where permitted under the Use Regulations Schedule, Section 5, Part (D). In all cases, the petitioner, as part of the application for such special permit, shall have secured written consent and approval of at least two (2) of the following property owners:

- The owner of the lot to one side of the petitioner's property,
- the owner of lot to the other side of the petitioner's property, or
- the owner of the lot directly across the street therefrom.

Where the petitioner is the owner of a lot on either side or across from the property for which such special permit is requested, such lot shall be omitted, in which case, written consent and approval shall be secured from the property next to that omitted.

In the case of an application for a special permit involving a dwelling situated on a corner lot or so located that the above enumerated is unreasonable or impossible, the special permit granting authority may approve such permit, provided that the consents of the property owners are obtained substantially in accordance with the principles herein set forth, as may be determined by said authority.

The power to approve such permit for a home occupation shall be within the sole discretion of the Planning Board acting as special permit granting authority. Each case shall be considered on its own merit and no case shall raise a presumption in favor of any case.

The following conditions and restrictions shall apply to all special permits under these provisions:

1. The space occupied by a home occupation shall not exceed twenty (20%) percent of the gross floor area of the dwelling or five hundred (500) square feet, whichever is less.
2. Not more than one person other than residents of the premises shall be regularly employed in connection with the home occupation.
3. No display, sign or advertising device shall be visible from the street except one (1) announcement (nameplate). The nameplate may display the name of the occupant and/or the name of the occupation. It shall not exceed one (1) square foot (144 square inches) in area, shall be non-illuminated, and attached flat to the main structure, visible through a window, or posted in front of the building with a maximum height of four (4) feet.
4. Any approved special permit shall expire when the occupant no longer resides at the premises, or when the occupant relinquishes the occupation for which the special permit was granted for a period of one (1) year or more.

(B) Lodging Houses and Dormitories

Lodging houses and dormitories are permitted only as indicated in the Use Regulations Schedule (Section 5) and provided that there is no display, sign, or other advertising device visible from the street, whether illuminated or otherwise, other than a sign having an area of not more than one hundred forty-four (144) square inches. A public restaurant or dining room shall be permitted as an accessory use in any part of such a building, provided that the dining room and kitchen facilities do not occupy more than twenty-five (25%) percent of the first floor area of such building.

(C) Accessory Uses and Buildings

An accessory use of land or structure is a use for a purpose customarily incidental to the main or principal use permitted in the district. An accessory building or structure is unattached to, subordinate in size to, and used for a purpose incidental to, a principal use or building.

Accessory uses and buildings customarily incidental to any use permitted in the Use Regulations Schedule (Section 5) are permitted in the corresponding districts,

provided that such accessory use or building shall not be offensive or dangerous to life by reason of fire, and provided further, that such accessory use or building shall not include any activity conducted for gain or for the provision of a service to non-occupants of a residence at that location.

No private way or walk shall give access across or upon a lot in any district to a business or industry, except to an agricultural, horticultural or floricultural use on an adjoining lot as permitted in the Use Regulations Schedule.

In industrial districts, accessory uses or activities necessary in connection with scientific research or scientific development or related production, not necessarily on the same parcel as said primary uses or activities, are permitted by special permit from the Planning Board acting as the special permit granting authority, provided that the Planning Board finds that the proposed accessory use does not substantially derogate from the public good.

(D) Agricultural, Horticultural and Floricultural Uses

Agricultural, horticultural and floricultural uses shall include produce farms, truck gardens, dairies, nurseries, wood lots, greenhouses, harvesting of natural ice, and similar pursuits yielding food, fiber or decorative plants.

On parcels of less than five (5) acres, in all districts except Residence A-1, Agricultural, and Industrial A, the following restrictions apply: The keeping and raising of pigs, rabbits, livestock, pigeons, whether raised for table or other purposes, or other like objectionable uses are prohibited. The keeping of poultry is restricted to a small flock for the use of the resident occupant only. The flock shall be confined in an enclosure not less than ten (10) feet from any lot line and not less than twenty-five (25) feet from any building used for human habitation.

For the purpose of this By-Law, a small flock shall mean and shall not exceed one unit of poultry to each five hundred (500) square feet of lot area but in no case more than twelve (12) such units on any lot. The building and enclosure for the keeping of poultry permitted herein shall not exceed one twentieth (1/20) of the area of the lot on which it is located, and any building so used shall be limited to one story in height. The use of such enclosure or building for the keeping of poultry shall be accessory to a dwelling existing on the same lot or on an abutting lot. Any greenhouse on such a parcel shall not be conducted as a business, and any greenhouse heating plant shall be located at least twenty (20) feet from any lot line.

On parcels of less than five (5) acres in Residence A-1 districts, the keeping and raising of poultry – as well as pigs, rabbits, livestock, pigeons and other like objectionable uses – is prohibited. Any greenhouse on such a parcel shall not be conducted as a business, and any greenhouse heating plant shall be located at least twenty (20) feet from any lot line.

On parcels of less than five (5) acres in Agricultural districts, the above-described restrictions shall not apply.

Agricultural, horticultural and floricultural uses are prohibited entirely on parcels of less than five (5) acres in Industrial A districts.

(E) Stables and Riding Academies

1. Accessory to Residential Use. The keeping of horses and/or ponies and a private stable, for personal use are permitted as accessories to residential uses in accordance with the following conditions:
 - a. The minimum acreage required for not more than one (1) horse, pony or stable shall be 32,500 square feet. One additional horse or pony shall be permitted for each 15,000 square feet over the minimum of 32,500 square feet of useable land area not including the square footage for principal and accessory buildings. Foals under six (6) months are not counted.
 - b. The location of the stable shall be not less than one hundred (100) feet from any street line, and not less than thirty (30) feet from any side lot line, and not less than twenty-five (25) feet from a rear lot line, and not less than forty (40) feet from any dwelling.
 - c. The area to be used for the keeping of horses and/or ponies shall have adequate fencing to contain the animal(s) within the property boundaries.
 - d. Stables, corrals and yards shall be properly drained and reasonably free from excessive odor, dust and mud, so as not to create a nuisance or health hazard, to the community or to surrounding property owners, from an air or drainage pollution standpoint.
 - e. Maintenance of the stable and property used in the keeping or horses and/or ponies shall conform to all regulations of the local Board of Health and State Health Authorities.

2. Riding Academies. The term “riding academies” shall be interpreted to include private club riding stables, rental and hacking stables, livery and boarding stables. Where permitted in conformance with the Use Regulations Schedule (Section 5), such uses shall meet the following conditions:

- a. The minimum acreage required shall be a parcel or tract of land of at least ten (10) acres.
- b. The location of barns, stables, riding rings, corrals and accessory facilities shall be located at least one hundred seventy-five (175) feet from any side or rear lot line.
- c. Sufficient off-street parking facilities shall be provided to accommodate all users and visitors to the property.
- d. The conditions described in (1)c, (1)d, and (1)e (above), relating to fencing, nuisances and health regulations, shall also apply to riding academies.

(F) Conversion of Single-Family to Two-Family Dwelling

In conformance with the provisions of Section 9, and subject to the additional requirements described herein, the special permit granting authority may approve a special permit allowing for a single-family dwelling or other suitable structure to be altered and improved and facilities added for a second housekeeping unit on a lot, in such Districts where permitted under the Use Regulations Schedule, Section 5, Part (D).

In all such cases, the petitioner, as part of the Application for such permit, shall present adequate plans setting forth the changes and improvements to be made, and shall have secured the written consent and approval of at least (3) of the following owners:

The owner of the lot on either side of the petitioner's property; the owner of the lot adjacent in the rear of the petitioner's property; and the owner of the lot directly across the street therefrom. Where the petitioner is the owner of a lot on either side, in the rear or across from the property for which such a special permit is requested, and approval shall be secured from the owner of the property adjacent in the rear of the petitioner's property, the owner of the lot which abuts the greater length on the petitioner's property shall be deemed "owner of the lot adjacent in the rear of the petitioner's property" as used in the second clause of the first sentence of this paragraph.

In the case of an application for a special permit involving a dwelling situated on a corner lot or so located that the above enumerated is unreasonable or impossible, the special permit granting authority may approve such permit, provided that the consents of the property owners are obtained substantially in accordance with the principles herein set forth, as may be determined by said authority. The power to approve such permit for conversion to a two-family dwelling shall be within the sole discretion of the special permit granting authority, and no such permit shall be approved unless it shall be clear that the use

requested is for the best interests of the vicinity and in harmony with the general purposes and intent of the By-Law. Each case shall be considered on its own merits and no case shall raise a presumption in favor of any other case.

(G) Noxious Industrial Uses

The following noxious or dangerous uses are permitted in the Industrial B District, subject to approval of a special permit by the Planning Board acting as the special permit granting authority:

- Acetylene gas, cyanide compound or oxygen manufacture
- Asphalt manufacture or refining
- Chlorine or bleaching powder manufacture
- Creosote manufacture
- Distillation of coal or wood
- Drop forge shop
- Explosives, fireworks or ammunition manufacture
- Fertilizer manufacture
- Fumigation plants
- Glue or size manufacture from fish or animal offal
- Gypsum, cement, plaster or plaster of paris manufacture
- Incineration or reduction of or dumping of offal, garbage or refuse on a commercial basis (except where controlled by the Town)
- Junk yard, junk storage, scrapping of autos and parts and the salvage thereof
- Linoleum manufacture
- Match manufacture
- Paint and lacquer manufacture
- Petroleum refining and the bulk storage of petroleum products
- Pyroxylin plastic manufacture
- Rubber, natural or synthetic, or gutte-percha manufactured from crude or scrap material
- Sewage disposal plant (except where controlled by the Town)
- Soap, tallow, grease or lard manufacture
- Slaughterhouse
- Sulphurous, sulphuric, nitric or hydrochloric acid manufacture
- Tannery
- Tar or asphalt roofing manufacture
- Tar products manufacture
- Tire recapping or retreading
- All other enterprises or uses commonly regarded as hazardous or offensive.

(H) Industrial Garden Districts

In addition to all other applicable provisions of this By-Law, and any to the contrary notwithstanding, the following requirements shall be controlling within the Industrial Garden District:

1. Ways and Intersections with Public Ways. All ways upon any lot in an Industrial Garden District shall conform to the following design standards:
 - a. Entrances or exits to public ways of the Town shall be approved by the Board of Public Works as to locations and construction, and shall be designed to minimize potential traffic hazards.
 - b. Ways shall be laid out so as to intersect as nearly as possible at right angles. In no case shall street intersections be less than sixty (60) degrees.
 - c. Street lines at all intersections shall be rounded with a curve at each corner which has a radius of not less than thirty (30) feet.

When the intersection of two streets varies more than ten (10) degrees from a right angle, the radius of the curve at the obtuse angle may be less, and at the acute angle shall be greater than thirty (30) feet.
 - d. On any way where the grade exceeds three (3%) percent on the approach to the intersection, a leveling area with a slope of less than one (1%) percent shall be provided for a distance of not less than fifty (50) feet measured from the nearest exterior line of the intersecting street.
 - e. Ways shall have a minimum width of traveled way of thirty (30) feet. No grade shall be greater than six (6%) percent nor less than one-half of one (0.5%) percent.
 - f. Granite curb inlets shall be furnished at all catch basins located within the way. Bituminous concrete berms, granite or concrete curbing shall be required along street edges where grades exceed four (4%) percent, where catch basins are located, at street intersection returns and where special conditions require. Bituminous concrete berms shall be constructed with a berm machine, providing a base from eight (8) inches to ten (10) inches and a height of eight (8) inches. The height of the berm above finished gutter grade shall be a minimum of five (5) inches.
2. Exterior Construction. The exterior facing of the front elevation and side walls of any building in the Industrial Garden District shall be finished with brick, natural or manufactured stone, terra cotta, glass, aluminum or other structural exterior material of equal durability and architectural effect.

3. Landscaping. No less than two-thirds (2/3) of the front setback and side yard areas of any building shall be provided with grass lawns, shrubbery or other appropriate landscaping.
4. Rubbish and Trash. All rubbish, trash, scrap or other waste material incident to the uses of the building occupation shall be stored within a structure compatible with the requirements of Paragraph (2) above or in a manner which shall be sheltered from public view, provided that such material is not placed closer to the side lot lines than the sides of the principal building; and further provided that such material shall not be stored within fifty (50) feet of the rear lot line.
5. Flammable Materials. All flammable materials stored in quantities in excess of one hundred (100) gallon containers and which are required to be licensed under General Laws Chapter 148, Section 9, as amended, shall be stored below ground and below the mean grade level of the lot on which the storage is required, or otherwise suitably enclosed.
6. General Provisions. In addition to restrictions appearing elsewhere in this By-Law, no use of land in the Industrial Garden District is permitted which is unreasonably objectionable because of excessive noise, vibration, offensive odor, smoke or any other reason which may render the use or occupancy of the land and buildings a nuisance.
7. Subdivisions. Subdivisions within the Industrial Garden District shall conform to the subdivision control law as adopted by the Town of South Hadley, and shall further conform to the subdivision rules and regulations of the Planning Board.

(I) Location of Automobile Services

Public garages, automobile repair shops, greasing stations, storage battery service stations, gasoline filling stations, or any of their appurtenances or accessory uses shall hereafter be erected or placed at least twenty-five (25) feet from any Residence or Agricultural District unless the spaces so used are entirely enclosed in masonry or concrete walls and have roofs without openings, except skylights having metal frames and fixed metal sash, glazed with wire glass. Such buildings shall have no entrances or exits for motor vehicles within a radius of one hundred (100) feet of any school, library, church, playground, or institution for the sick, blind or feeble, or for children under sixteen (16) years of age.

(J) Flexible Development*(Adopted May 8, 2004 Town Mtg.)*1. Purposes.

Flexible Development provisions are designed to encourage:

- a. Development of diverse and affordable housing types while preserving natural open space.
- b. Preservation of natural open space for its scenic qualities and for its agricultural, environmental, forestry, and recreational uses.
- c. Protection and enhancement of property values.
- d. Housing located sensitive to a site's environmental assets and constraints.
- e. Housing developments which minimize the construction of public infrastructure.
- f. Maintenance of existing visual corridors and views of natural community assets (such as, views of Mount Holyoke, Mount Tom, Connecticut River, and agricultural activities).
- g. Interaction of preserved open space with residents.

2. Applicability. The Planning Board may permit creation of a Flexible Development from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of South Hadley in accordance with the provisions of this subpart of the Zoning By-Law. Creation of a Flexible Development requires approval of a Special Permit and Definitive Subdivision Plan as specified herein.

3. Definitions. As used in this Subpart of the Zoning By-Law, the following words and phrases shall have the meanings and intent respectively ascribed to them by this subpart. If any word or phrase conflicts with definitions specified elsewhere in the South Hadley Zoning By-Law, the meaning and intent ascribed below shall govern:

- a. Base number of dwelling units. The number of housing units which could reasonably be permitted in compliance with the dimensional requirements of the underlying zoning district.
- b. Fifty-Five and over community. A residential development which is developed and maintained to provide at least 80% of the residents are 55 years of age or over.
- c. Flexible development. A process and type of residential development which is designed to maximize the preservation of community-significant open space and visual assets.

- d. Scenic views. Views significant to the cultural and environmental heritage of South Hadley including, but not limited to, views of Mount Holyoke Range, Mount Tom, and the Connecticut River.
 - e. Significant trees. A tree with a caliper of 30 inches or more as measured at the base.
 - f. Single-Family attached housing. A form of development in which each single-family residence is on a separate lot but shares one or more exterior walls common with an adjoining single-family residence.
 - g. Usable open space. Areas suitable for use as facilities and sites for play, tot lots, gardens, hiking/jogging trails, or similar facilities.
 - h. Zero lot line housing. A form of development in which each single-family residence is on a separate lot and has no setback from one side lot line.
4. Design Process. Flexible Development is a unique approach in that it permits wide flexibility in defining the dimensional standards and density allowed for the residential development with a focus on open space and cultural space preservation. The design process outlined below is essential to achieving the purposes of the Flexible Development provisions of the Zoning By-Law. Accordingly, each development plan shall be based on following the multi-step design process outlined below.
- a. Inventory and assessment of the site. As an initial step, the applicant is to inventory the existing site features giving special attention to the site's natural, scenic, and cultural resources and the interrelationships of the important features to each other.
 - b. Evaluation of site context. The next step involves an evaluation of the site in its larger context by identifying environmental, transportation, utility, drainage, and cultural elements and relationships to surrounding land uses and activities. This evaluation must include an assessment of the types and densities of adjoining developments.
 - c. Designation of preservation areas. The third step is to identify the common open space and cultural areas of the site to be preserved or enhanced. These areas should include the most important and unique resources and scenic view elements. To the extent appropriate, areas that serve to extend neighborhood and community open space networks should be included in these areas.
 - d. Delineation of development features. The fourth step is to delineate the locations/areas to be used for the development features, including, but not limited to, building sites, streets, parking areas, paths, utility infrastructure

corridors, and drainage basins. This process should reflect an integrated community which is compatible with surrounding and historical development patterns.

- e. Lot lines. If the development involves division of the property into building lots, the next step is delineation of the lot lines.
- f. Definitive Plan. The final step in the design process is preparation of the Definitive Plan required by the South Hadley Subdivision Regulations. This plan is encouraged to be submitted as part of the Special Permit application, but as provided in Section 5b must be submitted and approved in accordance with the South Hadley Subdivision Regulations.

As part of the public hearing process on the Special Permit application, applicants are to demonstrate to the Planning Board that the applicant, at a minimum, incorporated this design process in developing the proposed development plan.

- 5. Procedures. Flexible Development is a unique use which requires a Special Permit from the Planning Board. In addition to the provisions of Section 9 of the Zoning By-Law the following provisions also apply to the Flexible Development application:
 - a. Concept Review. While not required, applicants are encouraged to submit a concept plan for informal review by the Planning Board. Materials for this informal review shall be submitted at least fifteen calendar (15) days prior to the date of the Planning Board meeting at which the review is to be undertaken. The materials to be provided for this concept review should be sufficient to demonstrate the applicant has, on at least a preliminary basis, completed the Design Process detailed herein.
 - b. Subdivision Plan. All Flexible Development projects will involve submittal and approval of a Subdivision Plan pursuant to the Town of South Hadley Subdivision Regulations. Accordingly, the applicant must submit and obtain approval of the Definitive Plan either at the time of submittal of an application for the Special Permit or at a later date, but in accordance with the South Hadley Subdivision Regulations.
 - i. Applicants are encouraged to submit an application for Definitive Subdivision approval with the application for a Special Permit.
 - ii. If an applicant submits an application for Definitive Subdivision approval with their application for a Special Permit, they must also provide written authorization to extend the deadline for Definitive Plan approval to a date at least thirty (30) days after the Special Permit decision is filed with the Town Clerk.

- c. Supplemental Contents. In addition to the requirements specified in Section 9 and Appendix E of the Zoning By-Law, applications for a Flexible Development must include the following information:
 - i. Boundaries of areas subject to regulation by the South Hadley Conservation Commission.
 - ii. Topographic contours (existing and proposed) at intervals of ten feet or less.
 - iii. Cultural and historic features on the property to include, but not limited to, stone walls, archeological and historic sites and structures, and significant trees.
 - iv. Scenic views (as defined in Section (J)3 above) as determined by on-site observations from public roads and vantage points within the development site.
 - v. Historic sites listed on the National Register of Historic Places or Sites.
 - vi. Description of proposed dimensional standards.
 - vii. Description of how the proposed development reflects compliance with the design process and design standards.

