

TOWN
OF
PEPPERELL



ZONING
BYLAW

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(Revisions on following page)

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ZONING BYLAW

TOWN OF PEPPERELL, MASSACHUSETTS

SECTION 1000. PURPOSE AND AUTHORITY

- 1100. PURPOSE.** These regulations are enacted to promote the general welfare of the Town of Pepperell, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.
- 1200. AUTHORITY** This Zoning Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.
- 1300. SCOPE** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town of Pepperell are regulated as hereinafter provided.
- 1400. APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town of Pepperell, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.
- 1500. AMENDMENTS.** This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.
- 1600. SEPARABILITY.** The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

SECTION 2000. DISTRICTS

- 2100. ESTABLISHMENT.** For the purpose of this Bylaw, the Town of Pepperell is divided into the types of zoning districts set forth below:

Rural Residence	RR	Urban Residence	UR
Town Residence	TR	Commercial	C
Recreational Residence	RCR	Industrial	I
Suburban Residence	SR		

- 2200. OVERLAY DISTRICTS.** In addition, the following overlay districts are also hereby established in Section 8000:⁴⁰

Mixed-Use	MUOD
Sewer District	SD
Water Resource Protection	WRPOD
Wireless Communications	WCOD

- 2300. MAP.** The location and boundaries of the zoning districts are established as shown on a map entitled “Town of Pepperell / Zoning Map” dated 3/29/04, produced by the Northern Middlesex Council of Governments (NMCOG); they are, additionally, defined and delineated verbally in a written addendum to the map. Both the map and the addendum to the map are on file in the Office of the Town Clerk and the Office of the Board of Selectmen. The map, including all explanatory legend and memoranda thereupon or attached thereto (i.e. the addendum) is hereby declared to constitute the Official Zoning Map of the Town of Pepperell. Any alteration in the location of the boundaries of a zoning district hereafter approved by Town Meeting and the Attorney General shall be reflected in a corresponding alteration of the Map (including the addendum), and the Map, thus altered, is declared to be part of the Bylaw thus amended. Direct photographic reproductions of this Zoning Map may serve as copies of the Zoning Map.¹

2310. Rules for interpretation of zoning district boundaries. Where uncertainties exist as to the boundaries of districts as shown on the Official Zoning Map the following shall apply:

- 2311. Where the boundary lines are shown upon the Map within the side lines of public and private ways, railroads or water courses, the center lines of such ways shall be the boundary lines.
- 2312. Where the boundary lines are shown upon the Map, approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- 2313. Boundary lines located outside of such lines of public and private ways and shown approximately parallel thereto shall be regarded as parallel to such side lines and dimensions shown in figures on the Map between such boundary lines and side lines of public & private ways are the distances in feet of such boundary lines from such side lines, such distances being measured at right angles to such side lines unless otherwise indicated.
- 2314. In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said Map, by the use of identifications as shown on the Map, or by the scale of the Map.
- 2315. Where a district boundary line divides a lot which was, as a matter of record, in existence on the effective date of this chapter, the Board of Appeals may permit, by special permit, the extension of the regulations of the less restricted district a distance not to exceed 50 feet beyond the district line into the remaining portion of the lot in the more restricted district.
- 2316. Where boundary lines are contour lines they are of indicated elevation above the datum mean sea level of the U.S. Geological Survey.

2320. Amendment of Map. Any change of the Zoning Map shall constitute an amendment of this Bylaw and the procedure for making such a change shall conform to the requirements for amending this Bylaw.

SECTION 3000. USE AND TIMING REGULATIONS

3100. PRINCIPAL USES. No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited.

3110. Symbols. Symbols employed in the Table of Use Regulations shall mean the following:

- Y Permitted as of right
- N Prohibited
- BA Special Permit/Board of Appeals
- PB Special Permit/Planning Board
- BOS Special Permit/Board of Selectmen

3120. If Classified Under More than One Use. Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

3130. Table of Use Regulations. SEE APPENDIX A.

3200. ACCESSORY USES

3210. Permitted Accessory Uses in All Districts The following accessory uses are specifically permitted as of right or by special permit:

- 3211. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

3212. Family Day Care Homes. Small family day care homes, are allowed as an accessory use as of right in all districts. Large family day care homes are allowed in all districts only upon the issuance of a special permit by the Board of Appeals.

3220. Nonresidential Accessory Uses. Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 9400, shall also require site plan review and approval.

3230. Residential Accessory Uses The following accessory uses are specifically permitted as of right or through a Board of Appeals Special Permit in the Residence Districts, as set forth herein, and shall be maintained in a safe and sanitary manner:

3231. Boarders in Single-Family Dwelling. The renting of rooms and/or furnishing of board to not more than two persons in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to three or four persons in a single-family dwelling by the owner/occupant thereof shall be allowed as an accessory use upon the grant of a special permit. The renting of rooms and/or furnishing of board to four or more persons shall be deemed a boarding house subject to the provisions of the Table of Use Regulations.²

3232. Contractor's yard for the storage of building materials or equipment; provided a special permit is granted.

3233. Commercial landscaping equipment, materials, supplies; provided a special permit is granted.

3234. The overnight parking of commercial vehicles owned or operated by a resident of the premises, subject to the following limitations; nothing herein shall be construed to authorize a business at the location where such vehicles are parked overnight:

- a. one or more commercial vehicle less than 15,000 gvw are allowed as of right;
- b. one commercial vehicle of more than 15,000 gvw but less than 35,000 gvw is also allowed as of right;
- c. more than one commercial vehicle of more than 15,000 gvw but less than 35,000 gvw is allowed by special permit;
- d. any commercial vehicle larger than 35,000 gvw is allowed by special permit.

3240. Prohibited Accessory Uses. The following accessory uses are prohibited:

3241. Unregistered Motor Vehicles. Not more than one (1) unregistered motor vehicle or trailer or major part(s) thereof, except for farm vehicles, shall remain ungaraged upon any premises at any time unless under a Class 1 or Class 2 license for sale of motor vehicles. No unregistered motor vehicle may be stored or maintained upon any premises within fifty (50) feet from a street, public way or way laid out on a recorded plan.

3242. Residence Districts. In the Residence Districts, the following accessory uses are prohibited:

- a. Commercial kennels;
- b. Commercial auto repair or service.

3300. HOME OCCUPATIONS

3310. Home Occupation - As of Right. A home occupation may be allowed as of right, provided that it:

3311. is conducted solely within a dwelling unit or in a building or other structure accessory thereto, and solely by the person(s) occupying the dwelling as a primary residence;⁴¹

3312. is clearly incidental and secondary to the use of the premises for residential purposes;

3313. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution in accordance with the provisions of Section 5500;

3314. does not utilize exterior storage of material or equipment (commercial vehicles allowed per the guidelines in Section 3234);⁴²

- 3315. does not exhibit any exterior indication of its presence or any variation from residential appearance;
- 3316. does not produce any customer, pupil, client, or delivery trips greater than associated with residential use to the occupation site and has no nonresident employees;
- 3317. is registered as a business with the Town Clerk.

3320. Home Occupation - By Special Permit. A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:

- 3321. fully complies with Sections 3312, 3313, 3314, and 3317, above.
- 3322. is conducted within a dwelling or accessory structure solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees.⁴³
- 3323. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 5300;
- 3324. not more than three home occupations may be conducted out of dwelling; in no event shall the number of nonresident employees exceed two in the aggregate;
- 3325. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer or other vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.
- 3326. does not include sales at retail of foods or materials unless such goods or materials are made on the premises and no more than 300 square feet shall be utilized for this purpose; unless otherwise allowed by the Table of Use Regulations.⁴⁴

3400. ACCESSORY APARTMENTS

3410. Purpose. For the purpose of (a) providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, (b) providing alternative housing options for elder residents, and (c) enabling owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Board of Appeals may grant a special permit in accordance with the following requirements.

3420. Procedure. Accessory apartments may be allowed by special permit, from the Board of Appeals, in accordance with the special permit process in this Zoning Bylaw, as set forth in Section 9300, and provided that each of the following additional criteria are met.⁴⁵

3430. Conditions.

- 3431. A plot plan of the existing dwelling unit and proposed accessory apartment shall be submitted to the Board of Appeals, showing the location of the building on the lot, proposed accessory apartment, location of any septic system or sewer line, private well or water line and required parking.
- 3432. One of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence(s). At the hearing on the application for the special permit, the applicant shall provide an affidavit of intent to occupy one of the two dwelling units. Any special permit for an accessory apartment shall lapse if neither unit is owner-occupied.³
- 3433. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 800 sq. ft. in gross floor space and shall be located in the principal residential structure on the premises;⁴⁶
- 3434. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure.
- 3435. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.

3440. Decision. Special permits for an accessory apartment may be granted by the Board of Appeals upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 9300 of this Zoning Bylaw, governing special permits.

3500. NONCONFORMING USES AND STRUCTURES

3510. Applicability. This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this Zoning Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

3520. Nonconforming Uses. The Board of Appeals may issue a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

3521. Change or substantial extension of the use;

3522. Change from a nonconforming use to another, less detrimental, nonconforming use.

3530. Nonconforming Structures. The Board of Appeals may issue a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

3531. Reconstructed, extended or structurally changed;

3532. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

3540. Variance Required. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to nonconforming single and two family residential structures, which shall be governed by Section 3550, below.

3550. Nonconforming Single and Two Family Residential Structures - Alterations as of Right. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon the issuance of a building permit after a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

3551. alteration to a structure which is located on a lot with insufficient area, where such alteration complies with all current setback, yard, building coverage, and building height requirements.

3552. alteration to a structure which is located on a lot with insufficient frontage where such alteration complies with all current setback, yard, building coverage, and building height requirements.

3553. alteration to a structure which encroaches upon one or more required yard or setback areas, where such alteration complies with all current setback, yard, building coverage and building height requirements.

3554. alteration to a nonconforming structure which will not increase the footprint of the existing structure providing that existing height restrictions shall not be exceeded.

3555. alteration to the side or face of a structure which is nonconforming with regard to a required yard or setback area where such alteration will not encroach upon such area to a distance greater than the existing structure.

3556. Notwithstanding subsections 3551-3555, an addition or accessory structure to a single or two family residential structure or a use accessory to a residential building or structure lawfully erected upon a nonconforming lot may be placed within the front, side and rear yard setbacks that applied, if any, when the building permit was issued for the principal building. In no instance may any building or structure be less than ten (10) feet from the side or rear property lines or less than twenty-five (25) feet from the front property line.