- 6. Housing Types Permitted. To further the purposes of this subpart of the Zoning By-Law, the Planning Board may permit the following types of residential uses:
 - a. Single-family detached
 - b. Single-family attached
 - c. Multiple-family (includes condominium developments)
 - d. Two-family
 - e. Three-family
 - f. Four-family
 - g. 55 & over communities
 - h. Zero-Lot Line housing
 - i. Customary accessory structures and uses

- 7. Dimensional Standards.
 - a. Minimum tract size. The minimum size of tract that may be considered for a Flexible Development is 5 acres.
 - b. Internal dimensional standards. Lots and buildings without direct access to pre-existing public roadways may be developed with dimensional requirements other than those of the underlying zoning district. Therefore, for lots and buildings within a Flexible Development without direct access to pre-existing public roadways, the applicant shall propose dimensional standards including, the minimum lot area, minimum lot frontage, maximum lot coverage, and minimum yard setback requirements to create

building sites which differ from those specified for the underlying zoning district. These internal dimensional standards are subject to Planning Board approval. The applicant shall have the burden of demonstrating, to the Planning Board's satisfaction, that the proposed dimensional standards are appropriate for the site's natural and cultural attributes and in keeping with the purposes of this subpart of the Zoning By-Law.

- c. Perimeter dimensional standards. For lots and buildings within a Flexible Development, but which abut lots or roadways adjoining the proposed development, the dimensional standards of the underlying zoning district as specified in Section 6(B) of the Zoning By-Law shall be applicable.
 - i. Waiver. The Planning Board may permit a vegetated buffer and/or screening fence to be provided to sufficiently screen the proposed residences from the existing developments in lieu of compliance with the underlying zoning district's dimensional standards. Where such a buffer is permitted as provided in this waiver provision, the following conditions shall apply:
 - a.) The Planning Board may require the buffer area to extend around the perimeter of the subject tract.
 - b.) The Planning Board may require the buffer area to be equal to or greater than double the required rear yard setback of the underlying zoning district.
 - c.) Any required buffer area shall be left undisturbed and the applicant shall provide for its maintenance in perpetuity.
 - d.) If the existing vegetation is inadequate to provide a visual buffer, the Planning Board may require the applicant to add vegetation sufficient to provide a buffer.
8. Density Standards. The base number of dwelling units which may be allowed or permitted in a Flexible Development shall not exceed the number of lots which could reasonably be permitted in the underlying zoning district in accordance with the dimensional standards specified in Section 6(B) of the Zoning By-Law.
- a. Multiple zoning districts. If the subject property is located within multiple zoning districts, the base number of dwelling units shall be based on the acreage situated in the respective zoning districts. However, the location of the approved number of dwelling units is not subject to the boundaries of the underlying zoning district.
 - b. Planning Board restrictions. Where the natural conditions (significant wetlands, floodplain, and/or steep slopes) of the subject site suggest that the base number of dwelling units as determined by the method specified in 8a and 8c is excessive, the Planning Board may require the applicant to

deduct all or a portion of the areas subject to those natural conditions from the gross acreage of the site.

- c. Determining base number of dwelling units. The base number of dwelling units shall generally be determined by either of the following methods:
- i. Preliminary Plan. The applicant may submit a Preliminary Plan which demonstrates the number of dwellings which could reasonably be situated on the site subject to the underlying zoning district's dimensional requirements.
 - ii. Preset Method. Multiply the gross acreage of the subject site by the following maximum density standard for the subject zoning district:

<u>Zoning District</u>	<u>Number of Units per Acre</u>
Agricultural	0.75 or 0.90*
Residence A-1	1.20
Residence A-2	2.00
Residence B	3.25

*If the property is located within the Water Supply Protection District and lacks public water and sewer services, the lower density figure will apply. However, if the subject property is provided with public water service and either public sewer service or an alternative sewage disposal system pursuant to Section (J)10dii below, the higher number of 0.90 units per acre may be used.

Planning Board Verification. However, the Planning Board may require submittal of a Preliminary Plan to substantiate the number of lots proposed to be used as the base number if a substantial portion of the subject property is occupied by natural features and/or easements and dimensions which restricts the number of lots which might be developed on the property.

9. Density Bonuses. The Planning Board may permit density bonuses to increase the number of dwelling units beyond the base number of dwelling units as provided in Subsection 8. The Planning Board shall utilize the following conditions as the bases for granting density bonuses:
 - a. Additional open space. For each additional ten percent of the site (over and above the required 30 percent) set aside as common open space, a density bonus of one additional unit may be awarded; provided that this density bonus shall not exceed 50 % of the base number of dwelling units. Vegetated areas required as buffer areas between the subject development

and adjoining properties or roadways shall not qualify for this additional open space density bonus.

- b. Affordable housing units. For developments that provide that at least 25% of the dwelling units are permanently affordable for persons with an income of no more than 80% of the median family income for the area, the Planning Board may permit a density bonus of 25% of the base number of dwelling units.
- c. Fifty-Five and over community. Flexible Developments restricted as Fifty-Five and over communities may qualify for a bonus of 25% of the base number of dwelling units.
- d. Limits on bonuses. Density bonuses shall be cumulative and shall not cumulatively exceed 50% of the base number of dwelling units.

10. Site Design Standards.

- a. Building and lot orientations.
 - i. Structures shall be oriented toward the street serving the premises and not the required parking areas.
 - ii. Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.
- b. Roadways.
 - i. Conformity to standards. The principal roadway(s) serving the site shall be designed to conform with the standards set forth in the Town of South Hadley Subdivision Regulations.
 - ii. Waiver(s). The applicant may request waiver of roadway and related standards as provided for in the Town of South Hadley Subdivision Regulations. However, the Planning Board may restrict such waivers to proposed private roadways.
- c. Parking. Each dwelling unit shall be served by off-street parking spaces as provided in Section 8(G) of the Zoning By-Law.
 - i. Waiver. The Planning Board may grant waiver(s) of the requirements of Section 8(G) of the Zoning By-Law subject to conditions the Board determines to be appropriate.

- d. Water Supply Protection District. The Planning Board may grant a Special Permit to allow a Flexible Development in the Water Supply Protection District where the following conditions are satisfied:
 - i. Protection of Water Supply. The Planning Board determines that the density and design of the development will provide adequate protection for the Water Supply. To this end, the number of dwelling units shall be determined by the Preliminary Plan method stated in paragraph 7(J)8ci. The maximum density bonuses which may be permitted in the Water Supply Protection District pursuant to Subpart J(9) above shall not exceed one-half the amount permitted outside the Water Supply Protection District.
 - ii. Sewage Disposal. The Board of Health grants approval for a common septic disposal system where public sewer is not available. The Planning Board may, but is not required, permit the area occupied by such system to be included in the common open space if the Planning Board determines that inclusion of such an area in the common open space is consistent with the purposes of this By-Law Subpart and the purposes of the common open space.
- e. Modification of Zoning By-Law Restrictions. The Planning Board may grant waivers of the fence and parking restrictions/requirements where the Board deems it necessary to further the purposes of this subsection of the Zoning By-Law.

11. Common Open Space.

Each Flexible Development shall provide for usable common open space.

- a. Minimum required. A minimum of 30% of the parcel shown on the development plan shall be in usable open space.
- b. Multiple parcels. The required common open space may be in multiple parcels, provided that no individual parcel shall be less than 25% of the required common open space and all of the parcels are connected via walkways, pathways, roadways, or other means of access. The portion of the connecting accessway located outside of the limits of roadway or roadway right of way may be included in the calculation of the area of the common open space.
- c. Uses of common usable open space. The required common usable open space shall be used for agriculture, natural education, recreation, conservation, historic, park purposes, or a combination of such uses. Public easement purposes may also be permitted to traverse portions of the common usable open space. Only structures commonly associated with

and incidental to the permitted uses shall be permitted in the common usable open space areas.

- d. Composition of common usable open space. While the Planning Board will make the final determination of the composition of the common usable open space, the common usable open space may include wetlands, floodplain land, and steep slope. However, the required open space shall not be comprised exclusively of lands with such restrictions. As a general guide, no more than 50% of the required open space shall be composed of wetlands. The applicant has the burden of demonstrating that the composition of the proposed open space and its location and access further the purposes of the Flexible Development provisions and are appropriate for the proposed development.

The Planning Board may deny use of any surface drainage systems (such as retention and detention ponds, swales, etc.) as qualifying for the required open space.

- e. Access from Dwelling units. A maximum number of the subject development's dwelling units compatible with good design shall abut the open space. All dwelling units shall have ready access to the common open space either physically or through internal pedestrian paths or sidewalks.
- i. Exception. The Planning Board may grant an exception to the access requirement upon a recommendation from the Conservation Commission that the resource area is vulnerable to trampling or other disturbance and physical access should not be provided.
- f. Accessory buildings. Structures or buildings accessory to recreation, conservation, or agriculture use may be erected but shall not exceed five percent of the area protected as common open space. Accordingly, the applicant may make provision for erection of such structures by subsequent owners of the residences; however, the aggregate size of all such structures shall not exceed the five percent rule. Further, the applicant shall make provisions for maintenance of any accessory structures or buildings (such provisions may include assignment of responsibility to a homeowners association).

12. Ownership of Common Open Space.

- a. Conveyance. The required common open space shall, at the Planning Board's election, be conveyed to:
- i. The Town or its Conservation Commission and be accepted by the Town for park or open space use.

- ii. A nonprofit organization, the principal purpose of which is the conservation of open space.
 - iii. A corporation or trust owned or be owned by the owners of the lots or residential units within the development. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units.
- b. Restriction. Regardless of the ownership of the open space, any conveyance shall be subject to the conditions of the Planning Board approval of the Flexible Development and subject to a recorded restriction enforceable by the Town, providing that such land shall be:
- i. perpetually kept in an open state; and,
 - ii. preserved for exclusively agricultural, horticultural, educational, or recreational purposes (except for those lands permitted to also be used for a common septic disposal system pursuant to paragraph 7(J)10d; and,
 - iii. maintained in a manner which will ensure its suitability for its intended purposes; and,
 - iv. prohibited from being further subdivided.
13. Not Subject to Variance. No provision of this subpart, nor any project for which a Special Permit was granted under this subpart, shall be subject of a dimensional variance from the Zoning Board of Appeals. If deviations from the approved dimensional standards become necessary, the Planning Board may amend the Special Permit to accommodate such conditions.

(K) Fences or Walls in Residential Districts

(Amended June 7, 2005 Special Town Mtg.)

Fences or walls in residential districts, which are more than four (4) feet high and more than one-quarter (1/4) solid, except retaining walls, shall be erected not less than three (3) feet from any lot line.

Fences, including hedges, may not be higher than three (3) feet for a distance extending twenty (20) feet off the street right-of-way line.

Fences, except living fences, higher than six (6) feet shall require a Special Permit from the Planning Board.

Fences shall be of a safe, non-hazardous construction, not likely to endanger the health or safety to the public.

(L) Mobile Homes

1. Purpose. It is the purpose and intent of these regulations to allow for the provision of housing at a lower cost than is possible through conventional means of construction by permitting the use of mobile homes, as defined and limited herein, in the Residence A-1, Residence A-2 and Residence B Districts.

Such use shall be subject to the requirements set forth herein in order to assure that such mobile home shall be the functional equivalent of a home built by conventional construction methods, and to assure acceptable similarity in exterior appearance between such mobile home and dwellings that have been or might be constructed under these and other lawful regulations on adjacent lots in the same Districts.

2. Standards. Mobile homes shall be permitted in the Residence A-1 and A-2 Districts (including Cluster Subdivisions) and Residence B Districts only if determined by the Building Commissioner to be functionally equivalent to a home built by conventional construction methods and acceptably similar in exterior appearance to conventional housing construction. The Building Commissioner shall make such determination for a mobile home only if such home conforms to all of the following standards:
 - a. The structure shall be affixed to a permanent foundation; the exterior walls of the structure shall rest upon said foundation.
 - b. The structure shall meet the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, and shall be so certified by the manufacturer.
 - c. The minimum width of the main body of the mobile home as assembled on the site shall not be less than 24 feet (20 feet in a cluster subdivision), as measured across the narrowest portion.
 - d. The pitch of the main roof shall be not less than one foot of rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be 12 feet (10 feet in a cluster subdivision).
 - e. Any materials that are generally acceptable for housing built on the site may be used for exterior finish or roofing on a mobile home, provided, however, that reflection from such exterior shall not be greater than from siding coated with white gloss exterior enamel paint.
 - f. No mobile home shall have fenestration or any other features, or use colors or color combinations, that would be incompatible with other

structures in a residential neighborhood in which most residences are site-built.

Said determination by the Building Commissioner shall be made prior to, and shall be required as a necessary precondition for, approval of a special permit for a mobile home by the Planning Board.

(M) Professional Business

(As Amended October 17, 2006 Special Town Mtg.)

Professional Business Use is to provide through the specific provisions of the Special Permit process, a method of applying for the use of a structure to house professional occupants who provide useful labor, but shall not manufacture tangible goods, or provide motor vehicle services. *(As Amended October 17, 2006 Special Town Mtg.)*

The applicant must be the proprietor of the professional business.

Under these regulations, except as herein otherwise provided, an existing structure may be used or a structure constructed or altered to be used for an occupation(s) which may include, but not be limited to the following: Professional offices for physician, funeral director, surgeon, dentist, lawyer, chiropractor, chiropodist (podiatrist), accountant, architect, psychologist or engineer, practicing individually or in a group, insurance offices, consultants, financial services, administrative offices and real estate offices.

All applicants wishing to operate a qualifying professional business must apply for a Special Permit. In conformance with the Special Permit provisions of Section 9 of this By-Law and subject to the additional requirements and standards described herein, the Planning Board acting as the Special Permit Granting Authority (SPGA) may approve a Special Permit allowing for a professional business in such districts where permitted under the Use Regulations Schedule, Section 5, Part (D), and according to the Dimensional Regulations Schedule, Section 6, Part (B).

The power to approve such permit for a professional business shall be within the sole discretion of the Planning Board acting as SPGA and an affirmative vote of four (4) of its five (5) members is required for approval. Each case shall be considered on its own merit and no case shall raise a presumption in favor of any case.

The following additional conditions and restrictions shall apply to each parcel on which one or more Professional Business Special Permits are approved under these provisions:

1. A single sign may be permitted on each parcel. The sign may be approved for placement either flat on the building in which the Professional Business is

located or free standing on the parcel. Sign illumination by means of continuous indirect lighting may be permitted. The cumulative size of the sign structure permitted shall be within the discretion of the SPGA but in no case shall it exceed sixteen (16) square feet; provided, however, the SPGA may permit the area of the sign to be calculated by the area within the border of the sign and not as provided in Section 3(B)68 of the Zoning By-Law.

- a. The Planning Board may also permit one (1) additional sign per business (not to exceed one (1) square foot in area) to be located on the exterior of the building.
2. Buildings in which the Professional Business is located shall, as far as practicable, resemble residential buildings in style, materials and landscaping.
3. The development of new structures shall be in harmony with the historic, scenic and/or agriculture/residential nature of the Town.
4. Adequate off-street parking as determined by the SPGA shall be provided to the patrons and the occupiers of the professional business.
5. Any approved Special Permit shall expire when the professional relinquishes the use for which the Special Permit was granted for a period of one (1) year.

(As Amended October 17, 2006 Special Town Mtg.) In granting a Special Permit for a Professional Business, the Planning Board may permit the sale or rental of goods subject to the following conditions:

1. Accessory Use or Function. The sale or rental of goods must be part of, and subordinate to, the Professional Business. Accordingly, the sale or rental of goods must be carried out as a subordinate or accessory use or function of the Professional Business.
2. Not a Separate Business Entity. The sale or rental of goods may not be carried out by a business entity separate from the Professional Business.
3. Limitation on Space. No more than 35% of the gross floor area, excluding storage space, shall be used for the sale or rental of goods.
4. Supplemental Application Requirement. As part of the application, the applicant shall provide a floor plan which delineates the portion of the building to be used for the sale or rental of goods.
5. Multiple Professional Businesses. In buildings involving multiple Professional Businesses, the above-listed restrictions (items 1 through 4 of this paragraph) shall be applicable to each of the individual Professional Businesses.

(N) **Water Supply Protection District**

1. Purposes

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

2. Scope of Authority

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

3. District Delineation

The Water Supply Protection District is herein established to include all lands within the Town of South Hadley, lying within the primary and secondary recharge areas of groundwater aquifers and watershed areas of reservoirs which now or may in the future provide public water supply. The map entitled "South Hadley Water Protection Area" on file with the Town Clerk, delineates the boundaries of the district.

Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located.

4. Permitted Uses

The following uses are permitted within the Water Supply Protection District, provided that they comply with all applicable restrictions in this by-law, including but not limited to Sections 7(N)5-7(N)8.

- a. Single family residences, provided that where not serviced by public sewer, lot size shall be 10,000 square feet of lot area per bedroom or 40,000 square feet, whichever is greater. For cluster development, minimum lot size may be calculated on a net density for an entire development, which includes individual lots and common open space of varying size. Where serviced by public sewerage, minimum residential lot size shall comply with the residential requirement of the underlying district.

- b. Residential accessory uses, including garages, driveways, private roads, utility rights of way, and on-site wastewater disposal systems.
- c. Agricultural uses such as farming, grazing and horticulture.
- d. Forestry and nursery uses.
- e. Outdoor recreational uses, including fishing, boating and play areas.
- f. Conservation of water, plants and wildlife.
- g. Wildlife management areas.
- h. Excavation for earth removal, provided that the requirements of Section 7(N)6 and 8(E) are met, and an earth removal permit is granted by the Building Commissioner.
- i. Wireless Communications Facilities when approved pursuant to Section 5(D) and Section 7(S) subject to the conditions of the Planning Board as set forth in the Special Permit decision.

5. Prohibited Uses

The following uses are prohibited within the Water Supply Protection District:

- a. Business and industrial uses, not agricultural including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair, which generate, use, treat, process, store or dispose of hazardous wastes except for the following:
 - 1. very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 which generate less than 20 kilograms or 6 gallons of hazardous waste per month may be allowed by Special Permit in accordance with Section 9 of this by-law;
 - 2. household hazardous waste collection centers or events operated pursuant to 301 CMR 30.390;
 - 3. waste oil retention facilities required by M.G.L., C.21, s.52A; and,
 - 4. treatment works approved by the Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground and surface waters.

- b. Business or industrial uses, not agricultural, which dispose of process wastewaters on-site.
- c. Trucking terminals, bus terminals, car washes, motor vehicle gasoline sales, automotive service and repair shops, commercial fuel oil storage and sales.
- d. Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage with the exception of the disposal of brush or stumps.
- e. Storage of liquid petroleum products of any kind, except for the following:
 - 1. Storage which is incidental to:
 - a. normal household use and outdoor maintenance or the heating of a structure;
 - b. waste oil retention facilities required by Mass. General Laws, C.21, s.52A;
 - c. emergency generators required by statute, rule or regulation; or,
 - d. treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

Provided that such storage shall be in a free standing above ground container within a structure or within the basement of a structure, within a diked, impermeable area sufficient to contain the volume of the tank plus 10% to prevent spills or leaks from reaching groundwater, and provided that the storage tank and piping must comply with all applicable provisions of 527 CMR 9.00 Massachusetts Board of Fire Prevention regulations.

- 2. Replacement of storage tanks or systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this by-law, provided that:
 - a. all such replacement storage tanks or systems shall be located underground as required by Massachusetts Board of Fire Prevention regulations 527 CMR 14;

- b. all such storage systems be protected by one of the secondary containment systems specified in Massachusetts Board of Fire Prevention regulations 527 CMR 9.08(3);
- c. the head of the respective Fire Department may deny an application for tank replacement, or approve it subject to conditions, if he or she determines that it constitutes a danger to public or private water supplies in accordance with 527 CMR 9.26(4)(d). Replacement of all other storage tanks for liquid petroleum products other than gasoline must be above-ground in accordance with Section 7(N)5e1.
- f. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- g. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous wastes. (See list of prohibited chemicals at Board of Health or Town Clerk's office).
- h. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Water Supply Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- i. Waste water treatment works subject to 314 CMR 5.00 (those treatment works which discharge over 15,000 gallons per day to the ground), except the following:
 - the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
 - the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
 - treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

6. Restricted Uses

The following uses are restricted within the Water Supply Protection District:

- a. Excavation for removal of earth, loam, sand, gravel and other soils or mineral substances shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological survey, whichever is higher. A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
 1. Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.
 2. Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.
- b. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.
- c. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located on a paved surface, with berms, within a structure designed to prevent the generation and escape of contaminated run-off leachate.
- d. Fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials for agricultural and/or commercial applicator use shall be used in conformance with the Massachusetts Pesticide Control Act, M.G.L., Chapter 132B, regulations promulgated by the Massachusetts Pesticide Bureau (333 CMR 1-12), and the manufacturer's label instructions. All other reasonable precautions to minimize adverse impacts on surface and groundwater should be used.
- e. Fertilizers, pesticides, herbicides, lawn care chemicals and other leachable materials for non-agricultural and non-commercial applicator use shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board 333 CMR 10.03 (30.31) as amended, according to the manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.

- f. On-site sewage disposal systems shall not be installed without additional measures imposed by the Board of Health. (See Board of Health Regulations).
- g. The storage of commercial fertilizers and soil conditioners shall be within structures that prevent the generation and escape of contaminated run-off or leachate.
- h. To the extent feasible all new permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.
- i. All liquid hazardous materials as defined in M.G.L., Chapter 21E, must be stored either in a free standing container within a building or in a free standing container above ground with protection to contain a spill the size of the containers total storage capacity.

7. Drainage

For commercial and industrial uses, to the extent feasible, run-off from the impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration. Such run-off shall not be discharged directly to rivers, streams or other surface water bodies. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination.

All recharge areas shall be permanently maintained in full working order by the owner(s).

8. Special Permit Uses

a. Uses Allowed by Special Permit

The following uses may be allowed by Special Permit obtained from the Planning Board:

1. Commercial, industrial, governmental or educational uses which are allowed in the underlying district, and which are not prohibited in Section 7(N)5.
2. Any enlargement, intensification, change of use or alteration of an existing commercial or industrial use.
3. The rendering impervious of more than 15%, or 2,500 square feet of any lot, provided that a system for artificial recharge of

precipitation to groundwater is developed, which shall not result in degradation of groundwater. (See (7) above).

b. Requirements for Special Permit in the Water Supply Protection District

The applicant shall file six (6) copies of a plan prepared by a qualified professional with the Special Permit Granting Authority. In addition to those rules and regulations contained in the Special Permit Application (Form SP) the plan shall include:

1. Drainage recharge features and provisions to prevent loss of recharge.
2. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

In addition, the applicant shall provide at a minimum the following information where pertinent:

1. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
2. Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Planning Board, Fire Chief and Board of Health, which shall include:
 - a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage.
 - b. Accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 - c. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - d. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA Identification Number from the Mass. Department of Environmental Protection.

c. Additional Procedures for Special Permit in the Water Supply Protection District:

1. The Special Permit Granting Authority shall follow all special permit procedures contained in Section 9 of this By-Law. In addition, the Special Permit Granting Authority shall distribute

copies of all application materials to the Board of Health, the Conservation Commission and the Water Commissioners, each of which shall review the application, and following a vote, shall submit recommendations and comments to the Special Permit Granting Authority. Failure of boards to make recommendations within 35 days of distribution of the applications shall be deemed to be lack of opposition.

2. The Special Permit Granting Authority may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 9 of this By-Law. The proposed use must:
 3. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
 4. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
 5. The Special Permit Granting Authority shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

9. Non-Conforming Use

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

(O) Flag Lots

The Planning Board may issue a Special Permit allowing for the reduction of the frontage requirement for lots in Residence A-1, Residence A-2 and Agricultural districts when such lot having less than the required frontage can substitute increase square footage and is to be used for a single dwelling unit only, provided said lot has:

1. access strip frontage on an existing public way of at least fifty (50) feet;

2. access strip width from the front lot line to the principal structure of at least fifty (50) feet;
3. at least double the minimum lot area normally required for that district, exclusive of the access strip;
4. an access strip that is accessible having a maximum length not exceeding four hundred (400) feet;
5. a minimum distance between two flag lot right-of-ways that is equal to or greater than the minimum lot frontage in that zoning district;
6. an appropriate easement delineated on the plot plan and on the deeds to the lots, including a clear provision for the responsibility for the maintenance of the access strip, utilities (if any) and snow removal, running with the land. Said easements shall:
 - a. become part of the deeds; and,
 - b. be recorded at the Hampshire County Registry of Deeds (proof of the latter to be submitted to the Building Commissioner prior to the issuance of any building permits);
7. in the opinion of the Planning Board acceptable design grade, length and location of the access drive shall be of suitable construction for the access and, where applicable, the turn-around for vehicles, including moving vans, ambulances, fire and police;
8. an access driveway within the privately owned access strip that is so drained as to prevent damage or hazard to abutting properties or public trees and shall be paved with bituminous asphalt, concrete, compacted gravel or similar paving material;
9. been created from one lot which was in existence at the time of the adoption of this flag lot By-Law amendment, which conforms to all of the provisions of the Zoning By-Law, and which does not have sufficient frontage to create an additional lot with the normal frontage requirements;
10. an access drive that is located, constructed and maintained a distance of no closer than ten (10) feet to any abutting property line;
11. no parking areas or above ground structures within the access strip;
12. a conifer buffer zone between any flag lot and abutting lots sufficient to provide privacy between the two lots when required by the Planning Board;

13. plans submitted to the Board that have been prepared by a registered land surveyor or engineer and may be subject to Section 5.00 Subdivision Regulations submission standards. The plans shall also contain the statement “Lot [fill in lot number] is a flag lot; building is permitted only in accordance with the Special Permit flag lot provisions of the South Hadley Zoning By-Law”;
14. the flag lot frontage (see Appendix A) that is a minimum of 150 feet in the Agricultural district and 125 feet in both the Residence A-1 and A-2 districts measured parallel to the existing street line from which access is derived. The flag lot building front setback line is to be measured from the point where the flag lot frontage has been satisfied. The side and rear setbacks are as listed in Section 6 (B) Dimensional Regulations for the district the flag lot is permitted in; and,
15. an access strip that begins at the existing street line and ends where the flag lot frontage width has been satisfied. Acceptable examples are shown as Illustrations Type 1-4 in Appendix A.

(P) Business C District Development Methods

The Business C District is established to provide a comprehensive set of development methods to be applied in the commercial district, and to recognize the specific characteristics of the associated highway corridor. A performance guarantee may be required as a condition of approval for either Special Permit or Site Plan Review projects. A Special Municipal Account may be required as determined by the Planning Board.

1. Purposes: The Business C District is established to achieve the following objectives of the Town of South Hadley:
 - a. to direct large-lot businesses and auto-oriented uses to the appropriate location. No single user may occupy greater than 65,000 square feet of building space and high traffic generators such as drive through restaurants, drive-up ATM machines, gas stations, etc., shall not be permitted in this district.
 - b. to provide safe, efficient traffic flow in the Business C District.
 - c. to maintain a high level of design and landscaping quality.
 - d. to provide safe pedestrian access to businesses and uses in the Business C District.
 - e. to protect property values through quality control.
2. Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Review or by Special Permit in the Business C District are listed in the Table of Use Regulations in Section 5.

3. Density and Dimensional Requirements

All developments and uses within the Business District must conform to the density and dimensional requirements in Section 6.

COMMERCIAL DEVELOPMENT PERFORMANCE STANDARDS

In order to receive site plan approval or special permit, all projects must demonstrate compliance with the Commercial Development Performance Standards herein.

4. Parking Standards

Proposed uses must comply with Parking and Off-Street Loading regulations in Section 8(G) and the following:

- a. No parking shall be permitted within the required front yard setback of a structure.
- b. To the extent feasible, parking areas shall be shared with the adjacent businesses.

5. Appearance/Architectural Design Standards

- a. Architectural design shall be compatible with the character and scale of buildings in the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with South Hadley's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the Town's character. Large work area doors or loading docks shall not open toward or face roadways.
- b. The Planning Board may adopt such regulations as may be necessary to further specify design standards.

6. Lighting Standards

- a. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.

- b. No light standard shall be taller than thirty (30) feet.

7. Access Standards

Applicants for projects or uses within the Business C District must demonstrate that the project or use will minimize traffic and safety impacts on highways.

- a. The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via of the following:
 - 1. Access via a common driveway serving adjacent lots or premises
 - 2. Access via an existing side street
 - 3. Access via cul-de-sac or loop road shared by adjacent lots or premises
- b. Only one curb cut per lot shall be allowed. Additional curb cuts may be permitted by the Planning Board as part of the Site Plan Review process.
- c. Curb cuts shall be limited to the minimum width for safe entering and exiting and will not normally exceed 24 feet in width per lane.
- d. All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
- e. Adequate pedestrian and bicycle access shall be provided as follows:
 - 1. Sidewalks shall be provided to enable pedestrian access to adjacent properties between individual businesses with a development. The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Sections 9 and 12.

8. Landscaping and Screening Standards

- a. Large parking areas shall be subdivided with landscaped islands so that no paved parking surface shall extend more than eighty (80) feet in width. One tree (minimum two (2) inch caliper) per thirty (30) parking spaces shall be provided within the area.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or all or fencing complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use.

Plantings must be four (4) feet at planting when abutting a residential zone.

- c. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- d. Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.
- e. A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum two (2) inch caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk shall be incorporated into the buffer strip.

9. Pedestrian Standards

- a. Sidewalk shall be provided to provide access to adjacent properties and between individual businesses within a development.

10. Traffic Impact Statement

- a. A traffic impact statement shall be prepared, which shall contain:
 - 1. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.
 - 2. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.
- b. An additional traffic impact statement shall be prepared for individual structures that are greater than ten thousand (10,000) square feet. It shall contain:
 - 1. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

2. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

11. Public Transportation

- a. The Planning Board and the Applicant shall request the Pioneer Valley Transit Authority (PVTa) to locate a bus stop on the premises or within one quarter (1/4) mile of the development.

(Q) Public-Private Recreation

1. The purpose of the Public-Private Recreation use within the Industrial Garden District is to permit land uses for the development of recreationally related facilities designed to serve the general public preserve and enhance areas of natural scenic beauty including mountain views, ridges, exceptional vistas, and related natural resources.
2. Public-Private Recreation Use is a use in the Industrial Garden District that may be permitted, subject to compliance with the mandatory standards, conditions and requirements for a Special Permit and Site Plan Review as well as the conditions set forth in this section. Such recreational use may include, but not be limited to the following uses and any approved combination thereof:
 - a. Outdoor athletic activities, including facilities for skating, skiing, sledding, swimming, and tennis and related activities.
 - b. A golf course as a principal recreational use and putting greens and driving ranges accessory uses to the principal recreational use.
 - c. Equestrian trails.
 - d. Outdoor picnic facilities including appropriate sheds and outdoor fireplaces.
 - e. Social and recreational facilities for dining and dancing, including banquets, meetings, receptions, assemblies and entertainment, provided that such activities are accessory to and a part of a principal recreational use.
 - f. Retail shops accessory or incidental to the principal recreational use.
 - g. Other publicly owned facilities or other facilities designed for the benefit of the general public.
3. Design and operating criteria governing the location and construction of improvements, buildings and facilities shall include the following:

- a. A landscaped buffer strip shall separate the recreational activities from any abutting property.
- b. All parking shall be regulated as prescribed in Section 8, Subsection (G), and golf courses shall have an additional minimum of ten (10) parking spaces per hole of golf or parking facilities equal to sixty (60) percent of the serving facilities, whichever is greater.
- c. The volume of sound from music and public address systems and recreational motor vehicles shall be so controlled as to prevent objectionable noise off the premises.
- d. Banquets, meetings, stage presentations and dancing shall be held inside a structure, but this shall not prevent presentation outside a structure of athletic exhibitions or contests or theatrical performance.
- e. Artificial lighting of a golf course or golf practice area is specifically prohibited.
- f. The procedure for submission of an application for regional recreational use shall be consistent with the submittal requirement of Section 9, Special Permits and Section 12, Site Plan Review, and subject to the additional requirements set forth in this subsection.

(R) Bed and Breakfast

1. The Planning Board may issue a Special Permit for a bed and breakfast home that is an existing owner occupied single-family dwelling in which the resident or residents of the dwelling provide overnight lodging to paying guests in a maximum of three guest bedrooms located within the dwelling. Breakfast shall be the only meal served and no person may occupy said room or rooms more than fourteen (14) days in any thirty (30) day period. The home shall function as a private home with house guests.
2. In addition to the Special Permit requirements in Section 9 of this By-Law, the following bed and breakfast requirements must be met as a condition of approval:
 - a. no cooking facilities are permitted in any guest room; and
 - b. there shall be no substantial change to the exterior of the building; and
 - c. one parking space shall be provided for each room to be occupied by bed and breakfast lodgers in addition to the parking required under Section 8, Subsection (G); and

- d. if such facility is to be served by an existing on-site septic system, the owner shall obtain a letter from the Board of Health that the sewage disposal system is adequate for the proposed use; and
 - e. signage shall be limited to an announcement sign as permitted under Section 7, Subpart (A).
3. Plan Requirements: Plans for a bed and breakfast home shall be prepared by a registered architect, registered landscape architect or engineer and shall show the following together with appropriate dimensions:
- a. proposed name of the bed and breakfast home;
 - b. location by legal description;
 - c. name and address of applicant and designer of the plan;
 - d. scale of the plan, 1" = 40' or larger;
 - e. date, north arrow, contours at two (2) foot intervals;
 - f. boundary line of property indicated by a solid line, and the total acreage encompassed thereby;
 - g. bed and breakfast homes using private water wells shall provide a certificate of good water quality from the Board of Health.
4. Owner-Occupancy Requirement
- a. In the event the property is owned by multiple persons, related or unrelated, only one of the persons having ownership interest in the property must reside in the residence to satisfy the requirement that the property be owner-occupied.
 - b. In the event the property is owned by a business entity, the Planning Board must require the entity to designate a person to reside in the residence on a permanent or ongoing basis to carry out the functions as if they were the owner of the property relative to this Section of the Zoning By-Law.

(S) Wireless Communications Regulations

(Adopted May 12, 2001 Town Mtg.)

1. Purposes

The purposes of the Wireless Communications Regulations are:

- a. Provide reasonable, non-discriminatory standards and procedures under which adequate and necessary Wireless Communications Facilities may be permitted, developed and maintained; and,
- b. Ensure that permitting Wireless Communications Facilities will be in harmony with the Zoning By-Law and the character and appearance of the surrounding community; and,
- c. Protect the community's scenic, historic, and environmental resources; and,
- d. Locate Wireless Communications Facilities such that their location does not have negative impacts (such as, but not limited to visual blight, attractive nuisance, noise and falling objects) on the general safety, welfare and quality of life of the community; and,
- e. Encourage Co-Location of Wireless Communications Facilities to the maximum extent possible; and,
- f. Provide for the development of free standing Wireless Communications Towers to the extent necessary to enable the Providers of Wireless Communications Services to provide adequate coverage throughout the community, yet limit the number of such Towers to the minimum amount needed for such services.

2. Consistency with Federal and State Laws

The Wireless Communications Regulations are intended to be consistent with the Telecommunications Act of 1996 and applicable state laws, in that:

- a. The Regulations do not prohibit or have the effect of prohibiting the provision of Wireless Communications Services; and,
- b. The Regulations are not intended to be used to unreasonably discriminate among Providers of functionally equivalent Wireless Communications Services; and,
- c. The Regulations do not regulate Wireless Communications Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions.

3. Definitions

As used in the Wireless Communications Regulations, the following words and phrases shall have the meanings and intent respectively ascribed to them

by this section. If any word or phrase conflicts with definitions specified elsewhere in the South Hadley Zoning By-Law, the meaning and intent ascribed below shall govern:

Alternate Tower Structure: A building or structure which was not primarily erected or used for Wireless Communications Services but with minor modifications, including addition of antennas, may be usable for Wireless Communications Services in addition to the structure's primary use. Examples of Alternate Tower Structures include, but are not limited to, municipal buildings, water tanks, silos, church steeples, etc.

Antenna(s): A device or surface area which is attached to or part of a Tower or Alternate Tower Structure for the purpose of transmitting and/or receiving electromagnetic signals for wireless communications. Also referred to as Wireless Communications Antenna.

Antenna, Wireless Communications: See Antenna.

Carrier: See Provider.

Co-Location: Use of a single Tower by more than one Carrier.

Elevation: The measurement of a point in reference to feet above mean sea level.

Equipment Shelter: A structure located at a Wireless Communications Tower or Alternate Tower Structure to house equipment used in connection with wireless communications transmissions to and from Antennas located on the Tower.

Facility Site: The parcel of land used by one or more Carriers and upon which one or more Wireless Communications Facility (-ies) and related equipment, Equipment Shelter, and landscaping are located.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

Fire District: South Hadley Fire District 1 and/or South Hadley Fire District 2 inclusive of the Water Departments associated with the Fire Districts.

Height of Wireless Communications Facility: The vertical distance between the highest point of the Wireless Communications Facility (inclusive of the Wireless Communications Tower and any Antennas, poles, and any other equipment which may extend above the Wireless

Communications Tower) and the lowest point of the grade of the ground at the Facility Site. The grade of the ground is to be determined at a distance within ten (10) feet of the Wireless Communications Tower's perimeter unless the Planning Board determines a different basis for said measurement is more appropriate. Thus, the "height" of Wireless Communications Facilities will not fall within the definition of "height" as provided in Section 3 of the Zoning By-Law.

Municipal Entity: The phrase "municipal entity" shall include the Town of South Hadley, South Hadley Fire District Number 1, and South Hadley Fire District Number 2 and any department under the jurisdiction and authority of any of these three entities.

Provider: An entity that provides Wireless Communications Services. Also refers to Carrier.

Tower: A structure erected for the purpose of Wireless Communications Services and on which Antennas or other wireless communications devices and associated equipment are placed for the purpose of Wireless Communications Services. Also referred to as Wireless Communications Tower.

Tower, Guyed: A Tower that is tied to the ground or other surface by cables which are typically in a diagonal alignment.

Tower, Lattice: A Tower that is self-supporting with multiple legs and cross bracing of structural steel.

Tower, Monopole: A Tower that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for Antennas arrayed at the top and/or intermediate positions along the length of the Tower.

Tower, Wireless Communications: See Tower.

Wireless Communications Facility: All equipment with which a Carrier transmits and receives the radio frequency waves which carry their services and all locations of said equipment or any part thereof (including, but not necessarily limited to, a Wireless Communications Tower, Alternate Tower Structure, Wireless Communications Antennas, and related equipment and structures).

Wireless Communications Facility, Pre-existing: A Wireless Communications Facility in existence prior to the adoption of the Wireless Communications Regulations as part of the Zoning By-Law by the Town Meeting.

Wireless Communications Services: Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include cellular services, Personal Communications Services (PCS), Enhanced Mobile Radio Services, Paging Services (PS), and similar such services.