- 3560. Nonconforming Single and Two Family Residential Structures - Alterations by Special Permit** In the event that the Building Commissioner, after applying subsections 3551-3556, above, determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.
- 3570. Abandonment or Non-Use** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw.
- 3580. Reconstruction after Catastrophe or Demolition.** Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:
- 3581. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
 - 3582. The reconstructed building(s) shall be located within the cube of the original nonconforming structure, as defined by the preexisting footprint and height thereof.
 - 3583. In the event that the reconstruction is proposed outside the cube of the original nonconforming structure, a special permit shall be required from the Board of Appeals prior to commencement of any reconstruction.
- 3590. Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.
- 3600. RATE OF DEVELOPMENT⁴**

SECTION 4000. DIMENSIONAL REGULATIONS

- 4100. GENERAL.** No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless otherwise exempted by this Bylaw or by statute.
- 4110. One Structure per Lot** Except as otherwise provided herein, not more than one principal structure may be placed on any lot.
- 4120. Change of Lot.** No existing conforming or nonconforming lot shall be changed in size or shape except through a public land taking or donation for road widening, drainage, or utility improvements or except where otherwise permitted herein, so as to create a nonconformity or increase the degree of nonconformity that presently exists. If land is subdivided, conveyed, devised or otherwise transferred in violation hereof, no building or other permit shall be issued with reference to said transferred land until the lot retained meets the requirements of this Bylaw.
- 4130. Open Spaces to be Separate.** No yard, court or open space or part thereof shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling unit.
- 4140. Table of Dimensional Requirements** The following table shall govern dimensional requirements in the various districts:

TABLE OF DIMENSIONAL CONTROLS

DISTRICT	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT FRONTAGE (FT.)	MINIMUM FRONT YARD (FT.)	MINIMUM SIDE YARD (FT.)	MINIMUM REAR YARD (FT.)
RR	80,000	200	50	30	75
TR	80,000	150	50	25	60
RCR	80,000	150	50	25	60
SR	40,000	150	30	15	45
UR	40,000	150	30	15	45
C	None	50	30	15	25
I	None	None	40	30	45

4200. SPECIAL DIMENSIONAL REGULATIONS

- 4210. Front and Side Yards in Commercial District.** In a Commercial District the Planning Board may, by special permit, vary the minimum front and side yard requirement where adequate access to required parking is shown and the

standards for a special permit are met, provided that the floor area of the resulting building is no greater than it would be if there were no special permit.

4220. Minimum Lot Width in Residential Districts. The minimum width of any lot in a residential district between the dwelling and the lot frontage shall be no less than forty (40) feet.

4230. Lot Shape The following rules apply to lot shape:

4231. In all residential districts, the required minimum lot frontage shall be maintained into the lot at least as far back as the required minimum front yard for the applicable district.

4232. If the width of a lot narrows to less than fifty percent (50%) of the width of the frontage within the first one hundred fifty (150) feet of the lot depth, the dimensional controls for a rear lot as set forth in Section 7500 shall apply.

4233. At no point shall the lot width measure less than forty (40) feet.

4234. The shape of all lots shall conform to the following requirement:

1. $\frac{16A}{P} \geq 0.4$

2. P^2

3. Where:

4. A = the lot area in square feet

5. P = the lot perimeter in feet.

4235. This formula may be applied to a lot which conforms to all requirements of Section 4000, including, but not limited to frontage, lot area, a minimum of 30,000 contiguous square feet of land exclusive of wetland and flood hazard areas and, when applicable, any requirements of Section 8100.⁵

4240. Residential Use in Commercial or Industrial District A residential use hereafter located in a commercial or industrial district shall conform to the dimensional requirements of the nearest residential district except dwelling units above the first floor as allowed in the Commercial District.⁴⁷

4250. Special Permit; Eminent Domain. Where an action in eminent domain results in a lawfully preexisting building lot being rendered nonconforming, the Board of Appeals may grant a special permit to allow such lot may be built upon thereafter, provided that such lot has 100 feet of remaining frontage and a minimum area of 10,000 square feet.

4300. SPECIAL PERMIT TO VARY HEIGHT LIMITATIONS

4310. General In an Urban Residential or Commercial District the Planning Board may, by special permit, authorize greater height for the purposes of:

4311. increasing the available light and air in and around the building and adjacent buildings;

4312. better vehicle and/or pedestrian access to the building and surrounding buildings and accessory parking and other uses;

4313. increasing the amount of open space, park and recreation areas for users of the building or the general public;

4314. preserving or enhancing scenic views within and beyond the structure and between adjacent structures; or

4315. maximizing benefits of cluster development, including but not limited to better siting of buildings, efficient use of public services and facilities and preservation of substantial open space and natural areas.

4320. Conditions. Special permits pursuant to this Section 4300 shall be subject to all of the following standards:

4321. The building or structure shall be no greater in height than one and one half (1.5) times the building setback from the center line of the public way or ways which abut the land upon which the said building or structure is proposed to be erected.

4322. The height of buildings and structures shall be no greater than two (2) times the average of the highest point of buildings and structures on abutting lots under separate ownership. When any such abutting lots are vacant, the building height on such lots shall be presumed to be thirty-five (35) feet.

- 4323. When a special permit is granted, setbacks may also be adjusted by the Planning Board so that minimum side, rear and front yards are increased by a multiple of the ratio of the height requirements otherwise applicable to authorized height of the building or structure.
- 4324. The Planning Board shall find, after consultation with the Board of Fire Engineers, that fire protection will be sufficient and that the preliminary and final plans and designs for a proposed building or structure have been or will be prepared by a registered engineer or architect in keeping with generally recognized building construction standards.

4400. ACCESSORY STRUCTURES

4410. Dimensional Requirements and Location Except as otherwise provided herein, the following dimensional rules shall apply to accessory structures:

- 4411. No accessory building or structure, except a permitted sign or roadside stand, shall be located within a required front yard setback.
- 4412. Accessory structures or buildings with a footprint of 120 square feet or less may be located within ten (10) feet of a rear or side property line.⁶
- 4413. Accessory structures or buildings with a footprint larger than 120 square feet shall be set back from side or rear property lines in accordance with the provisions of the Table of Dimensional Regulations, Section 4140.⁴⁸
- 4414. An accessory building attached to its principal building or within ten (10) feet of it shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard requirements applicable to the principal building.
- 4415. Accessory structures and buildings shall be located on the same lot as the principal structure on the premises.

4420. Permitted Accessory Structures. The following accessory structures are permitted in all districts:

- 4421. Accessory building not more than 28 feet in height above the average grade level around the structure; provided, however, that a barn shall not be subject to this requirement.⁷
- 4422. Boundary fences, walls, or hedges shall be permitted provided that they do not exceed six (6) feet in height and provided that no fence which obstructs vision shall exceed thirty-six (36) inches in height within twenty (20) feet of the street line or within twelve (12) horizontal feet of a habitable room in an abutting dwelling.
- 4423. Flag poles of a height not to exceed 20 feet are permitted and shall be exempt from the setback requirements of this Section.
- 4424. Swimming pools, game courts, and the like are accessory structures and shall comply with the State Building Code and all applicable setback requirements of this Zoning Bylaw.

4430. Prohibited Accessory Structures In the Residence Districts, the following accessory structures are prohibited, unless, in the case of a lawful business use, a special permit is granted from the Board of Appeal:

- 4431. Convex box;
- 4432. Steel storage unit over 100 square feet.

SECTION 5000. GENERAL REGULATIONS

5100. PARKING REQUIREMENTS

5110. General. Parking requirements in Residence Districts, Commercial and Industrial Districts shall be as set forth in Appendix B. Required parking shall be provided on the same lot as the main use it is to serve.

5120. Shared Parking Facilities. Parking required for two (2) or more buildings or uses (such as a shopping center or industrial park) may be provided in combined facilities where it is evident that such facilities shall continue to be available for the several buildings or uses and where the parking provided meets all of the requirements of this section for each of the uses in the combination.

- 5121. Evidence shall be submitted that parking is available within five hundred (500) feet of the premises, which lot satisfies the requirements of this Bylaw and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.

- 5122. A contract, agreement, or suitable legal instrument acceptable to legal counsel, shall be filed with the application for building permit, occupancy permit, or special permit which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.
- 5123. Any reduction in area required for parking because of these joint use provisions may be required as reserved landscaped open space; such area shall be computed at the rate of four hundred (400) square feet per parking space.
- 5124. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this Bylaw if subsequently the joint use of parking facilities shall terminate.

5130. Location and Layout of Parking Facilities.

- 5131. Each required car space shall not be less than eight and one half (8.5) feet wide nor less than twenty (20) feet long exclusive of aisles and driveways. No curb cut for parking facilities shall exceed thirty (30) feet in width. Required parking may be enclosed in a structure or may be provided in an open lot.
- 5132. Adequate access to required parking spaces for each main use for town emergency vehicles shall be provided from the lot frontage, provided that where the main use is located two hundred fifty (250) feet or more from the lot frontage, the Building Commissioner shall, prior to the issuance of a permit therefor, refer the permit application to the Board of Fire Engineers and Police Chief for an advisory opinion. Any exception to the foregoing requirement for access from the lot frontage shall only be allowed by Planning Board approval of a special permit for either a common drive which conforms to Section 6200, or for other access in accordance with Section 9300.
- 5133. All required parking spaces shall be graded, surfaced and drained to the satisfaction of the Building Inspector to the extent necessary to avoid a nuisance of dust, erosion or excessive water flow across public streets or any other nuisance.
- 5134. All roads, drives, parking areas and walks shall be constructed so as to afford adequate access to town ways. The recommendation of the Police Chief or Board of Fire Engineers shall be used in determining the adequacy. More than one (1) means of entering and exiting may be required by the Planning Board on a parcel where more than fifty (50) dwelling units are proposed or where indicated by safety and traffic conditions. Proper maintenance of all private roads, drives, parking areas and walks on a site, including snow removal, shall be the responsibility of the owner.

5140. Special Permit Any parking requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:

- 5141. Use of a common parking lot for separate uses having peak demands occurring at different times;
- 5142. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage;
- 5143. Peculiarities of the use which make usual measures of demand invalid;
- 5144. Availability of on-street parking or parking at nearby municipally owned facilities.
- 5145. Where a special permit is granted, a reserve area, to be maintained indefinitely as landscaped open space, may be required sufficient to accommodate the difference between the spaces otherwise required and the spaces reduced by special permit. The parking/site plan shall show (in dotted outline) how the reserve area would be laid out to provide the otherwise required number of spaces.

5200. LOADING AREAS

5210. General. All buildings requiring the delivery of goods as part of their function shall be provided with bays and suitable space for the off street maneuvering and loading of vehicles. An application for the erection of a new nonresidential building which is in the category of retail trade, wholesale trade, storage, manufacturing, or the like, or for the alteration or extension of an existing building of such type shall include a plan for loading facilities for the entire structure in accordance with the following Table of Loading Requirements.

TABLE OF LOADING REQUIREMENTS

Gross Floor area (sq. ft.)	Number of Bays Required
20,000 to 50,000	1
50,000 to 100,000	2
100,000 to 150,000	3
150,000 to 300,000	4
Each 100,000 over 300,000	1 additional

5220. Layout and Design of Loading Facilities

- 5221. Loading bays shall not be less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height, exclusive of driveway and maneuvering space. Required off-street loading bays and maneuvering spaces shall be located entirely on the same lot as the building being served.
- 5222. Individual loading spaces, maneuvering areas, entrances and exits shall be suitably identified with lines and arrows, as deemed necessary by the Building Commissioner.
- 5223. Screening and Landscaping Requirements. Loading areas shall be screened in accordance with Section 5400, herein.
- 5224. Loading facilities shall be designed and located in areas exclusive of any customer/client parking facilities. Parking facilities designated for employee only parking may be allowed in the same general area as the loading facilities if deemed a safe location by the Planning Board.⁴⁹

5230. Location. Any enclosed loading space shall be located at least 30 feet from any street line and any open loading space shall be so designed that trucks when loading or unloading will not project over any street line.

5240. Backing onto or Queuing on the Street No loading area shall require vehicles exiting the area to back onto a public way. No loading area shall require vehicles waiting to be off-loaded to park in a queue on a public way.

5250. Special Permit The Planning Board may vary any requirement of Section 5200 upon the grant of a special permit, where such relief will not result in substantial detriment to the neighborhood or the town.