4. Exempted Uses

The following Wireless Communications Facilities are specifically exempted from the provisions of the Wireless Communications Regulations:

- a. Police, fire, ambulance, Antennas and associated Towers and equipment for the internal use of either the Town's DPW or either District and other similar emergency dispatch; and,
- b. Citizens band radio; and,
- c. Amateur radio equipment and Towers used in accordance with the terms of amateur radio service licenses issued by the FCC, provided that (1) the Tower is not used or licensed for any commercial purpose, and (2) the Tower shall be removed upon loss or termination of said FCC license; and,
- d. Satellite dishes and antennas for non-commercial residential use and/or for non-commercial educational use.

5. Location Criteria

- a. Existing Towers and Alternate Tower Structures: To the extent feasible, Antennas are to be located on existing Towers and existing Alternate Tower Structures.
- b. Spacing: No Wireless Communications Tower shall be located closer than one mile of any other such Tower, except as provided below. The spacing distance shall be measured as the shortest distance between two points as if on a flat topography.
- c. Historic and Residential Properties: No Wireless Communications Tower shall be located closer than three-hundred feet (300') to any property (1) listed on either the State or National Register of Historic Places or (2) developed as part of a residential subdivision for which a Definitive Plan was approved by the South Hadley Planning Board, except as may be waived by the Planning Board as provided below.

- d. Elevation: No portion of any Wireless Communications Facility may exceed the elevation level of 400 feet above mean sea level, except as may be waived by the Planning Board as provided below.
 - e. Holyoke Range Area: No Wireless Communications Tower or related equipment may be located within the area bounded as follows: the Towns of Hadley and Amherst to the north; the Town of Hadley and Route 47 to the west; Route 47 and Pearl Street to the south; and Route 116 (north of Pearl Street) and the Town of Granby to the east.
 - f. Waiver for Wireless Communications Antennas on Alternative Tower Structures. In unique circumstances where the Planning Board makes findings as to technical necessity, topographic conditions, community benefit, and/or special conditions which protect the surrounding properties and community assets, and that a waiver is consistent with the purposes of this subpart, the Planning Board may grant a waiver of one or more of the Location Criteria specified within this subsection for location of Wireless Communications Antennas on Alternate Tower Structures.
 - g. Waiver for Wireless Communications Towers. In unique circumstances where the Planning Board makes findings as to technical necessity, unique topographic conditions, community benefit, and/or special conditions which protect the surrounding properties and special community aesthetic assets (such as, but not limited to views of the Holyoke Range), and finds that a waiver is consistent with the purposes of this subpart, the Planning Board may grant a waiver of the selected Location Criteria listed below as they relate to location of Wireless Communications Towers, subject to the limitations stated herein:
 - 1.) Spacing between Wireless Communications Facilities as stated in item b of this subsection; provided, however, the spacing shall not be reduced to less than one-half mile.
 - 2.) Distance from an Historic or Residential Property as stated in item c of this subsection; provided, however, the distance shall not be reduced by more than 200 feet.
 - 3.) Elevation as stated in item d of this subsection; provided, the maximum elevation will not be permitted to exceed 450 feet.
6. Design and Siting Requirements – General

All Wireless Communications Facilities must be designed, developed, and operated in accordance with the following requirements:

- a. Co-Location: Towers must be designed, developed, and equipped, and leases for use of such structures must provide authority, to allow for co-location of as many Carriers as technically feasible.
- b. Equipment Shelter: An Equipment Shelter not exceeding four-hundred (400) square feet in area per carrier located on the Tower and not exceeding fourteen feet (14') in height may be provided at each Tower or Alternate Tower Structure. However, the Planning Board may impose special conditions to reduce the maximum size of the Equipment Shelter at a particular Facility Site if it determines such conditions are necessary to fulfill the aesthetic purposes of the Zoning By-Law or these Wireless Communications Regulations.

To the extent practicable the related Equipment Shelter shall be contained within or adjacent to the existing Wireless Communications Tower or Alternate Tower Structure or within an addition to such Wireless Communications Tower or Alternate Tower Structure, the façade of which is compatible with the existing Wireless Communications Tower or Alternate Tower Structure.

- c. Security: All Wireless Communications Facilities shall be protected, by fencing and/or other appropriate means, against unauthorized access.
- d. Parking: There shall be a minimum of one (1) parking space at each Wireless Communications Facility. Parking at such facility shall be used solely in connection with the maintenance of the Wireless Communications Facility and is not to be used for the permanent storage of vehicles or other equipment.
 - 1.) Exception: The Planning Board may grant an exception to the parking requirement when the Wireless Communications Facility involves use of an Alternate Tower Structure and the Planning Board determines that other parking at the Facility Site satisfactorily meets the parking need for the Wireless Communications Facility.
- e. Signage: The only signs associated with the Wireless Communications Facility which may be permitted are the following:
 - 1.) Identification sign. One identification sign identifying the Wireless Communications Facility and detailing the owner, operator, and an emergency telephone number where the owner or their emergency representative can be reached on a twenty-four (24) hour basis.
 - 2.) No trespassing signs. Such signs are required.

- 3.) FCC Registration. A sign displaying the FCC registration number.
- 4.) Warning sign. Signs are required to warn of danger.

No sign should be larger than four (4) square feet in area unless State or Federal regulations require larger signs.

- f. Screening: A landscape buffer of evergreen shrubs or trees shall be provided in a manner to screen views of any Equipment Shelter and fencing from adjoining property. The shrub or tree plantings shall mature to a height equal to the level of the Equipment Shelter height or fence (whichever is greater). At planting the shrubs or trees shall be at least six (6) feet in height and spaced such that the plantings reasonably screen the Equipment Shelter while providing opportunity for the vegetation to mature and be maintained. All landscape plantings must be continually maintained.
 - 1.) Exceptions: The Planning Board may grant exceptions to the screening specifications outlined herein where (1) the topography and site conditions warrant that alternative standards can achieve the purpose of the screening and/or (2) the proposed plantings and screening warrant alternative spacing standards.
- h. Radio-Frequency Effect: All Wireless Communications Facilities shall be operated only at FCC designated frequencies, power levels, and standards. Upon request by the Planning Board, Providers and applicants shall provide certification that the maximum allowable frequencies, power levels, and standards will not be exceeded.

7. Design and Siting Requirements – Wireless Communications Towers

Wireless Communications Facilities involving erection of new Wireless Communications Towers must be designed, developed, and operated in accordance with the following requirements:

- a. General: The requirements detailed in subsection 7(S)(6) Design and Siting Requirements – General.
- b. Height: All Wireless Communications Towers shall be constructed to the minimum height necessary to accommodate the anticipated usage. Towers designed for one Provider shall be limited to the lesser height of 200% of the maximum height allowed in the zoning district in which it is to be

located or a height of 130 feet. If no maximum height is specified for the zoning district, the maximum height shall not exceed 130 feet. When calculating the height, the measured distance shall be inclusive of all planned antennas and other attached features.

- 1.) Exceptions: The Planning Board may grant an exception to the height limit for Wireless Communications Towers designed for co-located facilities. In such situations, the Board may allow the Tower height to be increased by an additional 20 feet for each additional Provider up to a total Tower height not to exceed a maximum of 220 feet. Further, the Planning Board may grant exceptions to the height restriction in unique circumstances only upon making findings as to a.) technical necessity, b.) unique topographic conditions, c.) community benefit, d.) special conditions which protect the surrounding properties and special community aesthetic assets (such as, but not limited to views of the Holyoke Range), and e.) that an exception is consistent with the purposes of this subpart and the Zoning By-Law.
 - 2.) Exemption: These height limits shall not apply to Towers for government or emergency telecommunications to the extent such height is essential to serve the government or emergency telecommunication use.
 - 3.) Justification Required. The height limits stated within this subsection 7b do not convey an entitlement to any specific height. Rather, as provided in subsection 7(S)(11), all applications for Wireless Communications Towers must include technical evidence to justify the need for the proposed height including any height exceptions being requested. The Planning Board when acting on a Special Permit shall specify the maximum allowable height inclusive of all planned Wireless Communications Antennas to be allowed for the proposed facility up to the limits outlined above.
- c. Setbacks: The setbacks for Wireless Communications Towers shall be measured from the nearest property line and the outer edge of the base of the Tower. The required setback shall be the greatest of the following:
- 1.) Three-hundred feet (300') if (i) the adjoining property is zoned Residential A-1, A-2, B, or C or (ii) is developed as part of a subdivision for which a Definitive Plan has been approved by the Planning Board or (iii) is included on a National or State Register of Historic Places.
 - 2.) One foot (1.0') for each foot of height of the structure.

- 3.) Waivers. The setback requirement from property zoned Residential A-1, A-2, B, or C may be waived if:
- (a.) The Planning Board grants a waiver of the setback provision specified in subsection 5c pursuant to subsection 5g2. In such instance, the extent of the waiver so granted shall govern as the required setback.
- 4.) Waiver of Setback from Non-residential Properties. The Planning Board may grant a waiver of the setback requirement specified in subsection 7(S)7c2 as the setback applies to adjoining properties not zoned Residential A-1, A-2, B, or C or used for residential purposes.
- 5.) Limitations on Setback Waivers. No setback waiver shall permit any Wireless Communications Tower to be located nearer than one-half foot (0.5') for each foot of height of the structure.
- d. Pre-engineered Fault: All Wireless Communications Towers shall be pre-engineered to “fold at a pre-determined height ” in the event of catastrophic failure. The height of this pre-determined point of fold shall be specified as part of the Special Permit application. The purpose of this “Pre-engineered Fault” is to insure that in the event of a catastrophic failure, the Wireless Communications Tower shall remain on the parcel on which the Tower was permitted. Recognizing that technology changes over time, the Planning Board may permit the applicant to utilize an alternative means of achieving the purpose of the “Pre-engineered Fault” provided the Board determines that this alternative means is at least as equally effective for achieving this purpose.
- e. Style of Towers: Lattice Towers and any Guyed Towers shall not be permitted unless the applicant shall demonstrate to the Planning Board’s satisfaction that such Tower shall be no more visually blighting or intrusive than a monopole structure at the same location. Accordingly, applicants proposing to construct a Tower other than a monopole shall submit appropriate plan documents as part of the Special Permit application sufficient to allow the Planning Board to make a decision as to whether to grant a Special Permit allowing a Tower other than a monopole-style Tower. To grant a Special Permit for a Tower other than a monopole-style, the Planning Board shall make a finding that the style of Tower proposed is appropriate for the site and is no more detrimental to the visual character of the area than a monopole.
- f. View: Wireless Communications Towers shall not be permitted in such locations as to adversely impact the community. Accordingly,

- 1.) Such Towers shall be sited in such a manner that the view of the Tower (inclusive of all antennas and related attached features) from adjacent properties, residential neighbors, adjacent roadways, and other areas of Town shall be as limited as possible; and,
 - 2.) Such Towers shall be painted, colored, and/or constructed of materials that minimize the visual impact of the Tower on adjacent abutters, residential neighbors, and other areas of Town; and,
 - 3.) The Planning Board may impose such conditions as it deems reasonable on the Special Permit so as to achieve the fore-stated standards and objective. Such conditions may include, but need not be limited to painting and lighting standards, reduction in height, increase setbacks, and/or increased screening.
- g. Preservation of Vegetation: Existing on-site vegetation shall be preserved to the maximum extent practicable.
- h. Lighting: Except as required by the FAA, Wireless Communications Towers shall not be artificially lighted.
8. Design and Siting Requirements – Wireless Communications Antennas

Wireless Communications Antennas attached to Towers and/or Alternate Tower Structures must conform to the following requirements:

- a. General: The requirements detailed in subsection 7(S)(6) Design and Siting Requirements – General.
- b. Height: The Wireless Communications Antennas may only extend to the minimum height above the existing Tower or Alternate Tower Structure as necessary to accommodate the technical requirements. No Antennas shall extend more than ten (10) feet above the height of the existing Tower or Alternate Tower Structure.
- c. Extension: Wireless Communications Antennas shall not extend more than technically necessary for the operation of the Wireless Communications Services, but in no case shall they extend more than thirteen (13) feet beyond the side or outer perimeter of the Tower or Alternate Tower Structure.
- d. Integral Part of Structure: All building-mounted components of the facilities shall be designed and located, to the extent practicable, so as to appear as an integral part of the architecture of the existing Alternate Tower Structure. In no case shall such facilities be approved where their inclusion is detrimental to the architectural quality of the Alternate Tower

Structure on which they are to be affixed or structures on abutting properties.

9. Bond Required

Prior to obtaining a building permit to erect a Wireless Communications Tower or to install a Wireless Communications Tower or to install Antennas on a Tower or on an Alternate Tower Structure, the Wireless Communications Facility owner shall post and submit a bond or other financial surety acceptable to the Town. However, the Planning Board may waive such a bond or other financial surety when the project involves an Alternate Tower Structure if the Board deems such a waiver to be appropriate and consistent with the purposes of the Wireless Communications Regulations.

- a. Amount of Surety: The amount of the bond or surety shall be sufficient to reasonably restore the site to the condition which existed prior to installation of the Wireless Communications Tower and/or Wireless Communications Antennas (including related equipment and fixtures). Said amount shall be certified by a qualified engineer, architect, or other professional registered to practice in the Commonwealth of Massachusetts. The bond or surety shall provide for increases in coverage as the cost of removal of the Facility escalates.
- b. Use of Bond or Financial Surety: The posted bond or financial surety shall be used by the Town for its intended purpose upon the occurrence of either of the following events:
 - 1.) Cessation of Use: If the Wireless Communications Facility, according to the Building Commissioner, has ceased to be used for its intended wireless communications purpose for a period of not less than twelve (12) calendar months; or,
 - 2.) Condemnation: The Building Commissioner condemns the Wireless Communications Facility as an unsafe structure.
- c. Deficient Amount – Recourse: In the event the amount of the posted bond or surety does not cover the cost of demolition and/or removal of the Wireless Communications Facility, the Town may pursue all recourses available to it for recovery of the additional sum including but not limited to:
 - 1.) Lien. Placing a lien upon the property.
 - 2.) Assessment. Assessing all Carriers who had antennas on the facility at such time as the Wireless Communications Tower or

Alternate Tower Structure ceased to be used for Wireless Communications purposes.

3.) New Permits. Withholding permits for new Wireless Communications Facilities by the responsible party (-ies).

d. Duration of Bond or Surety: The Bond or Surety is to be for a duration of no less than the time period for which the Wireless Communications Facility is to be operating. Accordingly, the Planning Board as a condition of the Special Permit or Site Plan Review, whichever is applicable, shall specify the minimum duration for the Bond or Surety. The Planning Board may provide the Bond to be for a specified period of time with provisions for automatic renewals or substitution of new bonds or sureties.

10. Cessation of Use/Abandonment, Maintenance, and Removal

a. Cessation of Use/Abandonment: If the Wireless Communications Facility ceases to be used for a period of twelve (12) consecutive months, the facility will be deemed to have been abandoned. At any point after that time, the Wireless Communications Facility may only be used upon prior approval of a new application in accordance with the provisions of the Zoning By-Law in effect at that time.

b. Maintenance: The owner of, and Carriers utilizing, the Wireless Communications Facility are solely responsible for maintaining the Wireless Communications Facility in good order. Failure to do so may, at the Town's discretion, result in termination of the right to use the facility and/or removal of the facility.

c. Removal: Owners of Wireless Communications Facilities shall be solely responsible and liable for dismantling and removing facilities within a time frame set forth by the Building Commissioner. If the demolition/removal is to be undertaken by the Town, the Building Commissioner shall send to the Wireless Communications Facility owner and the associated Carriers (if any) written notice by registered mail at least 45 calendar days prior to commencing demolition/removal.

11. Submission Requirements

a. Site Plan Review Required: For Wireless Communications Facilities for which only Site Plan Review is required, applicants must submit the following:

1.) Plans and materials required by Section 12 of the Zoning By-Law;
and,

- 2.) Evidence of their authority to install and maintain the Wireless Communications Facilities on the existing Tower or Alternate Tower Structure; and,
 - 3.) Plans and documents demonstrating conformity with the provisions of these Wireless Communications Regulations; and,
 - 4.) Estimated cost to remove the facilities as certified by a qualified professional engineer registered to work in the Commonwealth of Massachusetts.
- b. Special Permit Required: For Wireless Communications Facilities for which a Special Permit is required, applicants are required to submit the following:
- 1.) Section 12 Requirements. Plans and materials required by Section 12 of the Zoning By-Law; and,
 - 2.) Section 9 Requirements. Plans and materials required by Section 9 of the Zoning By-Law; and,
 - 3.) Authority. Evidence of their authority to develop, erect, and maintain the proposed Wireless Communications Facilities on the subject property; and,
 - 4.) Conformity. Plans and documentation demonstrating conformity with the provisions of the Wireless Communications Regulations; and,
 - 5.) Need. Demonstration of the need for the Wireless Communications Facility as proposed including, but not limited to:
 - a.) That all existing Wireless Communications Towers and Alternate Tower Structures have been evaluated and why they are not sufficient to meet the needs to be served by the proposed Wireless Communications Tower including demonstration that the applicant cannot co-locate on an existing Wireless Communications Tower or Alternate Tower Facility and fulfill their coverage needs; and,
 - b.) That the height proposed for the Wireless Communications Facility is the minimum height necessary to provide the service coverage and co-location opportunities necessary.
 - 6.) Removal Cost. Estimated cost to remove the Wireless Communications Facilities and restore the site to its pre-development condition as certified by a professional engineer registered to work in the Commonwealth of Massachusetts; and,

- 7.) Schedules. Proposed Inspection and Maintenance Schedule; and,
- 8.) Color Photograph or Rendition: A color photograph or rendition of the proposed Wireless Communications Facilities, including, but not limited to, the proposed Wireless Communications Tower with the proposed associated Wireless Communications Antennas; and,
- 9.) View Lines: Four view lines in a one- to three mile radius of the proposed Wireless Communications Facility Site beginning at True North and continuing at ninety-degree intervals; and,
- 10.) Balloon Test: On a weekend day prior to (but within ten calendar days of the date of the advertised public hearing) and on the day of the public hearing to be held by the Planning Board, the applicant shall cause a balloon to be flown at the maximum proposed height of the proposed Wireless Communications Facility. The balloon shall be flown for at least three consecutive hours between 8:00 a.m. and 4:00 p.m. The balloon shall be at least three feet in diameter and either orange or red in color.

12. Registration and New Plans

By July 1 of each year, all owners of Wireless Communications Towers and Alternate Tower Structures in use or permitted by the Planning Board must register with the Planning Board.

- a. Owners of Wireless Communications Towers are to:
 - 1.) Identify each site within the limits of, and within one mile of, South Hadley they are presently using by tax map and parcel number and the specific longitude and latitude coordinates of the Wireless Communications Tower Facility; and,
 - 2.) Identify existing co-location capacity of the Wireless Communications Tower Facilities identified in item 12a; and,
 - 3.) Provide inspection reports and evidence of maintenance activities for the wireless communications facilities identified in item 12a for the past year.
- b. Owners of Alternate Tower Structures are to:
 - 1.) Identify each site within the limits of, and within one mile of, the Town of South Hadley (which they are presently using for Wireless Communications Services) by tax map and parcel number; and,

- 2.) Provide a list of the Carriers presently utilizing the Alternate Tower Structure.

13. Jurisdiction of Planning Board

The conditions of a Special Permit issued by the Planning Board pursuant to the provisions of this subpart 7(S) may not be subject to a subsequent modification by means of a dimensional variance from the Zoning Board of Appeals without concurrent or prior amendment to such Special Permit by the Planning Board.

(T) Outdoor Recreation Facilities

(Adopted October 28, 2003 Special Town Mtg.)