5300. SIGNS

5310. General No sign shall be erected, enlarged or structurally altered without a sign permit issued by the Building Commissioner, with the exception of unlighted signs one (1) square foot or smaller. A building permit may also be required.

- 5311. Maintenance. All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Commissioner and in accordance with 380 CMR 3102 of the State Building Code.
- 5312. Removal. Any sign deemed to be abandoned or in disrepair so as to cause a hazard, or no longer pertaining to a business in existence shall be removed or caused to be removed within fourteen days after written notification from the Building Commissioner.
- 5313. Nonconforming Signs. Any sign legally erected may be continued and maintained despite being made nonconforming through change in the Zoning Bylaw. Any sign rendered nonconforming through erection of additional signs on the premises or through change or termination of activities on the premises shall be removed within thirty (30) days of order of the Building Commissioner. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as of the date of the destruction shall not be repaired, rebuilt, restored, or altered unless in conformity with this Bylaw.
- 5314. Identification. All signs approved by the Building Commissioner will have an identifying number affixed to the face of the sign in the lower right hand corner.

5315. Public Service Signs. Temporary public service signs or banners announcing a civic, governmental, or charitable event are allowed in all districts.

5320. Residence Districts The following signs shall be permitted in residence districts:

5321. A sign not over one (1) square foot in area for each family residing on the premises, indicating the name of the owner or occupant and/or pertaining to a permitted accessory use.

5322. A sign aggregating not over six (6) square feet in area pertaining to a permitted use on the premises other than a dwelling or accessory use thereto or pertaining to a use specifically authorized on the premises by this Zoning Bylaw.

5323. Temporary unlighted signs aggregating not more than ten (10) square feet in area advertising the sale or lease of the premises.

5324. Unlighted directional signs not over two (2) square feet in area indicating the route to or location of a lawful use located on another premises; provided, however, that the number of such signs shall be determined by the Building Commissioner.

5325. Temporary building contractors sign erected only during period of construction.

5326. A nonflashing, illuminated sign must meet the special requirements for outdoor lighting.

5330. Commercial and Industrial Districts The following signs shall be permitted in Commercial Districts and Industrial Districts:

5331. Signs painted on or attached flat against the wall of a building, without limitation on the number thereof, but having a total area not exceeding ten percent (10%) of the wall to which they are affixed.

5332. Not more than two (2) freestanding signs aggregating not more than forty (40) square feet in total area and pertaining to a permitted use located on the premises.

5333. Unlighted directional signs not over two (2) square feet in area indicating the route to or location of a lawful use located on another premises.

5334. A nonflashing, illuminated sign must meet the special requirements for outdoor lighting.

5335. No sign shall be erected so as to obstruct traffic sight lines for drivers or pedestrians.

5336. Signs with flashing action are not permitted.

5337. In the Commercial and Industrial Districts one temporary, exterior sign not exceeding four (4) square feet may be displayed to announce the Grand Opening of a new establishment. A sign displayed under the authority of this section shall not be maintained or continued for any period in excess of three (3) weeks duration.⁸

5340. Prohibited Signs

5341. General. No moving, animated, revolving, moving light, or flashing sign or sign elements shall be permitted, except for traditional illuminated barber shop poles with revolving pillars. Only registered and licensed barber shops shall be allowed to display a barber pole, which shall not exceed 18" in height. No pennants, streamers, advertising flags, spinners, or similar devices shall be permitted.

5342. Location. No sign shall be located within twenty-five (25) feet of the intersection of sidelines of intersecting streets.

5343. Height. No part of any sign shall be more than twenty (20) feet in height above ground level or exceed the height of the building to which it relates unless granted a special permit to vary this requirement by the Board of Appeals.

5344. Overhanging Signs. No part of any sign shall overhang a public way except those allowed under Section 5315.

5345. Sandwich Signs. Except as set forth in Section 5323, sandwich or A frame type signs are not allowed. Metal or plastic framed temporary advertising type signs on light gauge brackets and/or wheels are not allowed.

5346. Temporary Wiring. The temporary power wiring of any sign is not allowed.

5347. In Residence Districts, the display of temporary or permanent sign(s), lighted or unlighted, advertising commercial products or services not located on or pertaining to the use of the premises on which the sign is

located, is not permitted. In any district, display of signs advertising commercial products or services, and located in a public right of way or on other town property are not permitted. Signs relating to nonprofit organizations or activities within the town of Pepperell may be located on Town property or rights-of-way only in areas designated by the Board of Selectmen.⁹

5350. Special Permit The Planning Board, by special permit, may authorize signs larger than otherwise set forth herein, or a greater number of signs, upon a determination that such deviation will not result in substantial detriment to the neighborhood or the town.

5400. SCREENING, FENCING, WALLS AND BARRIERS

5410. General Uses, or uses accessory to permitted or nonconforming uses, shall be screened, fenced or otherwise enclosed in accordance with the requirements set forth herein unless in a particular instance the Planning Board grants a special permit relieving the applicant of the duty to conform. In granting such special permit, the Planning Board shall consider the following additional criteria:

- 5411. Whether the unobstructed view at any or all lines or lot lines of the premises or along any public way would tend to reduce property values or amenities in adjacent areas or in the town;
- 5412. Whether unrestricted access or the unchecked exiting of materials originating on the premises would constitute a hazard to life, health or public safety.

5420. One Hundred Percent Screening One hundred percent screening shall be required along any lot line fronting on a public way or where there is unrestricted access or unobstructed view from another lot, other than a vacant lot, or a lot upon which a so-called noxious use occurs, for:

- 5421. The open lot storage of used materials, used vehicles or equipment or waste materials.
- 5422. The storage for more than six (6) months of unregistered motor vehicles that are not otherwise enclosed.
- 5423. The open lot parking or storage of five (5) or more buses, trucks or earthmoving equipment items or similar contractor's equipment or heavy vehicles.
- 5424. The open lot storage of solid fuel, sand, road salt, manure, fertilizer or other similar substances piled in bulk form.
- 5425. Glare or illumination that constitutes a hazard to public safety along the public way or intense discomfort to occupants of uses in adjacent properties.
- 5426. Where adjacent to a residential district, the open-lot storage of new building materials, new or used automobiles for sale or rent and a commercial or public parking facility.
- 5427. Where adjacent to a residential district, the rear yards of all industrial, commercial, agricultural, institutional, governmental and group residence uses where such contain parking areas, loading areas, waste storage areas, equipment areas, power and heating plants, maintenance shops, central garages and other similar accessory uses.

5430. Dense Barrier A dense barrier or impenetrable screen shall be required for any use, including golf course, golf driving range, archery course, shooting range, place for the manufacture or storage of fireworks, explosives or flammable liquids or gases or other similar uses, where missiles, projectiles or other similar elements originating on the premises may be hazardous to life or property in adjacent areas and where natural barriers and setbacks from the property line(s) are insufficient to contain such materials on the premises.

5440. Nonclimbable Fence. A nonclimbable fence, wall or other similar structure at least four (4) feet high designed to prohibit entry, which shall be locked when not in use, shall completely enclose all swimming pools which are not usually emptied after use or which customarily remain filled for the season.

5500. ENVIRONMENTAL STANDARDS

5510. General. No land or building in a Commercial or Industrial District or land or building which is subject to a special permit in any other district shall be used, occupied or operated in such a manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air or water pollution; electrical or other disturbances; glare or other substance, condition or element in such amount as to adversely affect the surrounding area or premises. The following standards shall apply in addition to any other standards set forth in the Town Bylaws and the statutes and regulations of the commonwealth and the federal government.

5520. Standards The following performance standards shall apply in the issuance of any permit:

5521. **Outdoor Lighting.** Any outdoor lighting device, including but not limited to signs, shall employ only lights emitting a light of constant intensity. In no event shall a lighting device be so placed or directed as to permit the beam and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or other nuisance. No such lighting shall be erected so as to obstruct traffic sight lines for drivers or pedestrians.
- a. *Glare.* No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the lot line of the premises. This restriction shall not apply to signs otherwise permitted by the provisions of this Zoning Bylaw.
5522. **Fire and Explosion Hazards.** All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited, and local laws and regulations shall also apply.
5523. **Radioactivity or Electrical Disturbance.** No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
5524. **Noise.** No use shall be permitted which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01.
5525. **Vibration.** No vibration shall be permitted which is detectable without instruments at the lot line of the premises.
5526. **Air Pollution.** No emission shall be permitted
- a. from any chimney or otherwise of visible gray smoke of a shade equal to or darker than No. 2 on the Power's MicroRingelmann Chart, published by McGraw Hill Publishing Company, Inc., copyright 1954 (being a direct facsimile reduction of a standard Ringelmann Chart as issued by the United States Bureau of Mines), except that a visible gray smoke of a shade equal to No. 3 on said chart may be emitted for four (4) minutes in any thirty (30) minutes.
- b. of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the lot from which they are emitted.
- c. of fly ash, dust, fumes, vapors, gases and other forms of air pollution which can cause any damage to health, to animals, vegetation or other forms of property or which can cause any excessive soiling.
5527. **Water Pollutants.** No pollutants, sewage or storm drainage shall be discharged directly into any stream, watercourse, water body or water supply source or into or within one hundred (100) feet of any wetland defined in G.L. c. 131, s. 40, so as to endanger the public health or a town water supply. No discharge of treated or untreated sewage or wastewater will be permitted into any river or its tributaries. No outfall, drainage pipe, ditch, channel or other conveyance to carry storm water runoff either directly or indirectly into the Nissitissit River or its tributaries shall be constructed except under the conditions set forth in G.L. c. 132A, s.1 7, the Squannacook and Nissitissit Rivers Sanctuaries Act.
5528. **Solid waste storage.** Except where conducted pursuant to a building permit or a demolition permit, any permanent accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with Section 5400 of this Bylaw. Screening materials will not be attached to any structure.
- a. **Vermin.** All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

5530. Erosion Control Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

5531. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 20,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate

provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

5532. All such slopes exceeding 15% which result from site grading or construction activities shall either, be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.
5533. No area or areas totaling 20,000 square feet or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.
5534. The Building Commissioner may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.
5535. In granting a special permit hereunder, the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section. The Planning Board may also set a timetable for the completion of the excavation and the restoration of the locus.

SECTION 6000. SPECIAL REGULATIONS

6100. SOIL REMOVAL

6120. Procedures. The Selectmen shall refer all applications for special permits under this section to the Board of Health, Conservation Commission, Town Engineer and Water Commissioners for an advisory opinion.⁵⁰

6130. Operation Standards The following standards shall apply:

6131. No excavation not intended for approved building purposes shall be closer than two hundred (200) feet to an existing public way unless specifically permitted by the Selectmen, and no excavation shall approach neighboring lot lines closer than fifty (50) feet. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.
6132. The active earth removal area shall not exceed a total area of five (5) acres at any time.
6133. All access roads leading to public ways shall have suitable dust control.
6134. No earth shall be removed closer than eight (8) feet from spring high water table.
6135. Safety standards for excavation areas shall be specified by the Selectmen and shall be written into the special permit.
6136. All topsoil and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased.
6137. The Selectmen or their agents shall be free to inspect the premises at any time.

6140. Restoration Standards The following standards shall apply:

6141. No slope shall be left with a slope steeper than three to one (3:1).
6142. All debris, stumps, boulders, etc., shall be disposed of in an approved location and manner.
6143. Following excavation and as soon as possible thereafter, ground levels and grades shall be established in accordance with the specifications set forth in the special permit.
6144. Retained subsoil and topsoil shall be respread over the disturbed area to a depth to be determined by the Selectmen or their agent such depth not to be less than four (4) inches in any case.

- 6150. Renewals and Completion.** A soil removal special permit may be renewed for a three year period at the expiration of an existing special permit. A performance guaranty, as may be required by the Board of Selectmen, shall be released only after the land has been restored in accordance with Section 6140 and/or the conditions specified in the special permit by the Board of Selectmen.
- 6160. Municipal Exemption** Except as otherwise provided herein, nothing in this subsection or in any other part of this Code shall be construed to prohibit the Town of Pepperell from removing soil, loam, sand or gravel from any parcel in any zone within the town for municipal purposes under the supervision of the Town Engineer, who shall comply with Sections 6130 and 6140 to the extent feasible.⁵¹
- 6170. Soil Removal Incidental to Construction** All applications for a building permit shall be accompanied by a plan stamped by a registered professional civil engineer or land surveyor showing the existing (as taken from United States Geological Survey topographical data) and proposed post-construction contours of the lot at five foot intervals and showing the proposed final sill elevation of the buildings to be constructed. However, no such topographical plans shall be required if the applicant certified on the building permit application that no soil, loam, sand, gravel or other fill will be removed from the lot or the amount to be removed does not exceed the amount displaced by the building's foundation and subsurface sewage disposal system. If a comparison of the existing and post-construction contours indicates that the proposed construction will involve the removal of soil, loam, sand, gravel or other fill from the parcel in excess of one thousand (1,000) cubic yards (including displaced materials from the foundation and septic system excavation) per building lot, no building permit shall be issued without a special permit for soil removal incidental to building issued by the Board of Selectmen allowing such removal, which special permit shall not be granted unless the applicant is able to show that the removal of soil, loam, sand, gravel or other fill from the building lot is necessary to the proposed construction and that all other requirements for the granting of a special permit under Section 9300 are met.
- 6180. Decision** In issuing a special permit, the Board of Selectmen may require a topographical plan and impose such conditions not specifically provided for herein as it may deem necessary for the adequate protection of the neighborhood and the town. Any condition imposed by the Board shall be attached to and made part of the special permit. The Board may, at its discretion, require a bond, certified check or other security for the compliance with said conditions or as evidence of good faith as to the completion of any proposed project. The Board may, after a public hearing on proof of violation of any condition, revoke any special permit so issued. No special permit shall be issued for a period of more than three (3) years.
- 6200. COMMON DRIVES**
- 6210. General.** A common drive to serve as common access to a maximum of five (5) house lots may be allowed upon the grant of a special permit by the Planning Board in all districts, subject to the following conditions.⁵²
- 6220. Conditions** The common drive shall be designed and built to a standard that will allow for the passage of all vehicles that are expected to use it year round. The Planning Board may require bituminous concrete on common drives. The following additional conditions shall apply:
6221. The maximum grade shall be ten percent (10%). The minimum grade shall be one percent (1%).
6222. The common drive including utilities, permanent marker(s), shoulders, parking area(s), turnaround(s), travel way and any snow storage area(s) shall be laid out entirely within an access and utility easement with a minimum width of thirty (30) feet. All proposed utilities shall be shown on the plan submitted with the special permit application.
6223. Adequate drainage shall be provided. The drainage design and appurtenances shall prevent washout and excessive erosion and it shall prevent drainage runoff from entering the public way, prevent runoff from the public way from entering the common drive, and prevent runoff from flowing across the driveway. The wearing surface of the travel way shall be graded to drain from the crown. Drainage calculations may be required at the discretion of the Planning Board, the special permit granting authority for common drives.
6224. The travel way shall be a minimum of sixteen (16) feet wide with two (2) foot gravel shoulders on each side with the same twelve (12) inch base as the common driveway and free of obstructions such as trees and utility poles.
6225. The common drive may be either pavement or gravel. Whether the wearing surface is pavement or gravel, a minimum gravel base of twelve (12) inches (gravel shall have no aggregate larger than three (3) inches) shall be required. A paved drive shall have two courses of bituminous concrete with a total thickness of three (3) inches. If the drive is gravel, the top two (2) inch wearing surface shall be dense, graded crushed stone.

6226. The first twenty-five (25) feet from the public way shall be paved with two courses of bituminous concrete with a total thickness of three (3) inches and return (corner) radii of twenty-five (25) feet.
6227. A permanent marker of engraved granite not greater than six (6) square feet in area shall be placed at the end of the driveway where it meets the public way with a diagram listing the addresses of the properties as assigned by the Board of Assessors. A similar marker shall be placed where the common drive meets each individual lot driveway listing the address of the property. Should the common drive split; permanent marker(s) must also be placed at the intersections indicating which homes are located on either side of the split(s).
6228. A common drive shall be designed in accordance with the Guidelines for Driveway Access design provisions formulated by the Fire Department Board of Fire Engineers.

6230. Required Documents A draft document providing for restrictive covenants and easements binding present and future owners of all the lots served by the common drive shall be submitted for Planning Board approval. Upon the approval, if any, of the special permit, the document(s) shall be recorded at the Registry of Deeds and shall also be recited in and attached to every deed to every lot served by the common drive. Such document(s) must include but are not limited to the following:

6231. Specific standards for the maintenance of all structures designed to the requirements of a common drive special permit, including but not limited to the travel way, drainage system and signage.
6232. Provisions for allocating responsibility for maintenance, repair and/or reconstruction of the common driveway, drainage system and signage.
6233. Text of proposed easements including the metes and bounds description.
6234. A procedure for the resolution of disagreements.

6240. Bond The Planning Board may require a bond for the completion of the common drive and that such bond shall be posted prior to the issuance of building permits on the lots.

6241. It is the intent of this chapter that a common drive be substantially completed prior to the issuance of building permits for new buildings to be serviced by the common drive, unless the common drive is secured by a bond. All common drives shall be completed or so bonded prior to the occupancy of any dwelling unit served by the common drive. Completion shall be verified by submittal of as-built drawings requiring approval by the Planning Board.

6250. Name and Address The common driveway shall be named as approved by the Planning Board in conjunction with the Board of Assessors. All house lots shall be addressed using the approved common driveway name and house numbering as directed by the Board of Assessors.⁵³

6260. Special Permit Strict compliance with the requirements of these regulations may be varied by special permit, when in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Pepperell Zoning Bylaw.

SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS

7100. OPEN SPACE RESIDENTIAL DEVELOPMENT¹⁰

7110. Purpose. The purposes of this open space residential development section are:

- To allow for greater flexibility and creativity in the design of residential developments;
- To encourage the permanent preservation of open space, agricultural land, wildlife habitat, other natural resources such as aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with Pepperell's Comprehensive Plan and Open Space and Recreation Plan;
- To minimize the total amount of disturbance on sites undergoing development;
- To facilitate the construction and maintenance of housing, streets, utilities and public services in a more economic and efficient manner.
- To preserve and enhance the community character;
- To preserve and protect significant agricultural land and land with high value agricultural soils;

- To protect existing and potential community water supplies;
- To provide for a diversified housing stock including providing affordable housing to persons of low and moderate income.

7120. Definitions.

Basic Maximum Number: The number of dwelling units that would be allowed on a site using the standard zoning bylaw provisions and/or subdivision rules and regulations as determined by the yield analysis performed for the special permit plan.

Common Open Space: Land that is set aside for protection from development in perpetuity, usually left in its natural state, for the purposes of natural resource conservation, wildlife habitat, water supply protection, passive recreation and other amenities in conformance with the provisions of this section.

Density Bonus: Additional dwelling units that may be awarded beyond the basic maximum number, as determined through the special permit plan and yield analysis, for the provision of affordable housing units, the setting aside of additional open space beyond the minimum amount required, green stormwater systems or low-impact development and open space that is integrated into a wider network of protected land in the town.

Major Subdivisions: Major subdivisions are those creating 5 (five) or more lots or residential units, whether for single family or multi-family development.

Yield Analysis: An analysis, based on the conceptual conventional plan described in section 7150, which determines the basic maximum number of lots and dwelling units that would be possible to develop in a conventional manner following all applicable Pepperell zoning and regulatory requirements.

7130. Applicability. To be eligible for consideration as an OSRD, the parcel of land or group of contiguous parcels located within the Rural Residence, Town Residence and Recreation Residence districts or any zones of the Water Resource Protection Overlay District (WRPOD) must contain a minimum of ten (10) acres. Where the parcel or group of contiguous parcels is located in the Suburban Residence or Urban Residence districts, the total acreage necessary for an OSRD shall be five (5) acres. Additional criteria for eligibility include:

- To be eligible for consideration as an OSRD, the parcel may be a subdivision or a division of land pursuant to G.L. c.41, sec.81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided, which in some cases will require a special permit or site plan application for multi-family development.
- Each lot created in the OSRD shall have adequate access on a public way or approved subdivision road.
- To facilitate the goals of the Pepperell Comprehensive Plan and Open Space and Recreation Plan, all major subdivisions (those creating 5 (five) or more lots or residential units) and multi-family special permit developments shall be presented to the Planning Board as Open Space Residential Developments in compliance with the provisions of this section. In all cases it shall be assumed that an OSRD is necessary to meet the purposes of this section, unless the contrary is demonstrated by the applicant to the satisfaction of the Pepperell Planning Board. In cases where the Planning Board determines that a parcel(s) is unsuited to development as an OSRD, it may waive the requirements of this section and permit the subdivision or multi-family special permit plan to be developed in a conventional manner subject to the Pepperell subdivision rules and regulations. An applicant proposing a minor subdivision (those creating four or fewer lots or units) may develop an OSRD at his/her option.

7140. Permitted Uses. Each lot exclusive of the open land shall be used for residential dwellings of the type permitted or allowed by special permit in the applicable zoning district. These lots shall be grouped in clusters, and within each cluster the lots shall be contiguous.

Accessory uses shall be allowed appurtenant thereto as provided in the residential district in which the land is located, with the exception of the keeping of nondomestic animals; and the use as a customary home occupation, as defined in this chapter, shall be further limited, prohibiting any employees who do not reside within the dwelling unit, any retail sales and any business signs.

Common open spaces may be used for noncommercial active and passive recreation, conservation, forestry, agriculture and natural buffers and may contain structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board as part of the decision on the special permit or as amendment to the special permit after it has been issued.

In order to diversify the Town's housing stock and allow for opportunities to provide affordable housing and save additional open space, a small number of duplexes and /or multi-family residential structures are permitted within OSRDs, provided they meet all provisions of this OSRD Bylaw, the multifamily residential development requirements of section 7300, the general special permit criteria of section 9300 and all State of Massachusetts Title 5 and local health requirements. In any OSRD, no greater than 10% of the total number of lots, including those that may be permitted under a density bonus per section 7180, can contain duplexes and/or multi-family residential structures where permitted in the underlying districts. All calculations shall be rounded down to the nearest whole number. Lots containing duplexes and/or multi-family residential structures may not be contiguous within any one subdivision or OSRD development.

7150. Procedure.

Overview of Procedure. For applicable parcels, an OSRD is authorized in three steps; the first of which is optional: 1. Pre-application conference with the Planning Board and/or other Town boards and committees as described below; 2. submittal, review and approval of an OSRD special permit plan by the Planning Board, followed by; 3. submittal, review and approval of a definitive subdivision plan, or site plan, as the case may be, in conformity with the OSRD special permit as approved by the Planning Board.