1. Purpose. The overall purpose of the Outdoor Recreation Facilities use within the Agricultural zoning district is to preserve agricultural lands through enhancing the economic viability of active farmland operations.
2. Facilities Allowed. Outdoor Recreation Facilities may be permitted, subject to compliance with the mandatory standards, conditions and requirements for a Special Permit and Site Plan Review as well as the conditions set forth in this subpart. Such Outdoor Recreation Facilities may only include miniature golf facilities (up to 36 holes) and batting cages may be permitted as Outdoor Recreation Facilities.

Nothing herein is to be interpreted as precluding the use of any land for passive recreational activities such as, but not limited to, hunting, hiking, skiing, fishing, etc.

3. Minimum Area of Parcel. The Outdoor Recreation Facility Use may only be permitted on a single parcel of no less than 50 acres or contiguous parcels in common ownership of an aggregate area of no less than 50 acres.
4. Minimum Frontage. The parcel to be permitted must have at least two-hundred fifty feet (250') of continuous frontage on a public way.
5. Parcel Coverage. Outdoor Recreation Facilities shall not occupy more than 2.5% of the total land area of the parcel on which the facilities are located. This area limitation includes the portion of the tract occupied by required parking facilities and any associated structures and does not apply to buildings and structures used for agricultural purposes (including accessory uses).
6. Minimum Setbacks. The Outdoor Recreation Facilities Use areas and buildings (not to include related parking areas and trails for pedestrians or non-motorized vehicles) shall be no closer than forty feet (40') of a public road right of way line, and have the following side and rear yard setbacks:

<u>Setback</u>	<u>Agricultural</u>
Side Yard	20 feet
Rear Yard	25 feet

7. Maximum Height: Buildings and structures used as part of the Outdoor Recreation Facility Use shall be no higher than thirty-five feet (35') and include no more than 2 stories.
8. Maintenance of Agricultural Uses. Outdoor Recreation Facility Uses are to be incidental to the active farmland of the parcel on which they are located. Accordingly, the parcel must be maintained largely in an active agricultural usage. The applicant for the Special Permit (and owner of the property, if the applicant is not the owner) must provide demonstration that the property will be preserved in such use. If a substantial portion of the property ceases to be maintained as active farmland, the Special Permit for Outdoor Recreation Facility Use will be subject to termination by the Planning Board.

(U) Adult Entertainment Uses

(Adopted February 17, 2004 Special Town Mtg.)

1. Authority. This Subpart is enacted pursuant to the Town's authority under the Home Rule amendment to the Massachusetts Constitution and the authority and provisions of Chapter 40A, Section 9A, Massachusetts General Law.
2. Findings and Purposes. Preventing land uses from having deleterious impacts is a fundamental purpose of Zoning. Concentration of adult entertainment uses (as defined herein) and encroachment of such uses on residential areas have deleterious effects on the community and the adjacent areas. Among the deleterious secondary effects of such uses are increased crime levels and general blight. Late-night noise and traffic associated with the hours of operation of such uses also cause adverse secondary impacts of such uses. Accordingly, regulation of adult entertainment uses pursuant to this subsection has the following purposes:
 - a. Preventing the deleterious effects that such uses have on the community and adjacent areas.
 - b. Preventing the secondary effects associated with such uses.
 - c. Protect the health, safety, and general welfare of the present and future inhabitants of the Town.
 - d. Provide for regulation of such uses without suppressing any speech or expression activities protected by the First Amendment. Accordingly, the provisions of this Subpart (U) and the Zoning By-law in general have neither the intent nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the intent or office of this Subpart (U) to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or of the

Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute or exhibit such matter or materials. Nor is it the intent or effect of this Subpart (U) to legalize the distribution of obscene matter or materials.

3. Applicability. This subpart applies to all adult entertainment uses as defined herein.
4. Definitions. As used in this Subpart of the Zoning By-Law, the following words and phrases shall have the meanings and intent respectively ascribed to them by this subpart. If any word or phrase conflicts with definitions specified elsewhere in the South Hadley Zoning By-Law, the meaning and intent ascribed below shall govern:
 - a. Adult bookstore. As defined in Chapter 40A, Section 9A, MGL, this is an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Chapter 272, Section 31, MGL.
 - b. Adult motion picture theatre. As defined in Chapter 40A, Section 9A, MGL, this is an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Chapter 272, Section 31, MGL.
 - c. Adult paraphernalia store. As defined in Chapter 40A, Section 9A, MGL, this is an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Chapter 272, Section 31, MGL.
 - d. Adult video store. As defined in Chapter 40A, Section 9A, MGL, this is an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Chapter 272, Section 31, MGL.
 - e. Establishment which displays live nudity for its patrons. As defined in Chapter 40A, Section 9A, MGL, this is any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Chapter 272, Section 31, MGL.
 - f. Adult entertainment use. This is an establishment which is engaged in any one or more of the following uses as defined herein:
 - i. Adult bookstore
 - ii. Adult motion picture theatre
 - iii. Adult paraphernalia store
 - iv. Adult video store
 - v. Establishment which displays live nudity for its patrons

- g. Residential zoning district. Residential Zoning District shall refer to any and all property located within any of the following zoning districts as depicted on the South Hadley Zoning Map: Residence A-1, Residence A-2, Residence B, and Residence C.
 - h. Individual residential use. This term shall refer to any single-family or two-family residence located on a parcel located within the Agricultural Zoning District as depicted on the South Hadley Zoning Map.
5. Special Permit Required. No adult entertainment use shall be established or operated without a Special Permit having been issued by the Planning Board pursuant to this Subpart (U) and Section 9 of the Zoning By-Law.
 6. Location Restrictions. A Special Permit for any adult entertainment use may only be granted if the following location restrictions are met:
 - a. Overlay District. The subject property is located within the Adult Entertainment Use Overlay District established in Section 4 of the Zoning By-Law; and,
 - b. Business District. The subject property is entirely zoned either Business A-1 or Business B.
 7. Spacing from Uses and Districts. No Special Permit for any adult entertainment use may be granted unless the subject property is no less than 500 feet from the following uses or districts located within the Town of South Hadley:
 - a. Residential zoning district
 - b. Individual residential use
 - c. Public or private school
 - d. Church
 - e. Public or private library
 - f. Facilities licensed under Chapter 138, Section 12, MGL (except for such facility which is proposed to be used as adult entertainment use)
 - g. Any other adult entertainment uses
 8. Measurement of Spacing Requirements. The 500 feet distance specified in Subpart 7(U), paragraph 7 shall be measured as a straight line from the nearest point on the exterior property lines of the proposed adult entertainment use and the nearest point on the exterior property line aforementioned uses or districts.
 9. Development Standards. No Special Permit for an adult entertainment use shall be granted unless the site on which the use is proposed to be undertaken conforms to the following standards or provision is made for conformity with these standards prior to the adult entertainment use being operated:

- a. *Buffer.* A 6-foot high vegetative buffer shall be provided along the rear and side lot lines of any parcel on which is located an adult entertainment business. The purposes of this buffer are to provide visual screening of the adult entertainment use from the adjoining property. For purposes of this Subpart, this buffer shall be a continuous landscaped buffer strip and shall be no less than 6 feet in height and 10 feet in width. The Planning Board may authorize installation of a solid wood, stockade fence in lieu of the vegetation.
 - b. *Screening.* All building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the building by the public.
 - c. *Multi-Tenant Buildings.* No adult entertainment use shall be located in a building or on a property with more than one business located thereon.
 - d. *Dimensional Requirements.* All adult entertainment uses shall comply with the dimensional requirements of the underlying zoning district.
 - e. *Display Restrictions.* No graphics, pictures, publications, videotapes, movies, covers, or other implements, items, or advertising, that fall within the definition of, or associated with, an adult entertainment use shall be displayed in the windows of, or on the building of, any adult entertainment use, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semipublic, outside such establishments.
 - f. *Signs.* All signs shall comply with the provisions of Section 8(F) of the Zoning By-Law. No sign that falls within the definition of an adult entertainment use shall be displayed in the windows of, or on the building of, any adult entertainment use, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semipublic, outside such establishments.
 - g. *Illumination of Parking Areas.* All parking areas associated with the adult use shall be illuminated. Said illumination shall be designed, installed, and operated so as to be contained on the property. The Planning Board may, as a condition of the Special Permit, restrict the hours of illumination.
10. Special Permit Conditions. Acting as the Special Permit Granting Authority, the Planning Board may attach special conditions to the Special Permit where the Planning Board determines such conditions are necessary and appropriate to fulfill the purposes of the Zoning By-Law.
 11. Applicant Restrictions. No special permit to operate an adult entertainment use shall be issued to any person convicted of violating the provisions of Chapter 119, Section 63, Mass. General Law or Chapter 272, Section 28,

Mass. General Law. This restriction shall apply to owners, officers, directors, and general partners of the business entity.

12. Management Restriction. No person convicted of violating the provisions of Chapter 119, Section 63, Mass. General Law or Chapter 272, Section 28, Mass. General Law shall be employed to manage or operate an adult entertainment use.

13. Special Requirements for Applications. In addition to the requirements specified in Section 9 of the Zoning By-Law, any application for a Special Permit for an adult entertainment use shall also include the following materials/items:
 - a. *Description.* A written description of the proposed project, including:
 - i. Nature of proposed use; and,
 - ii. Improvements to be made to the property; and,
 - iii. Number of employees; and,
 - iv. Proposed hours and days of operation.

 - b. *Spacing Requirements.* A locus map highlighting the subject property, displaying the boundary lines of the following:
 - i. The subject property; and,
 - ii. All zoning districts within 500 feet of the subject property; and,
 - iii. Lots used for single or two-family residential purposes within 500 feet of the subject property; and,
 - iv. All uses specified in Subpart (U), Section 7.

This map shall be a minimum of 24" by 36" and a scale of 1" = 100'. The Planning Board may require a different scale where the Board determines that an alternative scale is deemed appropriate and necessary.

 - c. *Site Plan Requirements.* A Site Plan in accordance with Section 12 of this Zoning By-Law. If the proposed adult entertainment use involves use of an existing building and no new construction or exterior modification is proposed, the Board may waive appropriate requirements of the Site Plan, but shall require a plan that details the existing site conditions, proposed landscaping, proposed signage, proposed site and building ingress and egress, and proposed parking.

 - d. *Interior Layout.* An interior layout of the building as proposed by the applicant. This layout shall identify all areas which are to be accessible by the establishment's customers.

- e. *Security Provisions.* Proposed provisions for securing the safety of the public inside and outside of the adult entertainment use establishment.
 - f. *Applicant/Management Restrictions.* A sworn statement that neither the applicant (inclusive of the owners, officers, directors, and general partners), nor the manager in the adult entertainment use business has been convicted of violating the provisions of Chapter 119, Section 63, MGL or Chapter 272, Section 28, MGL.
 - g. *Authorization.* Written authorization from the owner of the property acknowledging the application and authorizing the applicant to submit the application.
14. Duration of Special Permit. A Special Permit for an adult entertainment use shall expire 12 months after from its date of issuance and shall be renewable upon submittal of a written request for such renewal. The Planning Board shall consider the request and grant the renewal upon findings that i.) the use has been operated in accordance with the conditions of the Special Permit and the Zoning By-Law, ii.) the use has not had a deleterious effect on the surrounding neighborhood, and iii.) there have not been changes in the ownership or management of the adult entertainment use.
- a. *Provision for Three-Year Renewal.* The Planning Board may grant a three-year renewal period for any adult entertainment use upon a determination that the use has been operated for the previous thirty-six consecutive months without an adverse impact on the neighborhood or change in ownership or management.
15. Pre-Existing Adult Entertainment Use. Pursuant to Chapter 40A, Section 9A, MGL, all existing adult entertainment uses shall apply for a Special Permit within ninety (90) days following adoption of this By-Law amendment.
16. Severability. If any portion of this By-Law amendment is ruled invalid, such ruling will not affect the validity of the remainder of the by-law amendment.

Section 8**GENERAL PROVISIONS****(A) Cornices**

Cornices may extend not more than one and one-half (1 ½) feet over or into any required front, side or rear yard.

(B) Unsafe Buildings

This By-Law shall not be considered as preventing the strengthening or the restoration to a safe or sanitary condition of any building or wall, declared unsafe or unsanitary by the Building Commissioner.

(C) Minimum Open Space

No lot shall be so reduced in size or area that any required yard, court or open space will be smaller than is prescribed by this By-Law for the district in which it is located.

(D) Visual Clearance

Between the lines of streets intersecting at an angle of less than one hundred and thirty-five (135) degrees and a line jointing points on such lines of ten (10) feet distant from that point of intersection, no building or structure may be erected and no vegetation maintained between a height of two and one-half (2 ½) feet and a height of eight (8) feet above the plane through their curb grades.

(E) Earth Removal, Extraction, and Fill Regulations

(Adopted May 12, 2001 Annual Town Mtg.)

1. **Permit Required.** In any zoning district, removal or addition of sod, loam, clay, gravel, quarried stone, or kindred materials shall not be undertaken if such removal or addition results in a change in the contours of the land, except by an Earth Removal, Excavation, and/or Fill Permit from the Building Commissioner.

- a. **Exemptions.** The fore mentioned permit shall not be required when the removal, excavation and/or fill activity is incidental to and in connection with any of the following activities:

- 1.) Construction of a structure on the premises for which a building permit has been issued, or incidental to the grading and development of contiguous property, and provided that such removal, excavation or addition is

limited to the area within a distance not more than one hundred (100) feet from the building or improvements authorized under said permit.

- 2.) Development of site improvements for a subdivision for which Definitive Plans have been approved, and endorsed by the Planning Board.

2. Classification of Activities. Earth removal, excavation, and fill activities are classified as either:

- a. Major Earth Removal, Excavation, and/or Fill Activities. These activities involve the removal, excavation, and/or addition of 5,000 or more cubic yards of material for use on parcels of land other than the parcel(s) from which the materials were removed or extracted.
- b. Other Earth Removal, Excavation, and/or Fill Activities. These activities involve the removal, excavation and/or addition of materials not otherwise classified as Major earth removal, excavation and/or fill activities.

3. Planning Board Approval Required and Application Requirements.

- a. Major Earth Removal, Excavation, and/or Fill Activities. Prior to applying for a Permit from the Building Commissioner, the applicant must apply for and receive a Special Permit from the Planning Board. Applications for such a Special Permit must include all items required for a Special Permit application and items required under this Section.
- b. Other Earth Removal, Excavation, and/or Fill Activities. Prior to applying for a Permit from the Building Commissioner, the applicant must receive approval of the plans for removal, excavation, and fill from the Planning Board. Applications must include all items required under this Section of the Zoning By-Law.
- c. Application Requirements. Each application for Planning Board approval shall include the following items:
 - 1.) A map prepared at the expense of the applicant showing the property boundaries, the existing contours of the land, and the contours as they are proposed after completion of the operations. Such map or plan shall be accurately drawn on reproducible paper or cloth, the contour interval

being two (2) feet, and shall contain complete information to make the physical characteristics clear.

- 2.) Application fee.
- 3.) Pictures of the existing conditions of the site.
- 4.) Description of proposed source of fill material to be added to the site and use of excavated materials.
- 5.) An estimate of the cost to restore the site to its proposed finished condition.
- 6.) Timetable for completion of the operations.

d. Supplemental Application Requirements. For Major activities, the following items must also be included in the application:

- 1.) A detailed cost estimate certified by a qualified engineer to restore the site to its proposed finished condition.
- 2.) Description of the proposed financial security to cover the cost of restoring the site to its proposed finished condition.
- 3.) Documentation of the elevation of the seasonal high water table.

e. No permit shall be issued until such plan has been filed with the Planning Board, the approval of said Planning Board recorded on the plan, and a copy of said approved plan submitted to the Building Commissioner.

4. Limitations on Operations. No applicant shall carry on operations above or below such a grade as may be fixed by the Planning Board without, on each occasion, obtaining the permission of said Board in writing, but a tolerance of six inches shall be permitted during or at the termination of operations. Further, operations must be carried out in accordance with the conditions of the Planning Board approval.

a.) Prohibited Area. No Major earth removal, excavation, or fill activity shall be permitted in the area bounded as follows: on the south by Route 47, Pearl Street, and Route 116; on the east by Route 116 and the Granby Town Line; on the north by the Amherst and Hadley Town Lines; and on the west by Route 47 and the Hadley Town Line.

b.) Finished Grade. The finished grade for any Major earth removal, excavation, and fill activity shall be no steeper than a 3:1 slope unless the Planning Board, based upon adequate engineering analysis and certification, determines that sufficient precautions for erosion and runoff are established to ensure the work is consistent with the purposes of the Zoning By-Law.

- c.) Depth to Water Table. No excavation activity shall be nearer than five feet (5') of the seasonal high water table.
5. Extension of Time Limit. A permit issued for the removal or addition of materials shall state the time within which work is to be carried on and finished and the land is brought to the predetermined grade, but the Building Commissioner with the approval of the Planning Board, and without consent of any surety, may extend the permit from time to time.
6. Surety Requirement. The Planning Board may require a bond in a sufficient penal sum with sufficient surety or sureties conditioned on the performance of the requirements herein set forth and of the conditions of the permit.

(F) Signs

(Amended June 7, 2005 Special Town Mtg. In paragraph 1)

1. Signs in Business and Industrial Districts. Signs pertaining to the occupant of the premises or to the type of goods sold or services rendered on the premises are permitted in the Business A-1, Business A, Business B, Business C, Industrial A, Industrial B, and Industrial Garden Districts, provided the following requirements are adhered to:
- a. The sign or signs shall be attached parallel to the wall of the principal building; the aggregate area of such a sign or signs on any one face of a building shall be less than ten percent (10%) of the area of such building face including openings; and such signs do not extend above a flat roof or eave line of a pitched roof more than ten percent (10%) of the average height of the front elevation of such building. No sign shall be painted on the wall of any building.
 - b. One free-standing sign is permitted per lot if located at least thirty (30) feet from an adjoining lot line and ten (10) feet from the street line and does not exceed an area of one (1) square foot for each four (4) lineal feet of lot frontage occupied by the premises, or sixty (60) square feet, whichever is the smaller.
 - c. Signs with any moving or flashing part, all signs of the traveling light or animated type, and all beacons and flashing devices, whether a part of, attached to, or apart from a sign are prohibited. All illumination of signs must be arranged and shielded so that the source shall not be visible from a public way or adjacent property.

2. Signs in Residence and Agricultural Districts. All signs are prohibited in Residence and Agricultural districts, except the following:
 - a. Signs for home occupations, as provided in Section 7, Part (A), of this By-Law.
 - b. A single sign, not more than four (4) square feet in area, located flat on a building or dwelling in a Residence C district, identifying the name of the building. Any illumination of such sign shall be continuous indirect lighting.
 - c. Real estate signs having an area of not more than five (5) square feet advertising the sale, rental or lease of the premises on which they are maintained.
3. Political Signs. Political signs, including but not limited to signs advertising or promoting candidates for public office or urging positions on questions appearing on the ballot of a regular or special election, are permitted in all districts, in excess of the usual limits, for a period of forty-five (45) calendar days prior to the election and shall be removed within ten (10) calendar days following the election.
4. Traffic Control. Traffic control and directional signs by Municipal, State and Federal agencies are permitted in all districts.
5. Directional Signs. Directional signs by private nonprofit institutions or nonprofit organizations shall also be allowed in all districts, provided however that such signs shall be subject to the following limitations:
 - a. The maximum size of such signs shall be three hundred (300) square inches.
 - b. No more than three (3) such signs shall be permitted for any institution or organization.
 - c. Any such sign erected or installed within the boundaries of a street must be approved by the Town Engineer in order to insure that it does not constitute a safety hazard.
6. Temporary Signs. A temporary real estate sign, advertising the availability of the property for sale, may be erected for a period extending only until such property is sold. Such sign shall not exceed twenty (20) square feet in area and shall be located at least ten (10) feet from the street line or on a building if in closer proximity to the street line.