If the OSRD involves construction of a new subdivision road, the level of engineering detail required at the special permit stage of review is the same as for a preliminary subdivision plan that meets the Town of Pepperell subdivision regulations. An approved definitive subdivision (or site) plan that does provide adequate engineering detail, however, is required prior to the start of any construction and the issuance of building permits for lots / units within the development.

Special Permit Procedures. Applicants for an OSRD special permit shall follow the special permit rules and regulations established by the Pepperell Planning Board in section 9300 of the Town of Pepperell Zoning Bylaw.

Pre-Application Conference. Applicants seeking a special permit for an OSRD are encouraged to request a pre-application conference or conferences with the Planning Board, department heads and/or other boards as appropriate, to review the scope of the project and the site for which it is proposed. At a minimum, the intent of the pre-application conference shall be to:

Identify the key natural features of the site.

- Identify the historic and cultural resources of the site and surrounding area.
- Identify any safety, traffic, or infrastructure issues related to the site and its surrounding area.
- Identify existing trails on the site or on abutting parcels, and any connections thereto.
- Identify areas that the Town prefers to see protected as open space, viewsheds, wildlife habitat, forestry operations or agricultural uses.
- Discuss the proposed plan and any issues relative to the concept plan Special Permit criteria.
- Discuss any design issues relative to this Bylaw and the Planning Board's requirements for definitive subdivision or site plans.
- Assist the developer in understanding the permitting process and issues relative to OSRD.
- Set a timetable for the special permit and definitive plan review processes.
- Schedule a site visit with the Planning Board and other land-use boards, as appropriate.

Site Visit. The Planning Board and/or its designee(s), along with members from all interested boards and departments, may conduct a site visit prior to or during the special permit public hearing. At the site visit, the Planning Board or its designee(s) shall be accompanied by the applicant and/or its agent(s). With the applicant's permission, interested members of the public may be invited to the site visit.

If a quorum of the Planning Board is anticipated to be present at the site visit, the site visit must be properly noticed per the requirements of MGL Chapter 39, Sec. 23a-24.

Preferred Design Process. Each OSRD special permit applicant should follow a design process similar to that outlined below. When the plan is submitted, the applicant(s) shall be prepared to demonstrate to the Planning Board that this design process was substantially complied with in determining the proposed layout of open space, streets, house lots and other features of the OSRD.

- Understanding the site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources of the site, and to determine the connection of these important features to each other and similar features on abutting properties, if any.
- Evaluating site context. The second step is to evaluate the site in its larger context by identifying natural (e.g. streams, wetlands, steep slopes), transportation (e.g. roads, woods roads, trails), and cultural (e.g. historic and recreational sites) connections to surrounding land uses and activities.
- Designating the contiguous open space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources on the site, and, where appropriate, areas that serve to extend existing networks of open space or land protected under easements.
- Location of building sites and development areas. The fourth step is to locate building sites, parking areas, paths and other features of the built environment.
- Roads and Lot Lines: The final step is to choose road alignments and driveway locations and then draw lot lines around each proposed building lot, which also serves to delineate the open space areas described in section 7160 of this Bylaw.

Submission Requirements. In addition to the information required by the Pepperell Special Permit rules and regulations, the following additional information shall be submitted as part of a special permit application:

Special Permit concept plans. For any application for an Open Space Residential Development, the applicant shall prepare two sets of concept plans for the parcel of land to be subdivided or otherwise developed. One plan shall describe a conventional subdivision or development while the second shall describe an Open Space Residential Development.

The principle component of the concept plan is a schematic representation of the proposed development, with sufficient detail about existing and proposed conditions to enable the Planning Board and the public to understand what is being proposed and to be able to respond to the applicant's proposals in an informed manner. This information will also be used by the Planning Board in determining the number of permissible lots.

The concept plans shall include scaled drawings by a registered land surveyor, civil engineer or landscape architect. The concept plans shall be used by the Planning Board in determining the number of lots that would be possible were the parcel to be subdivided in a conventional manner, as well as the general features of the OSRD.

Special permit concept plans shall contain the following information, as well as that required in Appendix B of the Special Permit rules and regulations, unless the need for such is specifically waived by the Planning Board after request by the applicant. At a minimum, the concept plans shall also provide the following information:

- The location of the proposed development. A locus map shall be provided showing the location of the development in relation to the entire town at a scale of one inch equals 1,000 feet.
- Parcel boundaries, north arrow, date, legend, title and scale.
- The size of the parcel(s) being subdivided in acres and square feet.
- The names of the record owner, applicant and the name of the designer or surveyor.
- The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner.
- Any zoning district boundaries.
- The names and addresses of all abutters, as determined from the most recent tax list.
- Photographs of the site at a variety of locations, focusing on possible building sites, unique natural and scenic areas and areas to be set aside as open space. The location of these photographs should be identified on the plan.
- A description of the environmental and natural features of the site, focusing on those features intended for preservation through permanently protected open space.
- The acreage, percentage of the entire parcel and proposed uses of the open space.
- The total number and approximate locations of the proposed buildings, dwelling units and/or lots.
- Topography / contour lines at an interval of two feet.

- A statement on the disposition or manner of ownership of the proposed open space.
- A delineation of jurisdictional wetland resource areas and their buffer zones subject to the Massachusetts Wetlands Protection Act. All resource area flag locations shall be numbered and placed on the plan. The delineation of all wetland resource areas shall be certified by the Pepperell Conservation Commission.
- A general mapping of soil types from existing data sources, such as the Natural Resource Conservation Services (formerly the Soils Conservation Service).
- Lot boundaries with their approximate areas and frontage dimensions, or unit placement and all proposed common and open space areas.
- Location and extent of all parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate all the units in the development proposal.
- If available, the location and results of any test pit investigations for soil profiles percolation rates and determination of seasonal high water tables.
- A general description of how drainage will be handled, including a soils statement (soil conservation survey is acceptable) and the general area of the site to be used for stormwater management facilities, including whether low impact development (LID) techniques are proposed.
- Surface water, bordering vegetated wetlands and flood hazard area data using the FIRM or Raytheon information, as applicable, demonstrating that each such conventional lot has viable frontage access on a public way without reliance on a common drive.
- Draft of the proposal for the open space for Planning Board approval that includes a provision for maintenance which permits assessments upon individual owners in the event of a default by the organization.
- Drafts of any covenants running with the land, easements or grants which shall be enforceable by the town and/or subsequent owners of the land or buildings and which will oblige in a like manner subsequent holders of all or part of the applicants' interest.
- After an OSRD concept plan has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging and no construction of buildings or structures shall be done on any part of the site until a definitive subdivision or site plan (if applicable) for such development has been approved by the Pepperell Planning Board.

Number of Lots/Units. The basic maximum number of lots and dwelling units shown on the Open Space Residential Development special permit concept plan shall not exceed the number of lots and dwelling units which could reasonably be expected to be developed under a conventional plan in full conformance with all applicable zoning, subdivision and/or site plan regulations, the Wetlands Protection Act and codes of the Town of Pepperell, notwithstanding any density bonus that may be awarded per section 7180. The Planning Board shall use the concept plans described in section 7150 as guidance in determining the basic maximum number of OSRD lots and units. After reviewing all pertinent information, the Planning Board shall make a finding as to the basic maximum number of lots and dwelling units in the OSRD. The basic maximum number of lots and dwelling units is based on the number of lots and dwelling units that can be created without zoning variances or waivers from the subdivision or site plan regulations.

The number of lots and dwelling units will be specified in the special permit and reflected in the definitive subdivision or site plan that follows the granting of the special permit.

Design Standards and Dimensional Requirements. The following design standards and dimensional requirements shall apply in an OSRD.

- There shall be adequate, safe and convenient arrangement of roadways, driveways, pedestrian and other open areas to provide access for emergency vehicles to reach all buildings and structures at all times.
- Each lot shall be of a size and shape to provide a building site, which shall be in harmony with the natural terrain and other features of the land and provide adequate allowance for future accessory buildings or structures. In no instance shall any of the dimensional controls be reduced below the following table of minimum requirements.
- The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to, the location, design and construction of access ways, buildings, septic systems and surface water drainage systems. Soil borings or test pits shall be required prior to the issuance of any building

permits, unless waived by the Planning Board, to provide information on soil texture, color, percolation rates and depth to the groundwater table at its maximum elevation.

- Wherever possible and at the discretion of the Planning Board, a 50-foot wide no-disturbance buffer shall be provided around the entire perimeter of the site. This 50-foot buffer does count towards the minimum required amount of protected open space, subject to the limitations of section 7160.

TABLE OF MINIMUM REQUIREMENTS

Requirement	Served by Town Sewer and Water	Served by Town Water, but not Sewer	Served by Neither Town Water or Sewer
Minimum lot area	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum contiguous lot area exclusive of wetland, flood hazard and surface water areas	18,000 sq. ft.	25, 000 sq. ft.	30,000 sq. ft.
Minimum lot frontage	75 feet	120 feet	120 feet
Minimum side yard	15 feet	25 feet	25 feet
Minimum rear yard	25 feet	25 feet	25 feet
Minimum front yard	25 feet	25 feet	25 feet

Note: Lots with duplexes (two attached dwelling units) or multifamily units shall require twice the minimum lot area as specified above for single family lots and must comply with all provisions of section 7300, Multifamily Residential Development, of the Pepperell Zoning Bylaw. All other dimensional requirements for duplex and multi-family lots are unchanged from the underlying zoning.

- Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to avoid wetland crossings, if possible; to minimize cuts and fills; and to preserve and enhance views and vistas on or off the subject parcel. If the street is to become a public way, all Town of Pepperell design and engineering standards pertaining to new subdivision roads, as described in the Subdivision Rules and Regulations, must be followed.
- The Planning Board shall require connection, at the applicant's expense, of the OSRD to the municipal sewerage system when available. For purposes of this requirement, municipal sewerage shall be deemed available when a line comes within a reasonable distance from an access street to the site. Factors which will be used in determining if public sewer is available within a reasonable distance shall include, but are not limited to, the actual distance, the capacity of the existing line, topography, grade from the site to the public sewer, size of the development, effective density of development, ability to obtain easements, permits or license to traverse land of others, environmental constraints and correlation with the Sewer Commission Master Plan.
- The applicant shall submit calculations for a surface water drainage design based on a twenty-five year storm event performed and certified by a registered professional civil engineer demonstrating that the anticipated storm water runoff from the site shall not exceed peak runoff from the site prior to development. Culverts shall be designed on the basis of a fifty year storm with consideration being given to damage avoidance for a one hundred year storm. Drainage and stormwater calculations shall be performed by a registered professional engineer and shall conform to the Town of Pepperell Planning Board Rules and Regulations governing the subdivision of land.
- The site shall be preserved in its natural state, as it exists at the time of application, insofar as practicable, by minimizing tree and soil removal until the definitive plan has been approved. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography, plant cover and solar access. Topography, tree cover, surface water buffers and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- All main service lines for water, sewer and utilities shall be underground.