7. Illumination of Signs. No illuminated signs shall be permitted unless first approved by the Planning Board. Prior to approving an illuminated sign, the Planning Board must make a determination that the sign will not be adverse to the character of the surrounding neighborhood or the community. The Planning Board shall notify, by mail, abutters of the date, time, and place of the Planning Board meeting at which the request for an illuminated sign is to be considered.
 - a. Exception. Traffic control and directional signs by Municipal, State and Federal agencies shall be excepted from this requirement.

(G) Off-Street Parking

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

1. Location. Parking facilities shall be located on the same lot with the principal use they are required to serve. In no case shall parking for a nonresidential use be permitted in a Residence or Agricultural District. In Residence C, Business and Industrial Districts, parking space and access drives shall be located no closer than ten (10) feet to any adjoining residential property or adjoining property in a Residence District, and parking space shall be arranged so that vehicles will not need to back into the street. Not more than two (2) access drives shall be permitted per lot per facing street. Any portion of any access drive shall be at least twenty (20) feet from the street line of an intersecting street.
2. Size and Surfacing. Each required parking space shall be not less than nine (9) feet in width and shall have a minimum area of one hundred eighty (180) square feet exclusive of drives or aisles. Parking areas and access drives shall be surfaced with a bituminous binder, concrete, asphalt, gravel or crushed stone. Access drives shall be twenty-four (24) feet or less in width at their intersection with the street right-of-way line.
3. Screening. Screening consisting of a woven wood or similar closed surface or wall not to exceed five (5) feet in height, or a dense evergreen hedge, shall be provided and properly maintained in order to effectively screen parking areas for five (5) or more vehicles from any adjoining property in a Residence District or any adjoining residential property in any other district.
4. Rules of Interpretation. In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately. Parking spaces for one use shall not be considered as providing the required parking for any other use.

Where individual seats are not provided in an establishment, each eighteen (18) inches of benches or similar seating shall be considered as one seat for purposes of computing required parking capacity. When additions are made to an existing structure, the determination of the required parking spaces shall be based on the total increase which the structure has undergone since the effective date of this amendment, whether such total increase occurs at one time or in successive stages.

5. Schedule of Requirements. The quantity of off-street parking provided shall conform to the following schedule:

<u>USE</u>	<u>REQUIRED MINIMUM/ (PERMITTED MAXIMUM) PARKING SPACES</u>
Single-Family dwelling	2 per family; (max 4)
Two-, three- or multiple-family dwellings	2 spaces per unit for up to 50 units and 1.5 spaces for each unit over 50
Accessory uses in Residence Districts	1 per each 300 sq. ft. of accessory use; (max 5 spaces)
Housing for the elderly	1 for each 2 families
Rooming, boarding and lodging houses (where either the principal or accessory use)	1 for each sleeping room
Hospitals	1 per bed
Sanitariums	1 for each 8 beds
Rest, convalescent, and nursing homes and homes for the aged	1 for each 4 beds
Public and private schools (grades 1-12 inclusive)	1 for each teacher and other staff member, or 1 for each 4 seats in the largest public assembly room, including auditorium and gymnasium, whichever is largest

<u>USE</u>	<u>REQUIRED MINIMUM/ (PERMITTED MAXIMUM) PARKING SPACES</u>
Places of public assembly, including theaters, auditoriums, and funeral parlors	1 for each 3 seats or each 20 sq. ft. of floor area usable for seating if seats are not fixed
Bowling alleys	4 per lane
Roller or ice skating rinks	1 for each 3 persons maximum capacity
Banks and business offices	1 for each 200 sq. ft. of gross floor area
Medical or dental offices/clinics	5 per professional office
Eating and drinking establishments	1 for each 3 seats
Wholesale and industrial establishments	1 for each person employed on the largest shift, plus 1 for each company-owned vehicle
Automobile service stations	4 per service bay
Retail & Service Businesses	1 space for each 200 square feet of gross floor area, excluding storage areas
Retail/Wholesale Sales	The number of parking spaces required for each "Retail/Wholesale Sales" use shall be determined on an individual establishment basis by the Planning Board as a condition of the Special Permit granted for the establishment.
Flea Market	1 parking space for each 150 square feet of gross floor space.

Where commercial uses are of the open-air type and not enclosed in a structure, the area of the lot devoted to such use shall be considered gross selling space.

For cases not specifically enumerated herein, adequate parking areas shall be provided off the traveled way. All uses shall have adequate off-street parking to accommodate customers, patrons and employees. Parking on a public or private street or way adjacent to the premises shall be considered evidence of the inadequacy of the off-street parking space provided for both new uses and conversion or expansion of existing uses.

6. Commercial Vehicles in Residence Districts. In Residence or Agricultural Districts, not more than one commercial vehicle weighing not over one and one-half (1 ½) tons gross weight may be parked on any lot, except in the case of a farm operated on a full-time basis by a resident thereon.

(H) Mobile Homes and Recreational Vehicles

Mobile homes, house trailers and recreational vehicles are prohibited as structures for residential use in all zoning districts. Not more than one (1) mobile home, house trailer or recreational vehicle per family may be kept or stored on any lot where the principal use of said lot is residential in nature, and such mobile home, house trailer or recreational vehicle shall not be used for living quarters.

(I) Unregistered Motor Vehicles

The keeping of more than one unregistered vehicle, assembled or disassembled, except by a person licensed under Mass. General Laws, Chapter 140, Section 59, on any premises shall not be permitted unless said motor vehicle is stored in an enclosed building or otherwise out of sight of all abutters and public ways.

Whoever violates any provisions of this article shall be liable to a penalty for each day of violation, commencing ten days following date of receipt of written notice from the Board of Selectmen. This article shall not apply to motor vehicles which are designated and used for farming purposes.

(J) Private Swimming Pools

Private swimming pools, as defined herein, shall be permitted as accessory uses to residential dwellings provided that they conform to the following standards:

1. Location. The location on a lot of a pool and its appurtenant structures shall conform to the minimum front, side and rear yard requirements of the respective zoning district, but in no case shall the pool be located nearer than ten (10) feet to any side or rear lot line.
2. Fencing. All in-ground pools shall be enclosed by a fence of at least four (4) feet high and of a type not readily climbed by children. Above-ground pools shall have a removable ladder which is removed at all times when the swimming pool is not in use.

3. Operation. The operation and maintenance of all pools shall comply with the rules and regulations of the Board of Health.

(K) Minimum Floor Area Requirements

Each dwelling unit in a two-family (new or converted), three-family, or multi-family structure shall contain a minimum floor area of four hundred twenty (420) square feet. In computing the required minimum floor area, only the area devoted to the exclusive use of the dwelling unit for living purposes shall be considered. Storage areas, hallways, breezeways, balconies, foyers, and other areas in common with other tenants shall not be included.

(L) Flood Plain Regulations

1. Purposes. These flood plain regulations are intended to provide standards for the use of those lands deemed subject to seasonal or periodic flooding, and are enacted for the following purposes:
 - a. To eliminate potential dangers to the health and safety of occupants of said lands, or of the public generally;
 - b. To prevent loss and damage to property, and relieve the burden from the public of costs resulting from the unwise use of said lands; and
 - c. To retain the natural storage capacity of the water-shed, and assure the continuation of the natural flow pattern of water courses within the Town, in order to avoid encroachment on the floodplain which would increase the extent and severity of flooding up- and downstream.
2. Flood Plain District. The Flood Plain District is herein established as an overlay district. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the South Hadley Flood Insurance Rate Maps (FIRM), and all areas within the limits of the 100 year flood boundary indicated on the Flood Boundary and Floodway map, said maps dated August 15, 1979 having been prepared by the U.S. Dept. of Housing and Urban Development (HUD) and having been placed on file with the Town Clerk, Planning Board and Building Commissioner. These maps as well as the accompanying South Hadley Flood Insurance Study are incorporated herein by reference.

The above-described Flood Plain District is hereinafter also referred to as the flood plain. The floodway is hereby defined to include: (1) the area shown as within the floodway on the above-referenced maps, and (2) the

area within the flood plain which lies ten (10) feet or more below the elevation of the flood plain limits. The boundaries of the floodway shall be determined by the limits of the more extensive of the aforesaid areas.

Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant for any building permit shall obtain any existing base flood elevation data and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of this Section and of the State Building Code.

3. Permitted Uses. Within the flood plain but outside of the floodway, all uses as permitted in the applicable zoning district are allowed, provided that the lowest floor, including basement or cellar, of any building or structure is constructed at an elevation of at least one (1) foot above the elevation of the flood plain limits as defined in the above-referenced maps.

Within the floodway, only uses not involving a building, such as framing, forest management, nurseries, conservation areas, parks, playgrounds, boat landing ramps, public utility wires and pipe lines, and vehicular parking areas area permitted. Open storage of materials or equipment subject to flotation or washing away, such as lumber storage, is not a permitted use nor is the storage of inflammable liquids such as petroleum.

The addition or filling of soils, gravel, rocks, waste materials or other substances to raise the elevation or contours of land in the floodway is prohibited.

4. Exceptions. The Planning Board, acting as the special permit granting authority, may grant a special permit for the construction of non-residential structures or buildings in the flood plain but not in the floodway, provided that the following conditions are satisfied:
 - a. The building or structure is a permitted use in the applicable zoning district; and
 - b. Such building or structure shall be designed and constructed to meet the structural design requirements for floodproofing as specified in Section 748.2 of the Massachusetts State Building Code, as amended, up to an elevation not less than two (2) feet above the elevation of the flood plain limits. Working plans and specifications bearing the seal of a registered architect or engineer shall be submitted to the Planning Board and the Building Commissioner to verify that the proposed construction will withstand flood conditions as set forth in said State Building Code.

The Planning Board may attach conditions to such special permit to protect the health and safety of the occupants of the premises, to prevent loss and damage to the property, and to insure that construction and improvements on the land will not result in flood channel impoundments creating hazardous conditions for those properties upstream from that of the applicant.

5. Floodway and Base Flood Elevation Data.

- a. Floodway Data. In Zone A and Zones A1-30, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, Local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. Base Flood Elevation Data. Within unnumbered A zones, applicants proposing developments (including but not limited to subdivisions) involving more than 50 lots or 5 acres (whichever is the lesser), must provide base flood elevation data.

6. Notification of Watercourse Alteration.

Any person intending to alter or relocate a watercourse in a riverine situation must notify the following:

- a. Adjacent towns and cities
- b. The National Flood Insurance Program State Coordinator with the Massachusetts Office of Water Resources
- c. The National Flood Insurance Program Specialist with the Federal Emergency Management Agency for Region I.

7. Compliance with Other Regulations. All development and use of land in the Flood Plain District, including structural and non-structural activities, whether permitted by right, Special Permit or Site Plan Review (noted as Y, SP, SPR respectively in Subsection 5(D) of the Zoning By-Law) must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with other state and local regulations including but not limited to, the following:

- a. Applicable section(s) of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas;
- b. Department of Environmental (DEP) regulations regarding:

- Wetlands Protection
- Inland Wetlands Protection
- Subsurface Disposal of Sanitary Sewage

Variations granted by the Town of South Hadley under Chapter 40A, MGL or the Town's Zoning By-Law do not convey a grant of a variance from State Regulations. Accordingly, any variations from the provisions and requirements of the State Regulations referenced in paragraphs 7a or 7b above may only be granted in accordance with the required variance procedures of the applicable State regulations.

8. Supplemental Requirements and Restrictions.

- a. In Zones A1-30, along watercourses that have a regulatory floodway designated on the South Hadley 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.
- b. All Preliminary and Definitive Subdivision Plan and Site Plan proposals must be designed, and are to be reviewed, to assure that:
 - 1.) development and use proposals minimize flood damage; and
 - 2.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and,
 - 3.) adequate drainage is provided to reduce exposures to flood hazards.

(M) Solar Access

1. Purpose. In view of the existing shortage of conventional energy sources, it has been determined to be in the public interest to encourage the use of solar energy for heating and cooling of buildings and providing hot water for use in buildings or swimming pools. The use of solar collectors for this purpose requires adequate access to sunlight by each lot without obstruction by adjacent structures. It is the intent of this section to encourage the use of solar collectors by protecting access to sunlight in a manner consistent with the other purposes of this By-Law.

2. Definitions.

- a. Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.
- b. Solar Energy: Radiant energy (direct, diffuse, and reflected) received from the sun.
- c. Solar Skyspace: The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

3. Permitted Use. The use of solar energy collectors for the purpose of providing energy for heating and/or cooling is a permitted use within all zoning districts, whether as a part of a structure or incidental to a structure or group of structures in the nearby vicinity. No guarantee is hereby given that the use of solar collectors is economically or technically feasible on all property within the Town.

4. Protection of Solar Collectors' Access To Light. Skyspace easements across contiguous or nearby lots, tracts, or land may be created to establish a window or exposure to the sun so as to protect an existing or intended solar collector's exposure to the sun from obstruction by buildings or trees.

- a. Solar skyspace easements may be purchased, reserved, granted or otherwise obtained. Adverse possession cannot create such an estate.
- b. A solar skyspace easement may, at the discretion of the easement owner, be recorded and filed with the Building Commissioner.

5. Variances. The inability of a property owner to site a structure within the confines of the prevailing lot dimensions for the purpose of obtaining unimpaired solar access may constitute a hardship under the provisions of Chapter 40A, Section 10 of the Massachusetts General Laws.

Variances may be granted by the Board of Appeals from dimensional restrictions such as height, setback, and lot density where such variances are necessary to permit unimpaired access to the sun during hours of 9:00 a.m. and 3:00 p.m. so long as such variances do not interfere with an existing solar collector to any degree or preclude the construction of a

solar collector on northerly property within the reasonable vicinity and are not otherwise injurious to adjacent property.

(N) Wind Energy Conversion Systems

(As Amended Dec. 6, 2004 Special Town Mtg.)

1. **Definition.** A wind energy conversion system (WECS) is any device (such as a wind charger, wind turbine, or windmill) that converts windpower to another form of energy such as electricity or heat.
2. **Special Permits.** The construction of a wind energy conversion system in excess of the height permitted by right in any district shall require a special permit from the Planning Board. In addition to the procedures and standards for special permits provided in Section 9 of this By-Law, the following additional provisions shall apply to special permits for wind energy conversion systems:
 - a. Special permit applicants shall file technical performance and safety data obtained from an appropriate testing facility that illustrate sufficient safety levels in the operation of the system. The Planning Board shall issue a special permit only upon certification by the Town Engineer that the proposed project meets acceptable standards of safety and durability. *(As Amended Dec. 6, 2004 Special Town Mtg.)*
 - b. The WECS shall be set back from any property line at least one foot for every foot of the structure's height.
 - c. A fence of at least 6 feet in height with a locking portal shall surround any WECS and the climbing apparatus shall stop at least 12 feet short of the ground so as to reduce the potential climbing hazards.
 - d. If it is determined by the Town Engineer that a WECS facility is causing interference to television or radio reception, the Town reserves the right to rescind the applicable special permit and to cause such facility to cease operation.

(O) Temporary Shelter

Upon application to the Board of Selectmen, an owner of real estate located within the Town of South Hadley may seek permission to be allowed to reside with his or her family in a temporary shelter which shall include but not be limited to a mobile home, on said real estate which proposed habitation is necessitated by a disaster rendering their residence on said property unfit for human habitation. Similarly, a tenant may request such permission providing that he or she has obtained written consent from the owner. If the Board of Selectmen

grant such permission it shall not exceed six (6) months in duration from the date of a permit. Application may be made to the Board of Selectmen for an extension of said six (6) month permit be an individual originally granted a permit for a period not exceeding an additional six (6) months. In considering the granting of any such extension(s) the Board of Selectmen shall determine if the restoration and/or reconstruction of said residence on said premises has proceeded in a diligent manner. It is not the intent of this provision that individuals shall have the right to reside within a temporary shelter in conflict with other provisions of the By-Law, but only under the circumstances outlined in this paragraph.

Section 9**SPECIAL PERMITS**

(As Amended through May 13, 2006 Annual Town Mtg.)

(A) Authority

(As Amended Dec. 6, 2004 Special Town Mtg.)

The Planning Board is hereby declared special permit granting authority, and is authorized to hear and decide upon applications for special permits in accordance with the law of the Commonwealth and the provisions of this By-Law. The special permit granting authority (hereinafter, SPGA) shall hear and approve, approve with modifications or conditions, or disapprove all applications for special permits. No special permit shall be authorized unless specific provision for such special permit is made in this By-Law.

(B) Application Procedure1. Applications

- a. Applications for special permits shall be filed with the Planning Board, on forms provided for this purpose. Applicants for special permits shall file a copy of said completed form with the Town Clerk. *(As Amended Dec. 6, 2004 Special Town Mtg.)*
 - b. The size, form, contents and style of plans and specifications required as part of an application for a special permit are contained in the Rules and Regulations of the SPGA, a copy of which is on file in the Town Clerk's office.
 - c. The procedure for the submission of Special Permits is prescribed in the Rules and Regulations of the SPGA, a copy of which is on file in the Town Clerk's office.
 - d. All plans and documents required by this By-Law shall be considered integral parts of an application. Applications shall be subject to such Rules and Regulations relating to scale, dimensions, legend, form, fees and other information as may from time to time be promulgated by the SPGA. The SPGA may require additional information in order to review an application adequately and make a decision.
2. Notification. Following the filing of an application, and before taking any action on the proposed special permit, the SPGA shall hold a public hearing on the application within sixty-five (65) calendar days. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where applications, texts and maps

thereof may be inspected shall be published in a newspaper of general circulation in South Hadley once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) calendar days before the day of the hearing, and such notice shall be posted in the Town Hall for a period of not less than fourteen (14) days before the day of said hearing. Notification of such public hearing shall be mailed to all parties in interest as provided in Section 11 of this By-Law.

Within twenty-one (21) calendar days following the filing of an application, and before the public hearing, the SPGA may hold a public forum on an application for a special permit. Notice of said public forum shall be published in a newspaper of general circulation not less than seven (7) days prior to the forum.

The SPGA may require that the applicant or his representative(s) be present at such public forum as a condition of approval of the special permit.

3. Hearings. Public hearings on applications for special permits shall be conducted in accordance with the provisions of Section 11 of the By-Law.
4. Decisions. Within ninety (90) calendar days following a public hearing, the SPGA shall decide to approve, approve with modifications or conditions, or disapprove an application for a special permit. The SPGA shall inform, in writing, the applicant, the Building Commissioner, the Town Clerk, and the Board of Selectmen of its decision and its reasons therefore.
5. Building or Occupancy Permits. Only after a special permit has been approved by the SPGA, and the appeal period specified in Part (E) has elapsed, and the decision of the SPGA has been recorded in the Registry of Deeds, may the Building Commissioner issue a building or occupancy permit. Any such building or occupancy permit must conform to all conditions or modifications attached to said special permit by the SPGA.
6. Vote. Approval of a special permit application, or approval with modifications or conditions, shall require an affirmative vote of at least four (4) of five (5) members of the Planning Board. *(As Amended Dec. 6, 2004 Special Town Mtg.)*
 - a. ***Associate Member – Appointment and Vote***. Pursuant to Section 417 of the General Bylaws of the Town of South Hadley and Chapter 40A, Section 9, MGL, there is to be appointed an Associate Member to the Planning Board. The Selectboard and the Planning Board shall jointly appoint this Associate Member for a three-year term. In the event that a Regular Member of the Planning Board is unable to participate in the voting on a Special Permit application, the Associate Member may so

vote on the application provided that the Associate Member has attended all of the relevant public hearings and meetings on the application. The vote of the Associate Member shall be considered as though a Regular Member of the Planning Board. *(As Amended May 13, 2006 Annual Town Mtg.)*

7. Expiration of Permit. A special permit secured under the provisions of this Section by vote of the SPGA shall expire if the work or change involved is not commenced within one year of the date on which the special permit is authorized, and if the work or change is not substantially completed within two (2) years.
8. Eligible Permittees. Applications for a special permit may be made by a person or corporate entity and, if approved, shall be granted to said person or entity. No special permit approved by the SPGA in accordance with this Section may be transferred or conveyed to any other person or entity other than the original grantee.