- Open Space Residential Developments within the Water Resource Protection Overlay District (WRPOD)
 - ⇒ Notwithstanding the provisions of section 8130. WRPOD Use Regulations, and Appendix A, Table of Principle Uses, of the Pepperell Zoning Bylaw, single-family homes on lots not less than 40,000 sq.ft. and duplexes and/or multifamily residential structures on lots not less than 80,000 sq.ft., are permitted within the Well Protection and Aquifer and Watershed Protection Zones of the Water Resource Protection Overlay District (WRPOD), provided the following standards can be met to the satisfaction of the Planning Board and Pepperell Board of Health:
 - ⇒ All new sewage disposal systems within the above mentioned WRPOD must provide enhanced nitrogen removal to protect public health and safety as well as the environment. The system owner is required to install a recirculating sand filter or equivalent alternative technology or to obtain a groundwater discharge permit in accordance with 314 CMR 5.00 and 6.00. Full compliance with the provisions of 310 CMR 15.000, which includes enhanced nitrogen removal, is presumed to protect the public health, safety, welfare and the environment. Specific site or design conditions, however, may require that additional criteria be met in order to achieve the purpose and /or intent of 310 CMR 15.000.

7160. Common Open Space. All land identified as open space in section 7150 of this Bylaw shall be set aside as common open space, and this land shall be preserved in essentially its natural condition. An OSRD must provide at least 40% of the total tract area as permanently protected open space. The common land shall be, to the extent practical, adequately distributed throughout the parcel so that it is accessible to residential lots without crossing through private property and separates residential lots from abutting properties. Though the open space will be primarily protected for its natural resource and wildlife habitat values, a small area, totaling no more than 10% of the required open space, may be set aside as a playground or other area for “active” recreation by the residents and/or the town, depending on the ownership of the open space as discussed below. The location and size of such active recreational area(s) shall be approved by the Planning Board prior to final action on the plan.

The following lands shall not constitute more than fifty percent (50%) of the minimum required common open space:

- Lands identified as wetland resource areas in accordance with G.L. c. 131, s. 40;
- Lands with slopes greater than twenty-five percent (25%)
- Lands within the 100 year floodplain as shown on F.I.R.M. maps.

Further subdivision of common open land or its use for other than recreation, conservation or agriculture, except for easements for underground utilities, shall be prohibited. Structures or buildings accessory to recreation, conservation or agricultural uses may be erected, provided that there shall be a minimum setback of one hundred (100) feet between any common open space structures and all property lines on the site, and provided that the total of impervious surfaces shall not exceed ten percent coverage of the total area of the common open land. Existing rights of way and utility easements may not be counted towards the required percentage of minimum open space.

Stormwater management and shared septic and well systems may be located within the common open space when necessary, provided such systems meet all applicable state and local codes, and are approved by the Pepperell Planning Board and Board of Health. The Planning Board may require that such utilities be covered by a utility or access easement. The area devoted to shared septic and large surface stormwater systems, such as retention and detention ponds, shall not, however, qualify towards the minimum required amount of open space.

The design of the common land shall provide for linkage with existing or future planned open space lands in abutting developments or in publicly owned or controlled open space lands, and shall be planned as large contiguous units whenever possible, with strips or narrow parcels (fifteen foot minimum width) only permitted when necessary for access or as vegetated buffers along the site's perimeter, and may be in more than one (1) parcel, provided that the size, shape and location of such parcels are suitable for the designated uses. Contiguous shall be defined as being connected. Open space will still be considered connected if it is separated by a roadway or accessory amenity.

Ownership and Management of the Open Space. The land set aside as common open land shall be owned and/or managed by one (1) of the following arrangements, as shall be determined by the Planning Board:

- Conveyed to an association, corporation or trust owned or to be owned by the owners of lots within the development. If such association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity.

- Conveyed to the town, at no cost, and accepted by it for park or open space use. Such conveyance shall be at the option of the town and shall require the acceptance of the land by the Conservation Commission and the approval of the Board of Selectmen.
- Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space.
- In any case where such land is not conveyed to the town, a conservation restriction, enforceable by the town under MGL Ch. 184, Sections 31-33, shall be required ensuring that such land shall be kept in an open or natural state and not be built upon for residential use or developed for uses such as parking or roadways. Such restrictions shall further provide for maintenance for the common land in a manner which will ensure its suitability for its function, the appearance, cleanliness, proper maintenance of drainage utilities and the like, and empower the town to perform maintenance in the event of failure to comply with the program, and including a provision that the owners of lots or units within the cluster development shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid. This restriction shall be recorded within sixty (60) days of the granting of the special permit, unless the sixty day time limit is waived and extended to a date certain by the Planning Board, or the special permit shall be null and void.

7170. Decision. In addition to the findings required by the Pepperell Special Permit rules and regulations, the Planning Board shall consider the following criteria and make the following additional findings for any OSRD:

- The reduction in dimensional controls will result in improved protection of natural and scenic resources.
- The application includes a program satisfactory to the Planning Board describing how the common open space will be maintained in perpetuity.
- The degree to which the design and layout of the OSRD is better than a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient provision of streets, utilities and other public services, and providing a high degree of design quality.
- The degree to which the OSRD promotes permanent preservation of open spaces, natural landscapes and vistas, agricultural land, forestry land, existing and proposed trails, other natural resources including water bodies, wetlands and drinking water source areas, and historic and archeological resources.
- The degree to which the OSRD achieves sustainable design through a more efficient form of development that consumes less land and conforms to existing topography and natural features as compared to a conventional subdivision or comparable development.
- The degree to which the OSRD reduces the total amount of land disturbance and clearing on the site.
- The degree to which the OSRD furthers the goals and objectives of the Pepperell Master Plan, Affordable Housing Plan, Open Space Plan and other planning documents, as determined by the Planning Board.
- The degree to which the OSRD and its supporting documentation complies with the provisions and sections of this Bylaw.
- The Planning Board may find that the proposed location of the OSRD is better suited for a conventional subdivision or land development, and therefore authorize the applicant to submit a conventional plan in compliance with the Pepperell subdivision or site plan regulations.
- The degree to which the OSRD designed layout is not more detrimental than a conventional development in protecting the water quality and quantity of Town wells.

Conditions.

- A special permit for OSRD granted by the Planning Board shall lapse, except for a good cause, two (2) years from the date of issue unless a substantial part of the proposed construction work shall have been commenced and is proceeding continuously toward completion. This two year period shall not include the time required to pursue or await determination of an appeal referred to in G.L. c. 40A, s. 17. The recording of the special permit and subsequently approved Definitive Plan shall constitute commencement of substantial use.
- At any time before, during or after the commencement of construction of the proposed development the special permit may be amended by following the special permit procedures for the amendment.
- The Planning Board may impose a performance guaranty to insure construction in accordance with the plan.

- The Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve a related definitive plan for subdivision.

Relationship between the Special Permit Plan and Definitive Subdivision or Site Plan. Any OSRD special permit issued by the Planning Board shall specifically state that the subsequent definitive subdivision plan or site plan shall substantially comply with the special permit concept plan in terms of the number of dwelling units, road and lot layout, open space percentage and layout, and stormwater management systems. If the Planning Board determines that the definitive subdivision or site plan for the OSRD does not comply with the provisions of the special permit, the Planning Board shall require the applicant to submit a revised subdivision plan that does comply with the provisions and of the special permit, or to seek another special permit.

Any special permit for an OSRD that is granted by the Planning Board which shows a subdivision must be followed by the submittal of a Definitive Subdivision Plan in accordance with the Subdivision Rules and Regulations of the Town of Pepperell. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Special Permit Plan.

If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Special Permit plan. A substantial variation will be found to exist when any of the following conditions apply:

- An increase in the number of building lots and/or dwelling units;
- A significant decrease in the open space acreage or percentage;
- A significant change in the lot layout or units placement;
- A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- Significant changes to the stormwater management facilities; and/or
- Significant changes to the wastewater management systems.

Planning Board Regulations. The Pepperell Planning Board may adopt regulations to assist in the administration of this OSRD Bylaw. These regulations may address, but not be limited to, the following considerations: plan submittal requirements, provisions for combined special permit and subdivision hearings, site landscaping and buffering standards, open space use restrictions, architectural design, low impact development and other site specific planning features. Failure of the Planning Board to adopt such regulations shall not serve to invalidate any provisions of this Bylaw.

Waivers from the Provisions of this Bylaw

The Planning Board may waive strict compliance with any of the provisions of this section when, in its judgment, doing so is in keeping with the spirit and intent of this section, is in the public interest and is not inconsistent with the Pepperell Zoning Bylaw.¹¹

7180. Bonuses for Additional Open Space and Affordable Housing. The Planning Board may award a density bonus to increase the number of dwelling units beyond the basic maximum allowed as determined through the yield analysis, which equals the number of dwelling units that could be developed in a conventional manner. The density bonus for the OSRD shall not, in the aggregate, exceed 20% (twenty percent) of the basic maximum number. Computations for all density bonuses shall be rounded down to the nearest whole number. Density bonuses are not allowed within the water resource protection overlay districts (WRPODs) because of the overriding necessity of protecting such areas from undue encroachment and the risk of groundwater contamination. A density bonus may be awarded in the following circumstances:

- For each additional ten percent (10%) of the site (over and beyond the required 40%) set aside as permanently protected open space, a bonus of five percent (5%) of the basic maximum number of dwelling units may be awarded.
- For every two (2) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households, or for every one (1) dwelling unit restricted in perpetuity to occupancy by Low-Income Households, one (1) market rate dwelling may be added to the basic maximum number of dwelling units. Affordable housing units may be used toward density bonuses only if they can be counted towards the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall

provide documentation demonstrating that the unit(s) shall count towards the community's affordable housing inventory to the satisfaction of the Planning Board.

- Bonus for Low Impact Development and Innovative / Environmentally-progressive land development techniques
 - The Planning Board may award a density bonus for OSRDs that use Low-Impact Development (LID) / Better Site Design Practices for stormwater management in place of the standard structural methods such as detention basins and piped systems. LID or "soft" or "green" stormwater management systems use vegetative and small, decentralized building lot scale systems to decrease impervious surfaces and encourage the infiltration of clean water into the ground. When the Planning Board determines that an OSRD is proposing a well planned LID system, it may award one additional market rate or affordable housing unit to the basic maximum number of units.
 - The Planning Board may also award one additional market rate or affordable housing unit over the basic maximum number when it finds that the OSRD plan is most effective in connecting or linking its open space to existing conservation or open space lands in Pepperell that are permanently protected from development.

7190. Severability. If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections of this bylaw shall not affect the validity of the remainder of the Pepperell Zoning Bylaws.

7200. PLANNED UNIT DEVELOPMENT

7210. General. On parcels of at least one hundred twenty thousand (120,000) square feet, the Planning Board may authorize a special permit for a planned unit development wherein the Planning Board may allow a mixture of uses and a variety of building types which are indicated as permitted or allowable by special permit in that district in the Table of Use Regulations.

7220. Number of Dwelling Units The total dwelling units allowed on said parcel shall not exceed that otherwise allowable in the district.

7230. Open Space Required The designation of a portion of the parcel as common or open land shall be required, and shall be governed by the provisions of Section 7170.

7240. Decision. In addition to the finding required by Section 9300, the Planning Board shall find that the PUD promotes a significant advantage from the normal requirements of the district.

7300. MULTIFAMILY RESIDENTIAL DEVELOPMENT

7310. General Multifamily residential development shall be allowed only by special permit by the Planning Board in the Urban Residence District and in the Commercial District.

7320. Design Requirements

7321. At least ten thousand (10,000) square feet of land area shall be allocated for each dwelling unit in each multifamily dwelling. Not more than four (4) dwelling units may be placed in any multifamily dwelling.¹²

7322. Multifamily development shall be served by the public water system or a private communal water system, which conforms to all applicable regulations of the Commonwealth of Massachusetts and the Town of Pepperell. Water supply shall be sufficient at all times to meet public water supply and fire protection requirements, and in this regard, the recommendations of the Town Water and Fire Departments shall be considered.

7323. The distance between buildings shall be a minimum of fifty (50) feet unless, after consideration of architectural, aesthetic, land planning, topographical, ground factors and emergency access, the Board determines that less distance is desirable. In no case shall such distance be less than twenty (20) feet.

7324. On-site drained parking areas shall comply with Section 5100, and adequate provision for aisles and drives shall be provided. Visitor parking spaces shall be clustered and distributed throughout the site to complement the design and layout of the site and to ensure safe vehicular and pedestrian flow. Separate buildings for parking garages, if any, shall be located and designed so as to complement the apartment building design and site layout. Parking spaces located at the front of the site shall be suitably screened so as to not be viewed from the road.¹³

7325. All dwelling units within apartment buildings shall have a minimum floor space area of four hundred-eighty (480) square feet.
7326. Except for detached single family dwelling units, no multifamily residential development containing eight (8) or more dwelling units shall have more than twenty percent (20%) of the total number of dwelling units with three (3) or more bedrooms.⁵⁴
7327. Easements and deeds shall be granted to the town to secure access to town facilities, utilities and land.
7328. Excepting master antennas serving one (1) or more buildings, exterior antennas for reception or transmission of electronic signals shall not be permitted.
7329. All multifamily developments shall require signage in accordance with Section 5300 to be located at all entrances to the multifamily development and in the case of apartment buildings, each building shall be designated by street numbering as determined by the Board of Assessors, and each unit number shall be clearly marked with numerals or letters of no less than six (6) inches in height and be of a clearly visible color. In the case of multifamily developments containing single-family detached dwelling units a permanent marker of engraved granite not greater than six (6) square feet in area shall be placed at the end of the driveway entrance to the multifamily development where it meets the public way and shall contain the diagram of the addresses of the properties as designated by the Board of Assessors. A similar, but smaller, marker shall be placed where the driveway meets the individual dwelling driveway and at any location where the driveway may split to access more than one dwelling. All driveways and parking areas for the designed multifamily development shall be paved to a total thickness of three (3) inches with two courses of bituminous concrete.⁵⁵
- 7330. Open Space** Open space and common land, if any, shall be laid out in such manner as to tend to assure compliance with the foregoing standards, to provide for pedestrian safety within the site and to provide an aesthetically pleasant setting for the multifamily residential development within its neighborhood. Such open space land shall meet the ownership, maintenance and conservation easement requirements as provided for an open space residential development under this chapter.
- 7335. Affordable Housing.** All multifamily developments which will result in the creation of six (6) or more detached single family dwelling units on the site designated as the multifamily development shall require at least 10% of the units, and in no case, less than one unit, be priced for qualified affordable housing purchase as defined by the Commonwealth of Massachusetts.⁵⁶
- 7340. Planning Board Action** Before acting upon the application, the Board shall submit it with the plan to the following boards, which may review it jointly or separately: Board of Health, Highway Surveyor, Conservation Commission, Police Chief, Board of Fire Engineers, Water Department and Sewer Commission. The Planning Board shall grant such special permit only when it determines that all of the standards for special permits contained in Section 9300 are met and the requirements set forth herein.
7341. Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve any related plan for subdivision, nor reduce any time periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board may, insofar as practical under existing law, accept a combined plan and application which shall satisfy both this section and the Board's regulations under the Subdivision Control Act.
- 7350. Conditions.** Where a special permit for multifamily residential development is granted which is not subject to subdivision control, the Planning Board shall impose all or such part of its subdivision control requirements as it deems advisable as conditions upon its permit, including but not limited to the construction of roads and driveways, drainage facilities and other facilities and utilities, and shall require a bond or covenant in the manner prescribed in the subdivision regulations to secure performance of the entire plan for multifamily residential development as approved for special permit.
- 7400. TRAILERS**
- 7410. General** No person shall use or permit to be used for dwelling purposes within the town any trailer or similar mobile equipment, whether registered or unregistered, mobile or immobile, except that mobile trailers may be used for temporary dwelling purposes, provided that such use is licensed by the Selectmen, said license to be applied for by the occupant within three days after the unit is located in the town and with no license granted hereunder to be for a period exceeding six calendar months.

7420. Preexisting Trailers. The above restrictions shall not apply to trailers which are presently or are hereafter placed in any trailer park already in existence in the town or to any existing trailer presently being used for dwelling purposes, which trailers shall be subject to and limited by licenses, if any, presently in effect.

7421. Such trailers may be replaced by a trailer not more than 20% larger in volume than the lawfully preexisting trailer.

7500. REAR LOTS

7510. General In a Rural, Town Suburban or Recreational Residential District, a building and occupancy permit for one (1) single family dwelling unit may be issued notwithstanding the minimum frontage requirements set forth in Section 4000, subject to the following conditions.

7520. Conditions

7521. The area of the lot upon which such dwelling unit is erected or to be erected shall exceed by at least two (2) acres the minimum lot required in that district.

7522. The minimum frontage shall be at least forty (40) feet, and the width of the lot between the dwelling site and the public way shall not be less than forty (40) feet.

7523. The lot shall not interfere with the layout of future public ways.

7524. Two (2) or more such lots shall not have contiguous frontage, and each one shall be separated by a lot with frontage conforming to the district requirement.

SECTION 8000. SPECIAL DISTRICTS¹⁴

8100. WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)

8110. Purpose The intent of the Water Resource Protection Overlay District (WRPOD) is to protect the current and future groundwater supplies of the town by regulating activities, which could generate contaminants resulting in degradation of the groundwater. The WRPOD shall be considered as overlaying other zoning districts; regulation hereunder is in addition to the requirements of the districts it overlays, and no use or dimension not permitted in the portions of the districts so overlaid shall be permitted in the WRPOD. Location of each of the WRPOD zones are as shown on the official Zoning Map of the Town of Pepperell as the same may be amended.

8120. WRPOD Zones. The WRPOD consists of three zones: a Watersource Protection Zone, a Well Protection Zone and an Aquifer-Watershed Protection Zone as shown on the Official Zoning Map and defined as follows:

8124. Water Source Protection Zone: The "Water Source Protection Zone" (WSPZ) consists of a 400 foot radius surrounding a public wellhead/water source and shall coincide with the area defined as "Zone I" pursuant to the regulations set forth in 310 CMR 22.00. It is intended that all areas within the WSPZ will be owned in fee simple or substantially controlled by the Town of Pepperell by recorded easement, lease or other restriction for purposes as public water supply and that there shall be no activity within the WSPZ which is inconsistent with the regulations governing Zone I. For this reason, the limitations on uses as they pertain to the WSPZ eliminate any substantial uses other than as a public water supply and uses accessory thereto.

8125. Well Protection Zone: The "Well Protection Zone" (WPZ) is defined as the area adjacent to the Water Source Protection Zone and shall coincide with the area defined as "Zone II" pursuant to the regulations set forth in 310 CMR 22.00 being the area which contributes water to the wells after 180 days of pumping at safe yield with no recharge from precipitation as defined in 310 Code of Massachusetts Regulations (CMR) 22.00.

8126. Aquifer and Watershed Protection Zone: The "Aquifer and Watershed Protection Zone" (AWPZ) is defined as that portion of the surface and groundwater drainage basin, which contributes significantly to the groundwater recharge of the WSPZ and the WPZ. It is intended that the AWPZ shall coincide with the area defined as "Zone III" pursuant to the regulations set forth in 310 CMR 22.00 being the area outside of the WPZ from which surface water and groundwater drain into the WPZ.

8127. Boundary Appeals: In cases of uncertainty regarding the boundary of the WRPOD, or any of the zones within the WRPOD, an owner of land in the WRPOD may appeal the determination by the Building Inspector to the Board of Appeals. The appeal shall be accompanied by sufficient data to prove that the boundary line is incorrect and to show where it should properly be located using the best available hydrogeological data. The burden of proof shall be upon the landowner. The Board of Appeals shall transmit copies of the data to the Planning Board, Water Department, Conservation Commission and Board of Health for their review. The

Board of Appeals shall not hold a public hearing on the appeal until such time as written reports have been received from all boards to whom such data has been referred or 35 days have elapsed following referral without receipt of such reports. Should the Board of Appeals determine that the data provided is accurate, it may grant the owner an exemption in whole or in part from the requirements of the WRPOD and shall propose a revision of the WRPOD to the next appropriate Town Meeting.

8130. Use Regulations. The following regulations shall apply within the WRPOD:

USE	WATER SOURCE PROTECTION ZONE	WELL PROTECTION ZONE	AQUIFER-WATERSHED PROTECTION ZONE
1. Existing or protected uses, excluding the use of pesticides, herbicides and other chemicals except lawn fertilizers applied either at a rate not to exceed 16 pounds of nitrates per 40,000 square feet per year or in accordance with a schedule developed by the Department of Food and Agriculture of the United States Department of Agriculture	N	Y	Y
2. Agricultural uses	N	Y	Y
3. Woodlot management and selected tree cutting after site plan approval by the Planning Board after referral to the Forestry Committee (if on town owned land or if cutting is not subject to the State Forest Cutting Practices Act and DEM regulations)	Y	Y	Y
4. Emergency repairs, demolition and/or removal of existing structures as may be required by law for public safety and the replacement or repair of a sewage disposal system that will not result in an increase in design capacity over the original design or the design capacity of 310 CMR 15.000, whichever is greater	N	Y	Y
5. Construction and maintenance of facilities and accessory uses related to public water supply.	Y	Y	Y
6. Maintenance and repair but not enlargement of any existing or approved roadways and drainage structures	Y	Y	Y
7. Construction or alteration of existing roads, parking areas and drainage facilities	SP	SP	SP
8. Construction of roads approved under Pepperell Subdivision Rules and Regulations more than 100 feet from wetlands.	N	Y	Y
9. Construction of single family residences served by and connected to Town sewer.	N	Y	Y
10. Construction of single family residential structures serviced by subsurface disposal systems in compliance with Title V on lots containing at least 80,000 square feet (see 8171)	N	Y	Y
11. Construction of multi-family residences served by and connected to Town sewer.	N	Y	Y
12. Construction of multi- family residential structures serviced by subsurface disposal systems in compliance with Title V on lots containing at least 80,000 square feet (see 8171)	N	SP	SP
13. Swimming pools. ¹⁵	N	Y	Y
14. Facilities that generate, treat, store and dispose of, and the transportation of, hazardous waste or materials as defined under G.L. c. 21C and 310 CMR 30.000, except very small quantity generators, household hazardous waste events, waste oil retention facilities required by G. L. c. 21, s.52A and water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters	N	N	N