(C) Standards for Special Permits

In its decision the SPGA must make written findings on the following mandatory standards, requiring that a proposed use will:

- a. Be compatible in type and scale with adjacent land uses and with the character of the neighborhood in which it located;
- b. Be in harmony with the general purpose and intent of this By-Law;
- c. Constitute no significant hazard to abutters, pedestrians, or vehicles; and
- d. Constitute no nuisance by reason of excessive air, water or noise pollution, or by structures or accessories which are deemed visually objectionable in light of prevailing community standards.

In addition, the SPGA may include in its written findings, where applicable, consideration of any or all of the following criteria to be satisfied by the proposed use, building or structure:

- e. The need for the proposed use in the proposed location;
- f. Access to the site from existing or proposed roads, and to proposed structures thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in case of fire or emergency;

- g. The adequacy and configuration of offstreet parking and loading areas, including their nuisance and economic impact on adjoining properties and on properties generally in the district;
- h. The availability and capacity of public services, facilities, and utilities;
- i. Visual and noise screening and buffering;
- j. Harmony of signs and exterior lighting, if any, with surrounding properties;
- k. Required yards and open space;
- l. The amount and type of wastes to be generated by the proposed use and the adequacy of proposed disposal systems;
- m. The impact of the proposed use on the land, surface water and subsurface water, and their ability to sustain such use without degradation;
- n. The location of the site, and proposed buildings or structures thereon, with respect to flood plains and floodways of rivers or streams; or
- o. The absence of any other characteristic of the proposed use that will be hazardous, harmful, offensive or will otherwise adversely affect the environment or the value of the neighborhood or the community.
- p. Provisions for energy conservation, for the use of renewable energy sources, and for protection of solar access.

(D) Conditions Attached to Special Permits

- a. Specifications. Upon consideration of the standards and/or criteria listed above, the SPGA may attach such conditions or modifications to a special permit, in addition to those required elsewhere in this By-Law, that it finds necessary to further the purposes of this By-Law. Violation of any of these conditions or modifications shall be a violation of this By-Law. Such conditions or modifications may include, but are not limited to, specifications for: type of construction, increased setbacks and yards, landscaping and screens or buffers, operational controls, sureties, deed restrictions, restrictive covenants, locations of parking and signs; or any other conditions necessary to fulfill the purposes of this By-Law.
- b. Submission of Information. In order to secure information upon which to base its determination, the SPGA may require the applicant to furnish, in addition to the information required for an application for a special permit, such further information as it deems necessary to establish its findings.

- c. Performance Guarantee. A performance guarantee may be required prior to and as a condition of the Special Permit Granting Authority's approval of the Special Permit.
- d. Special Municipal Account. The applicant has paid the Special Municipal Account review fee as determined by the Board.

(E) Appeal Period

No special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampshire County Registry of Deeds in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

(F) Assessment of Costs

Costs of notice of the public hearing, and the fee for recording or registering a special permit with the Registry of Deeds, shall be paid by the applicant.

(G) Repetitive Petitions

No petition or application for a special permit under this Section which has been unfavorably acted upon by the SPGA shall be considered on its merits by said SPGA within two (2) years after the date of such unfavorable action, except with the consent of all members of the Planning Board.

Section 10**BOARD OF APPEALS****(A) Appointments**

(As Amended Dec. 6, 2004 Special Town Mtg.)

The Board of Selectmen shall, within thirty (30) days after the adoption of this By-Law and thereafter as terms expire or vacancies occur, make appointments to a Board of Appeals as provided in Section 12 of Chapter 40A of the Mass. General Laws as amended, having all the powers and duties as provided in Section 14 therein. Said powers shall include the authority:

1. To hear and decide appeals in accordance with Section Eight of said Chapter 40A;
2. To hear and decide petitions for variances from the dimensional requirements set forth in this By-Law, under the provisions of Section Ten of said Chapter 40A.

(B) Membership

Said Board of Appeals shall consist of three (3) members appointed for terms of such length and so arranged that the terms of one appointee shall expire each year. There shall also be appointed two associate members for a term of three (3) years, so that in case of vacancy, inability to act, or interest on the part of a member of said Board, the Board member's place may be taken temporarily by the associate member. Said Board shall elect annually a Chairman from its own members.

(C) Right of Appeal

Any person aggrieved by the refusal of the Building Commissioner to issue a permit or license on the grounds of non-compliance with this By-Law or any person aggrieved by a decision of the Building Commissioner may appeal to the Board of Appeals as provided in Chapter 40A of the Mass. General Laws and all amendments thereto.

(D) Removal of Member

Any member of the Board of Appeals may be removed for cause by the appointing authority on written charges and after a public hearing.

Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. In case of a vacancy, inability to act or interest on the part of a member of the Board, the Board member's place shall be taken by the associate member.

(E) Repetitive Petitions

No petition or appeal to the Board of Appeals under this Section which has been unfavorably acted upon by said Board shall be considered on its merits by said Board within two (2) years after the date of such unfavorable action, except with the consent of all members of the Planning Board.

Section 11**ADMINISTRATION****(A) Public Hearings**

In all cases where a public hearing is required under the provisions of the General Laws, Chapter 40A, Sections 1 through 17 inclusive, required notice shall be given by publication in a newspaper of general circulation in South Hadley once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing. In all cases where notice to parties in interest or other boards or agencies is required, notice shall be sent by mail, postage prepaid. "Parties in interest" as used in this By-Law shall mean the petitioner, abutters, owners of land directly opposite on any public or private way, and abutters to the abutters within three hundred (300) feet of the property lines of the petitioner as they appear on the most recent applicable tax lists, notwithstanding that the land of any such owner is located in another city or town, and the planning board of every city and town abutting South Hadley. The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes. The permit granting authority or special permit granting authority may accept a waiver of notice from, or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five nor more than ten additional days to reply.

Publications and notices required by this Section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in South Hadley.

At a public hearing, all persons shall abide by the order of the chairman. At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause. Questions may be asked through the chair.

(B) Notifications of Decisions

Upon the granting of a variance or special permit, or any extension, modification or renewal thereof, the permit granting authority or special permit granting authority

shall issue to the owner and to the applicant if other than the owner a copy of its decision, certified by said permit granting authority or special permit granting authority, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such variance, permit or special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and Town Clerk. No variance, permit or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for Hampshire County and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

(C) Enforcement

The Zoning Enforcement Officer shall enforce the provisions of this By-Law as it may be amended. He shall refuse to grant a permit for the construction, addition, alteration, extension or change of use of any building, structure or premises if such proposed construction or change would be in violation of the provisions of this By-Law, as amended. State and town officers shall refuse any permit or license for a new use of a building, structure or land, which use would be in violation of any such By-Law or amendment thereof.

Any person violating any provisions of this Zoning By-Law, any of the conditions or modifications under which a permit or special permit is issued, or any decision rendered by the Board of Appeals, shall be fined Two-Hundred (\$200.00) Dollars for each offence. Each day that such violation continues shall constitute a separate offence.

In addition to any other available method of enforcement, violations of these By-Laws may be enforced, in the manner provided in Mass. General Laws, Chapter 40, Section 21D, by the Building Commissioner, Zoning Enforcement Officer or the By-Law Enforcement Officer.

(D) Filing of Plot Plan

Unless otherwise ordered by the Building Commissioner, all applications for building permits under the provisions of the Building Code of the Commonwealth of Massachusetts shall be accompanied by plans in duplicate. Such plans shall be drawn to scale, shall show the actual dimensions, radii, and angles of the lot to be built on, the exact size and location on the lot of the main building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this By-Law, as amended. One copy of plans filed by the applicant shall be returned to him when approved by the Building Commissioner.

(E) Certificate of Occupancy

No land changed in occupancy or use, and no building or structure hereafter erected or altered, shall be occupied or used, in whole or in part, for any purpose until a certificate of occupancy is issued by the Building Commissioner stating the building, structure or use complies with the provisions of this By-Law. No such certificate shall be issued unless the building or structure and its uses as well as the uses of all the premises are in conformity with the provisions of this By-Law.

Certificates of occupancy shall be required for any of the following:

1. Occupancy and use of a building hereafter erected or altered.
2. Change in use of an existing building or structure or premises to a different use.
3. Any change in use of a non-conforming use.

Upon completion of any building or structure and prior to the use of any such building, structure or premises, a certificate of occupancy shall be applied for on a form furnished by the Building Commissioner. Such application shall be acted upon within ten (10) days after the filing thereof. Such application shall be accompanied by a certificate of a surveyor which shall state that the building or addition, as completed, complies with the building permit issued therefore.

Section 12

SITE PLAN REVIEW

(As Amended through May 13, 2006 Annual Town Mtg.)

(A) Purpose

The purpose of site plan review is to ensure that new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town, to assure adequate drainage of surface water, and safe vehicular access, and is consistent with the Zoning By-Laws and Building Regulations.

(B) Projects Requiring Site Plan Review

(As Amended May 13, 2006 Annual Town Mtg.)

1. the construction or exterior expansion of commercial structures;
2. the construction or exterior expansion of industrial structures;
3. expansion of any parking lot by 10 or more parking spaces or conversion of any use resulting in the addition of 10 or more required parking spaces;
4. construction or exterior expansion of any educational institution or religious institution;
5. any other use specified in Section 5(D), Schedule of Use Regulations, which indicates Site Plan Review is required, unless the use is locating in an existing structure and no additions to the structure is to be undertaken and the Town Planner determines no additional parking will be required to conform to the Parking Requirements outlined in Section 8 of the Zoning By-Law.

No special permit or building permit shall be applied for or issued for any of the above uses unless a site plan has been endorsed by the Planning Board, after consultation with other boards, including but not limited to the following: Building Commissioner, Board of Health, Electric Light Department, Water Department, Conservation Commission, DPW Superintendent, Fire Department, Tree Warden and Police Department.

Site Plan Review for any use exempt from Zoning under Chapter 40A, MGL is for the purpose of ensuring compliance with reasonable regulations as related to parking, open spaces, building height, and building setbacks requirements as provided for in Chapter 40A, MGL.

Waiver Permitted. The Planning Board may waive any and all requirements of Site Plan Review/Approval for the following:

- 1.) New construction under 1,000 square feet; and,
- 2.) Exterior expansions provided that the expansion is less than 25% of the existing floor area of the structure. Where the structure is part of a complex consisting of multiple buildings functioning as a single facility, the sum of the total square footage of all structures comprising the complex may be used to determine the threshold for such a waiver.

Finding Required. Prior to granting any waiver of Site Plan Review/Approval, the Planning Board must make a finding that the Board determines the proposed development will have a de-minimis impact relative to the criteria set forth in Part (E) of this section.

(C) Application

Each application for Site Plan Review shall be submitted to the Planning Board on the appropriate form, accompanied by ten (10) copies of the site plan. A copy of the application form shall be concurrently filed with the Town Clerk.

The Planning Board shall obtain with each submission a fee, in accordance with the fee schedule, to cover any expenses connected with the public hearing and review of plans. A Special Municipal Account may be required as determined by the Planning Board.

A more detailed outline of application and site plan review procedures, fees, and required site plan contents are as specified in the Planning Board Rules and Regulations and may be modified from time to time as required.

(D) Procedures for Site Plan Review

- a. Planning Board shall send one copy of the plan to relevant town boards, commissions, and departments (agencies) within 5 days of receipt.
- b. Relevant town agencies shall review the application plan and must submit their written recommendations and comments or approval to the Planning Board within 35 days of the receipt of the application by the Planning Board. Failure to respond within 35 days shall be deemed to be lack of opposition.
- c. Following the filing of an application the Planning Board shall hold a public hearing on the application within 65 days of receipt of application and issue a final decision within 90 days following the public hearing; "Notice of the time and place of the hearing" and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of South Hadley once in each of two (2) successive weeks, the first publication being not less than fourteen (14)

days before the day of such hearing. A copy of said notice must be sent by certified mail to all abutters.

- d. If the proposed development requires a special permit, then the requirements of Massachusetts General Laws, Chapter 40A, Section 9 take precedence over this section, and any required public hearing for site plan review shall be held jointly with the special permit public hearing.
- e. For the purpose of securing the performance of all proposed work including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

(E) Site Plan Review Criteria

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

- 1. Integrates the development into the existing terrain and surrounding landscape.
- 2. Protects abutting properties and community amenities.
- 3. Provides for building sites, which to the extent feasible, (a) minimize use of wetlands, steep slopes, floodplains, hilltops; (b) minimize obstruction of scenic views from publicly accessible locations; (c) preserve unique natural or historical features; (d) minimize tree, vegetation and soil removal and grade changes; (e) maximize open space retention; and (f) screen objectionable features from neighboring properties and roadways.
- 4. Provides for the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining public ways and properties.
- 5. Utilizes architectural styles compatible with the character and scale of buildings in the neighborhood.
- 6. Provides for adequate water supply and waste disposal systems. For structures to be served by on-site waste disposal systems, the applicant shall submit a system design prepared by a Commonwealth of Massachusetts licensed sanitary engineer and approved by the Board of Health.

7. Provides for adequate measures to prevent pollution of surface or ground water, to minimize erosion and sedimentation, and to prevent changes in ground water levels, increased run-off and potential for flooding.
8. Mitigates adverse impacts on the town's services and infrastructure.
9. Requires that electric, telephone, cable tv, and other utilities be underground where physically and environmentally feasible.
10. If the proposal requires a special permit, it must conform to the special permit requirements as listed in Section 9 of this By-Law.

Before approval of a site plan, the Planning Board may request the applicant to make modifications in the proposed design of the project to ensure that the above objectives are fulfilled.

(F) Planning Board Decision

The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of Massachusetts General Laws, Chapter 40A.

The Planning Board's decision shall consist of either:

1. A written approval of the proposed project.
2. A written denial of the application stating reason for such denial; or
3. A written approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary to satisfy this By-Law.

The Planning Board's decision shall be mailed to the applicant and filed with the Town Clerk. A copy shall also be sent to the Building Commissioner.

(G) Enforcement

- a. Violations of the approved site plan or any conditions of approval shall be subject to the provisions of Section 11(C) of the Zoning By-Law.
- b. Site plan approval issued under this section shall lapse at the end of one (1) year after approval if work has not commenced, except where an extension of time for good cause has been granted by the Planning Board.

(H) Appeal Process

If an aggrieved person wishes to appeal the decision of the Planning Board, the procedures as outlined in Massachusetts General Laws, Chapter 40A, Section 8 must be followed, except where a site plan approval is issued in conjunction with a special permit, wherein Massachusetts General Laws, Chapter 40A, Section 17 must be followed.

APPENDICES

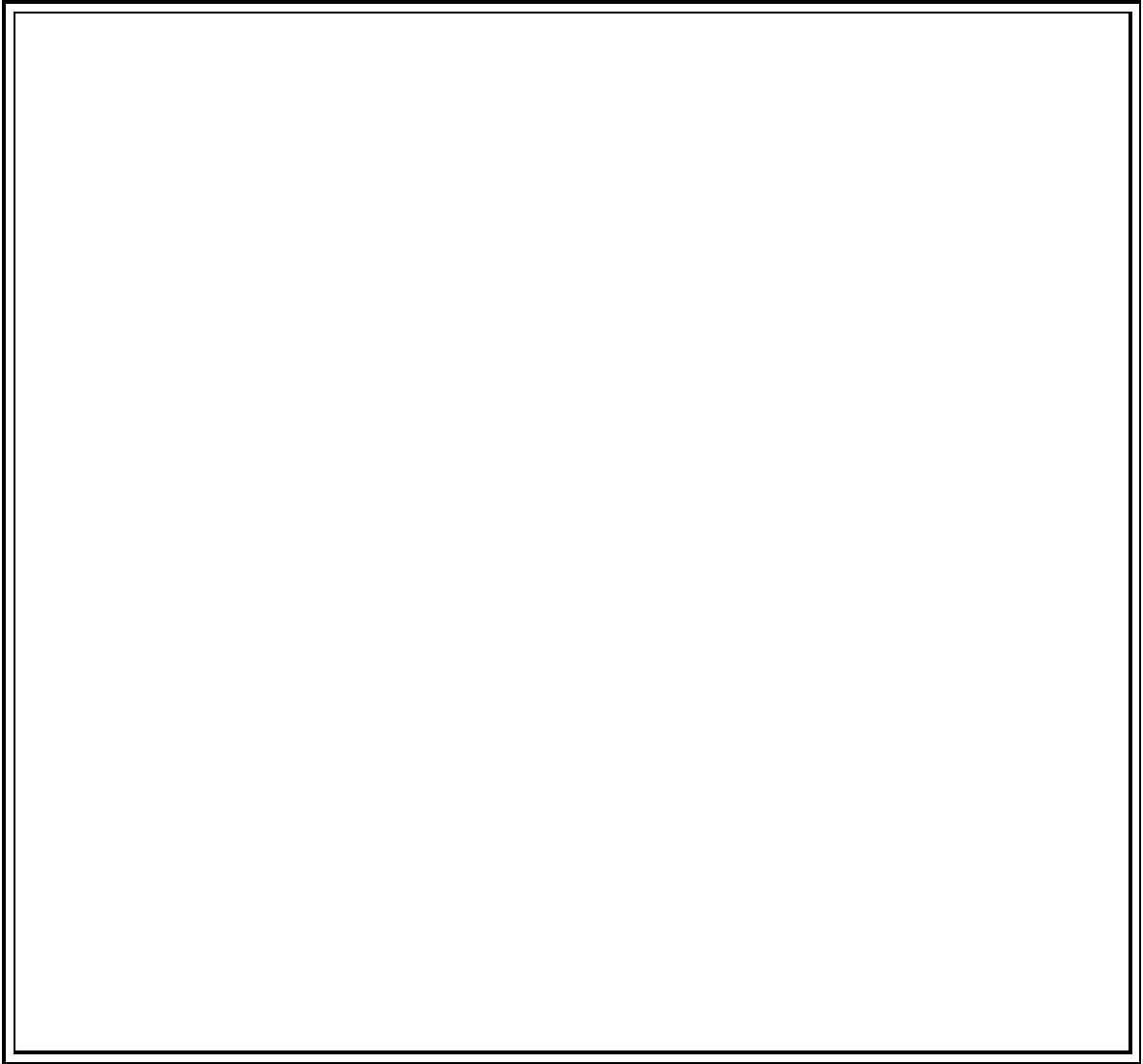
Appendix A – Illustrations Type 1-4 – Flag Lots

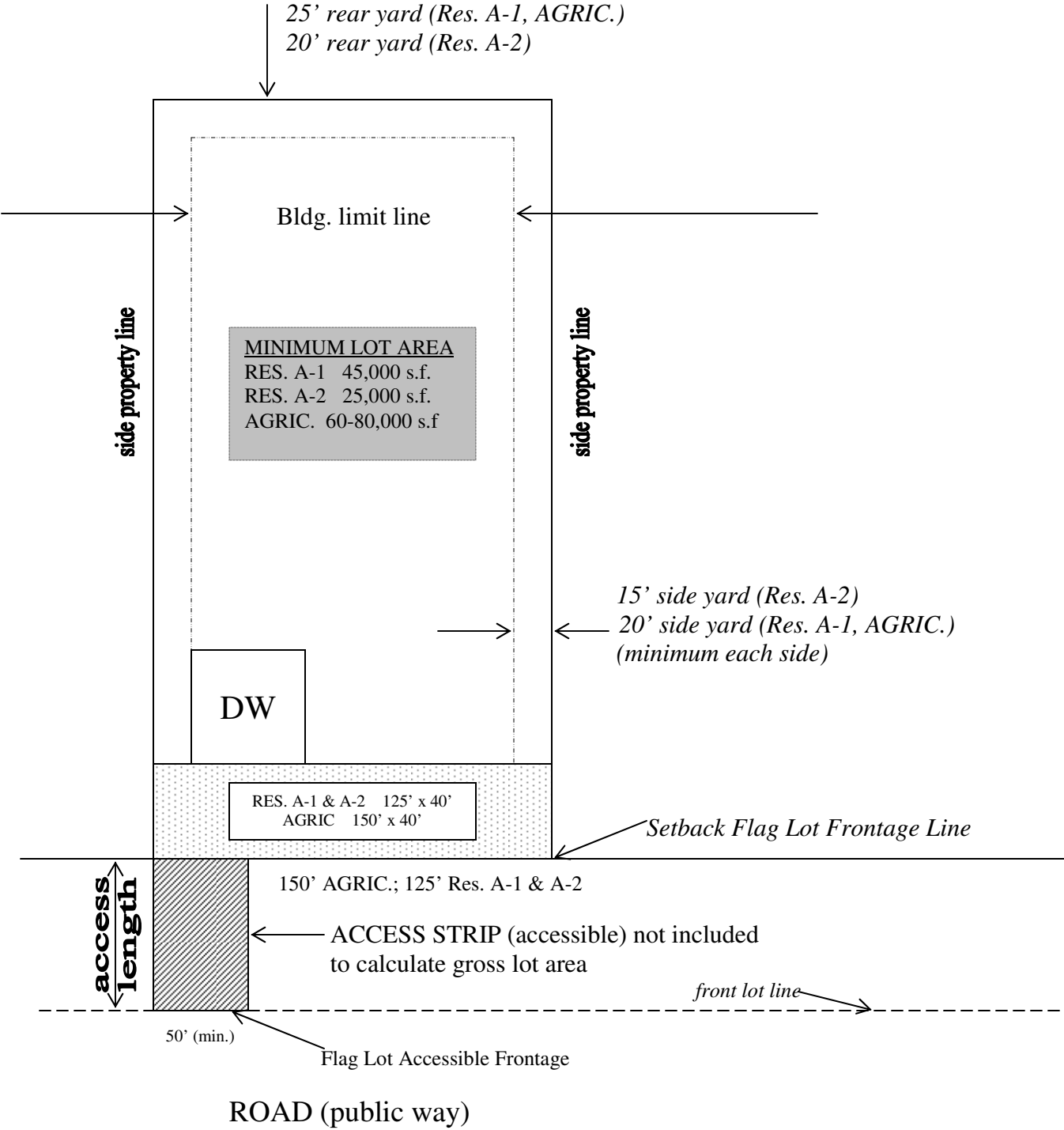
Appendix B – Rules and Regulations for Site Plan Review

**Appendix C – Rules and Regulations for Applications Review
Fees**


Appendix D – Planning Board Fee Schedule

**Appendix E – Application and Rules and Regulations for
Special Permit**



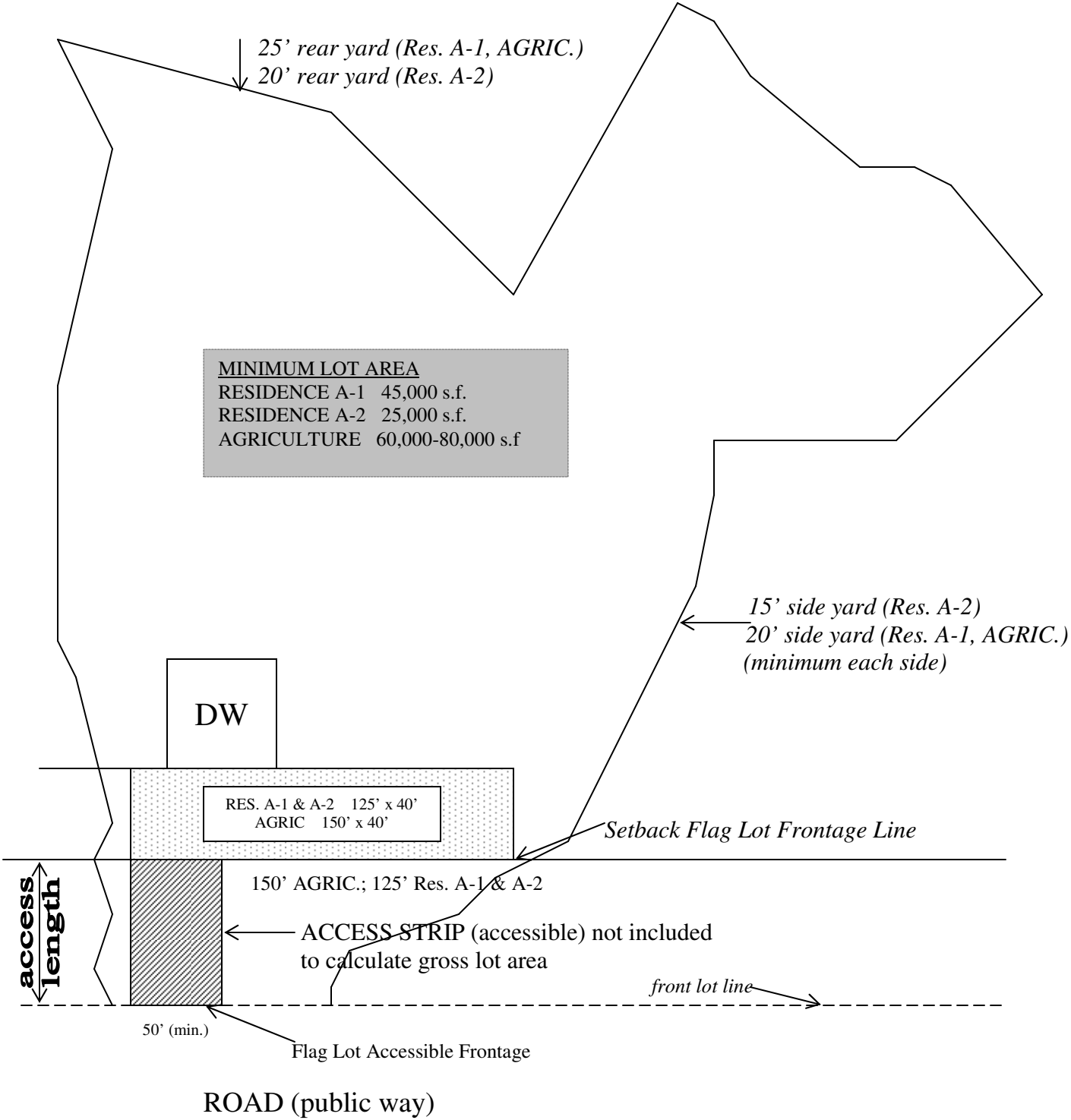


FLAG LOT
TYPE 1




N.T.S

South Hadley
Planning Board



FLAG LOT
TYPE 1



N.T.S

South Hadley
Planning Board

PLANNING BOARD RULES AND REGULATIONS

SITE PLAN REVIEW

1. Application:

Each application for Site Plan Review shall be submitted to the Planning Board on Form SPR, accompanied by ten (10) copies of the site plan. A copy of the Form SPR shall be concurrently filed with the Town Clerk.

The Date of receipt by the Town Clerk shall be considered the date on which the application has been filed with the Planning Board.

The information required with the application as specified in Section 3 and the fee required in Section 2 shall be considered a part of the application and no application shall be deemed complete unless said information and fee are included.

The Planning Board shall, within five days, transmit one copy of the plan to the Building Inspector, Board of Health, Conservation Commission, DPW Superintendent, Electric Light Department, Water Department, Fire Department, Tree Warden and Police Department.

2. Fees:

All applications for Site Plan Review shall be accompanied by cash or check payable to the Town of South Hadley in the amount specified in Appendix D (South Hadley Planning Board Fee Schedule). The costs of advertising the public hearing are to be paid by the applicant.

3. Required Site Plan Contents:

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

1. the location and boundaries of the lot, adjacent streets or ways, and the location and owner's names of all adjacent properties.

2. existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding, and unique natural land features.
3. existing and proposed structure, including dimensions and elevations.
4. the location of parking and loading areas, driveways, walkways, access and egress points.
5. the location and a description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other waste disposal methods.
6. proposed landscaping features including the location and a description of screening, fencing and plantings.
7. the location, dimensions, height and characteristics of proposed signs.
8. the location and a description of proposed open space or recreation areas.
9. A locus plan at a scale of one (1) inch equals four hundred (400) feet showing the exact site location in relation to two (2) or more existing streets.

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

**SOUTH HADLEY PLANNING BOARD
RULES AND REGULATIONS**

**APPLICATION REVIEW FEES – SPECIAL MUNICIPAL ACCOUNT
PURSUANT TO CHAPTER 40A, SECTION 9,
MASSACHUSETTS GENERAL LAWS**

Authority

1. Intent

When reviewing an application for permit/approval, the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts.

The Board may require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside professional expertise and/or consultants engaged by the Board to assist in the review of an application.

Professional Fields

2. Professional Expertise/Consultants

In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, by-laws, and regulations.

Minimum Qualifications

All consultants selected by the Board must meet minimum qualifications consisting of:

- a. an educational degree in, or related to the field at issue, from a recognized public or private college or university,

or

- b. three or more years of practice in the field at issue or a related field.

Filing with Town Clerk

The selection made by the Board shall be recorded with the office of the Town Clerk within five business days of the Board's final selection(s).

Deposit of Funds

3. Establishment of Special Account

Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special account for this purpose.

Minimum Fees

The fee schedule of the Planning Board under Application Review shall be adhered to in determining the review fee required for the establishment of the special account.

Additional Review Fee

If review funds charges are insufficient to cover the costs of outside professional expertise and/or consultant review, the Board may require the applicant to pay an additional review fee to cover these costs provided these costs are reasonable and directly related to the project undergoing review.

Expenditures From Fund

Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been, or will be, collected from the applicant.

Failure To Pay

Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

Use of Funds

4. Use of Funds

Review fees may only be spent for services rendered in connection with the specific project for which they were collected. These services shall include, but

are not necessarily limited to: project reviews, document reviews, and project-related inspections. Accrued interest may also be spent for this purpose.

Special Account To Cover Review Costs

If the outside consultant review begins and expenses are generated prior to the filing of a formal administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.

Excess Funds Returned

At the completion of the Board's review of a proposed project, or at a time determined at the submission of the application/permit, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest.

Report of Account

A final report of the status of said account shall be made available to the applicant or the applicant's successor in interest.

Successor In Interest

For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation that legally establishes this succession in interest.

Appeal Body

5. Method of Appeal

Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Board of Selectmen.

Grounds for Appeal

The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications.

Seven Days To File Appeal

Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen provided that such appeal is entered within seven days after such selection has been made as recorded in the office of the Clerk. An appeal

will not be considered valid unless it is formally filed with the office of the Town Clerk with a copy given to the Board of Selectmen.

Waiver of Appeal

The applicant should notify the Board of its intention to seek a waiver at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will be then viewed as an intention to appeal of the part of the project applicants. Failure to inform the Board of such intention of appeal may result in the delay of start-up of the town outside review services.

Action On An Appeal

In acting on an administrative appeal, the Board of Selectmen may determine that:

- a. a conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore, the Board must select another consultant,

or
- b. a conflict or interest does not exist, and/or the consultant does meet the minimum qualifications, therefore, the selection made by the Board stands.

Review Period Extended

The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing such Appeal.

No Decision On Appeal

In the event that no decision is made within one month (30 days) following the filing of the appeal, the selection made by the Board shall stand.

SOUTH HADLEY PLANNING BOARD FEE SCHEDULE

(As Amended on January 27, 2004 effective January 27, 2004)

APPLICATION FEES

FORM A – Subdivision Approval Not Required (ANR) \$125/new lot

FORM B – Preliminary Subdivision Plan

Small Subdivision*	\$100 plus \$100 per lot
For Any Other Subdivision:	
<6 lots	\$400 plus \$100/lot
6-25 lots	\$400 plus \$ 75/lot
>25 lots	\$400 plus \$ 50/lot

FORM C – Definitive Subdivision Plan (After Preliminary Plan)

Small Subdivision*:	\$100 plus \$100 per lot
For Any Other Subdivision:	\$400 plus \$100/lot plus \$2.00 per linear foot of roadway

FORM C – Definitive Subdivision Plan (without Preliminary Plan)

Small Subdivision*:	\$400 plus \$200 per lot
For Any Other Subdivision:	
<6 lots	\$1,000 plus \$200 per lot+
6-25 lots	\$1,000 plus \$175 per lot+
>25 lots	\$1,000 plus \$150 per lot+
	+plus \$2.00 per linear foot of roadway*

**This fee will apply if the Planning Board denied the Preliminary Plan or if a period of 12 months or longer has elapsed since the Preliminary Plan was approved.*

**Small Subdivision is defined as a proposed subdivision meeting all of the following conditions: a. Creation of no more than 2 building lots; and, b. Proposed street length of no more than 400 feet; and, c. Street is proposed to be privately owned and maintained; and, d. All municipal services to be provided only to the edge of the public right of way.*

FORM H – More Than One Building for Dwelling Purposes per Lot

\$200 & \$ 25/unit

PUBLIC HEARING NOTICES -

In addition to the required application fee, whenever an application for Planning Board approval requires a public hearing, the following fees are to be assessed to and paid by the applicant:

- **Notices to Abutters** - \$50.00 plus actual cost of postage (certified mail with return receipts). This charge must be paid prior to beginning of public hearing.
- **Public Hearing Advertisement** – actual cost (to be billed directly to the applicant from the newspaper in which the notice is advertised)

SPECIAL PERMIT - FORM SP

Two-Family (new)	\$125*
Three-Family	\$200*
Multi-Family	\$200 plus \$50 per unit*
Mobile Home	\$125*
Major Excavation Activity	\$1,000 plus \$0.05 per cu. yd.
Other Excavation Activity	\$100 plus \$0.05 per cu. yd.
Wireless communications Facility	
New tower:	\$250 plus \$5 per linear foot*
Addition to existing tower:	\$125 plus \$2.50 per linear foot*
Professional Business	\$125*
Other	\$200 & \$0.05/sq. ft.*

**This fee is in addition to the fee required for a Site Plan Review for the same project.*

APPENDIX D

SITE PLAN REVIEW – FORM SPR \$150 plus \$0.05 per sq. ft. of new construction and \$1 per new parking space

OTHER REVIEWS/WAIVERS

Waiver of site plan review	\$75
Illuminated sign request	\$50*
Waiver of subdivision or Site plan review requirements	\$25 for each requirement requested for waiver

**In addition to the cost for notification of abutters as if the request was subject to a public hearing.*

OTHER REVIEWS -

Chapter 40-A, Section 3 – Initial Plan Review	\$ 75 & \$0.04/ sq. ft.
Chapter 40-A, Section 3 – Revised Plan Review	\$ 50 & \$0.025/ sq. ft.
Plan Reviews Not Otherwise Specified – Initial Plan Review	\$ 75 & \$0.04/ sq. ft.
Plan Reviews Not Otherwise Specified – Revised Plan Review	\$ 50 & \$0.025/ sq. ft.

APPLICATION REVIEW (Per Appendix C of Zoning By-Law – Special Municipal Account)

Subdivision – Preliminary	\$ 2,500
Subdivision – Definitive	\$ 7,500
Earth Gravel Removal	\$ 2,500
Multi-Family (under 25 units)	\$ 3,500
Multi-Family (greater than 25 units)	\$ 5,000
Commercial (less than 10 acres)	\$ 3,500
Commercial (greater than 10 acres)	\$ 7,000
Industrial (less than 10 acres)	\$ 5,000
Industrial (greater than 10 acres)	\$10,000
Acquifer	\$ 3,500
Detention/Retention Basins	\$ 3,500
Hazardous Material	\$ 5,000
Other Special Use/Specific	\$ 2,500

AMENDMENTS

Amendment to Definitive Plan	\$ 350
Amendment to Special Permit	\$ 50 & \$10/unit
Amendment to Site Plan Review	\$ 100

EASEMENT REVIEW – TOWN COUNSEL

\$100/ 8 or less easements
\$ 20/ each additional easement

INSPECTION FEES

Sewer Mains & Appurtenances	\$ 2/lineal foot
Storm Drainage & Appurtenances	\$ 2/lineal foot
Road Construction, including curbing & paving	\$ 3/lineal foot
Sidewalk	\$ 1/lineal foot

MISCELLANEOUS

Zoning By-Laws	\$ 25 with Zoning Map
Subdivision Regulations	\$ 20
Zoning Map	\$ 5
Special Permit Requirements	\$ 1
Site Plan Review Requirements	\$ 1
Copy Fee (8 ½ x 11) -	\$ 0.20/page
(8 ½ x 14) -	\$ 0.30/page
(11 x 17) -	\$ 0.40/page

GIS MAPPING REPRODUCTION CHARGES

<u>Paper Size</u>	<u>Dimensions</u>	<u>Base Map*</u>	<u>Additional Layers</u>
A	8 ½ x 11	\$ 1.00	\$ 0.50 each
B	11 x 17	2.00	1.00
C	18 x 24	5.00	3.00
D	22 x 34	8.00	3.00
E	34 x 44	15.00	3.00

** All dimensions are in inches. The Base Map includes the corporate boundary, streets, and water features (3 layers).*

CRITERIA FOR WAIVING APPLICATION OR INSPECTION FEE

The Planning Board may waive all or a portion of a required application or inspection fee if a majority of the Board members present at a meeting agree that one or more of the following criteria are met:

1. Reasonable Fee. The project is at such a scale that the cost to the Town for the level of review of the application or inspection of the work is substantially lower than the amount of the fee which is otherwise required to be paid.
2. Waiver Granted. The Planning Board has granted a waiver which exempts an otherwise required public facility from being constructed. Examples of such conditions would be the waiver of sidewalks or roadway construction specifications for a private roadway. In such instances it may be appropriate to waive a portion or all of the inspection fee associated with such improvements.
3. Town Agency Applicant. The applicant agency is a department or agency of the Town of South Hadley.
4. Affordable Housing Development/Open Space Protection. The proposed development will substantially further the Planning Board's goals of promoting affordable housing and/or open space protection while also providing reasonable funds for covering the costs of the application review and inspections.

NOTES:

1. Waiver of any portion of a required application or inspection fee is solely at the determination of the Planning Board. Any project or applicant meeting any of these criteria is not entitled to a waiver of any fee.
2. Any request for a wavier of an inspection fee must be made in writing at the time the project application is submitted for review. The request must detail the reasons the applicant feels such a waiver is warranted.
3. Any request for a wavier of an application fee must be made in writing to the Planning Board 30 days prior to the date the applicant is intending to submit an application for Planning Board review. The request must detail the reasons the applicant feels such a waiver is warranted. This request must clearly demonstrate how one or more of the above criteria are satisfied.

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