USE	WATER SOURCE PROTECTION ZONE	WELL PROTECTION ZONE	AQUIFER-WATERSHED PROTECTION ZONE
15. Sale or storage of liquid petroleum products, except storage for normal household use, outdoor maintenance, heating of a structure, waste oil retention facilities or emergency generators required by statute or regulation, approved treatment works for ground or surface waters, provided that such storage is in freestanding containers within buildings or aboveground with secondary containment adequate to contain a spill the size of the container's total storage capacity	N	N	N
16. Use of septic tank cleaners, which contain toxic chemicals as defined by the Commonwealth of Massachusetts DEP Regulations 310 CMR 30.00	N	N	N
17. Solid waste disposal sites, including junk and salvage yards or sanitary landfills	N	N	N
18. Motor vehicle repair facilities, body shops and gasoline service stations	N	N	N
19. Trucking or bus terminals	N	N	N
20. Car and truck washing facilities not connected to the municipal sewer system	N	N	N
21. Coin or commercial laundries not connected to the municipal sewer system	N	N	N
22. Hairdressing and beauty shops not connected to the municipal sewer system	N	N	N
23. Storage of hazardous materials, including but not limited to chemicals, fertilizers, pesticides, herbicides, manure or deicing compounds, unless in a freestanding container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity or within a structure designed to prevent the escape of contaminated runoff or leachate	N	N	N
24. The removal of soil, loam, sand, gravel and any other mineral substances within four feet of the historical high groundwater table elevation unless the substances removed are redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark, except for excavations for the construction of building foundations or the installation of utility works, or wetlands restoration work conducted in accordance with a valid order of conditions.	N	SP	SP
25. Dumping of snow brought in from outside the WRPOD	N	N	N
26. Discharge of treated wastewater containing other than normal household wastes from a dwelling	N	N	N
27. Use of deicing compounds on roads, driveways and parking lots	N	N	N
28. Sewage treatment facilities with onsite disposal of secondary treated effluent serving multiple dwellings.	N	N	N
29. Diversion of storm water runoff from the WRPOD	N	N	N

USE	WATER SOURCE PROTECTION ZONE	WELL PROTECTION ZONE	AQUIFER-WATERSHED PROTECTION ZONE
30. Animal feed lots containing 25 or more animals per 40,000 square feet	N	N	N
31 Cemetery	N	N	N
32. Land uses that result in rendering impervious an area aggregating more than the greater of 2,500S.F. or 15% of any lot.	N	SP	SP
33. All other new construction for any and every residential, commercial and industrial use on lots now vacant not specifically addressed above.	N	SP	SP

8140. Special Permit Granting Authority The Planning Board is hereby established as the special permit granting authority for the purpose of granting relief from the requirements of the WRPOD and the Planning Board shall make all findings required for general or specific performance standards below. Findings under Section 9300 are not necessary except that a finding shall be made that the residence or other structure to be constructed shall have sufficient access to utilities and other necessary public services.

8150. General Performance Standards All construction shall be in accordance with the following conditions:

- 8151. Swimming Pools. Should it be necessary at any time to empty the water from the pool, the water shall be left untreated and exposed to sunlight for a period of three days prior to its being released into the soils at the site.¹⁶
- 8152. Any toxic materials, such as paint, swimming pool treatment and cleaning solutions or other material defined as hazardous shall be stored in sealed containers and kept in a toxic material storage enclosure when not in use. Adequate precautions shall be taken to ensure that a spill of any toxic materials in use at the site or stored within the enclosure will not leach into the surrounding soil. If the material is so caustic that a spill could not be contained, the material shall not be stored at the site.
- 8153. The construction road shall be the driveway to the residence or locus.
- 8154. The physical boundaries of the actual construction area and soil storage area shall be clearly marked. These areas shall be made as small as possible, and operation of vehicles whose combined vehicle payload weight exceeds 10,000 pounds shall not be allowed outside of these designated areas. No portion of any of these areas shall be within 100 feet of wetland areas. The Planning Board may allow, for access purposes only, reduction of the 100 foot restricted area if it has been determined that there are no reasonable alternatives to access the upland area and a certification from a Registered Professional Hydrogeologist, Certified Professional Geological Scientist, Registered Professional Engineer (including only those certified as a Civil Engineer or Environmental Engineer), Certified Ground Water Professional or Certified Professional Soil Scientist that the project will not have an adverse impact on the interests protected by the WPZ and the AWPZ in the WRPOD. The reduction in the 100 foot setback from wetlands does not exempt the applicant from compliance with the Wetlands Protection Act or any other applicable wetlands bylaws. Upon such certification, the Planning Board shall issue the Special Permit unless the Planning Board determines, after applying objective and scientifically accepted principles, that the applicant's project, no matter what conditions may be applied to it, will adversely and materially affect the public drinking water supply protected by the WPZ and the AWPZ.¹⁷
- 8155. All waste and refuse which is generated during construction shall be stored in a closable waste bin or removed from the site on a daily basis. There shall be no onsite burial of any stumps or slash. All construction materials shall be removed from the site after construction has been completed.
- 8156. Certain uses described in Section 8130 require the issuance of a non-discretionary Special Permit. In any such use requiring the issuance of a Special Permit the Planning Board shall require certification from a Registered Professional Hydrogeologist, Certified Professional Geological Scientist, Registered Professional Engineer (including only those certified as a Civil Engineer or Environmental Engineer), Certified Ground Water Professional or Certified Professional Soil Scientist that the project will not have an adverse impact on the interests protected by the WPZ and the AWPZ in the WRPOD. Upon such certification, the Planning Board

shall issue the Special Permit unless the Planning Board determines, in a well-founded and documented decision, after applying objective and scientifically accepted principles, that the applicant's project, no matter what conditions may be applied to it, will adversely and materially affect the public drinking water supply protected by the WPZ and the AWPZ.

8160. Construction Standards for Single Family Residences In addition to compliance with all general performance standards, the following specific standards shall apply to the construction of single family residences in the WRPOD:

8161. Surface waters and flood hazard areas shall be excluded when determining the minimum lot size of 80,000 square feet for residential buildings not served by or connected to Town sewer, nor shall structures be built on these areas.

8170. Additional Construction Standards In addition to compliance with all general performance standards, the following specific standards shall apply to construction in the areas of the Watershed Protection Zone and the Aquifer Protection Zone which overlay Commercial or Industrial Districts:

8171. No development shall render more than 10% of a lot area impervious, unless artificial recharge that will not degrade the groundwater is provided on site.

8172. No channeling or otherwise directing rainwater from gravel areas or impervious areas, including rooftops, shall be done other than through oil and grease traps and sediment traps.

8173. Paving with impervious material shall be required for areas upon which vehicles travel or are stored.

8200. [RESERVED]

8300. WIRELESS COMMUNICATIONS OVERLAY DISTRICT (WCOD)¹⁸

8310. Purpose. The purpose of this section is to establish areas in which wireless communications facilities may be provided while protecting Pepperell's unique community character. The WCOD has been created (a) to provide for safe and appropriate siting of wireless communications facilities consistent with the Telecommunications Act of 1996, and (b) to minimize visual impacts from such facilities on residential districts and scenic areas within Pepperell. The construction and use of a wireless communications facility for which a building permit has issued prior to the date of adoption of this new amended zoning bylaw shall continue to be governed by the zoning bylaw provisions in effect at the time the building permit issued.

8320. Location. The terms of the WCOD shall apply to all properties within the Town of Pepperell.

8330. Applicability. The WCOD shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning shall remain in full force and effect except Section 4110, and except as may be specifically superseded or added to herein.

8340. Permitted Uses. Within the WCOD, wireless equipment may be placed on any appropriate existing structure, including a permitted monopole, upon minor site plan approval by the Planning Board.

8341. Such equipment may be placed upon or inside existing buildings or structures, including water tanks and towers, church spires, electrical transmission lines, and the like. In such cases, the facility height shall not exceed two (2) feet above the height of the existing structure or building. Strict compliance with the two (2) foot facility height limitations may be varied by the Planning Board during the site plan approval process when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Pepperell Zoning Bylaw.

8350. Uses Available by Special Permit. A wireless communications facility (WCF) may be erected in the WCOD upon the issuance of a special permit by the Planning Board if the Board determines that the proposed facility will not cause substantial detriment to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

- a. communications needs served by the WCF;
- b. traffic flow and safety, including parking and loading;
- c. adequacy of utilities and other public services;
- d. impact on neighborhood character, including aesthetics;
- e. impacts on the natural environment, including visual impacts;

- f. potential fiscal impact, including impact on town services, tax base, and employment;
- g. new monopoles shall be considered only upon a finding that existing or approved monopoles or facilities cannot accommodate the equipment planned for the proposed monopole.

8360. Conditions. All WCFs shall be subject to the following conditions. Strict compliance with the conditions of these regulations may be varied by special permit, when, in the judgement of the Planning Board, such action is in the public interest and not inconsistent with the Pepperell Zoning Bylaws.

- a. To the extent feasible, service providers shall co-locate on a single facility. Monopoles shall be designed to structurally accommodate other potential users (within a ten year period) where technically practicable.
- b. New free-standing WCFs shall be limited to monopoles; no lattice towers shall be permitted. Monopole height shall not exceed 100 feet above mean finished ground elevation at the base of the mounting structure; provided, however, that a monopole may be erected higher than 100 feet where co-location is approved or proposed, not to exceed a height of 140 feet above mean finished ground elevation at the base of the mounting structure.
- c. All structures associated with WCFs shall be removed within one year of cessation of use. The Board may require a performance guarantee to effect this result.
- d. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- e. The WCF shall minimize, to the extent feasible, adverse visual effects on the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, lighting standards, landscaping, and screening.
- f. Traffic associated with the WCF shall not adversely affect public ways.
- g. Fencing may be required to control unauthorized entry to a WCF.
- h. Notwithstanding the requirements of Sec. 4140, a WCF shall be set back from the property lines of the lot upon which it is to be located for a minimum distance that is at least equal to the height of the tower.
- i. The required setback for a WCF from designated wetlands or surface waters shall be at least 100 feet.
- j. A WCF shall be set back a minimum of at least 500 feet from all existing dwellings or mobile homes and public ways.
- k. No WCF shall be located in the front yard of any lot.

8370. Submittal requirements. As part of any application for a special permit, applicants shall submit, at a minimum, the following information.

- a. A site plan consistent with the requirements for major site plan approval, as set forth herein at Section 9400.
- b. A narrative report describing the capacity of the WCF, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity.
- c. Copies of required federal and state permits, or a list of such permits to be acquired prior to construction.

8400. SEWER ZONING DISTRICT¹⁹

8410. Purpose. The purpose of this section is to define that portion of the Town of Pepperell in which sewer service is provided or may be planned to be provided, and to regulate sewer connections and use within the Sewer District area.

8420. Location. The Sewer District shall consist of that area of land shown within the delineated area appearing on the Town of Pepperell Zoning Map and is additionally described and defined in a written addendum to the Official Zoning Map.

8430. Applicability. The Sewer District shall be construed as an overlay district, and all elements of the underlying zoning shall remain in full force and effect.

8440. Regulation. All habitable structures, whether residential or commercial, constructed after the effective date of this section, lying within the Sewer District and having legal access to the sewers of the Town of Pepperell, shall connect to the municipal sewer system by a sufficient drain, prior to any use or occupancy thereof. All single family residences existing at the effective date of this section shall be allowed access to the municipal sewer system. Any single family residence existing at the effective date of this section which is outside the Sewer District but directly abutting a parcel

within the Sewer District may be allowed access to the municipal sewer system through proof of demonstrated hardship circumstances and by the permission of the Board of Public Works. No other properties outside the Sewer District shall be allowed access to the municipal sewer system.

8450. Authority. The Board of Public Works shall be the enforcement authority of the Sewer District. All connections to the municipal sewer system shall be directed as defined by the Sewer Division of the Department of Public Works.

8500. MIXED USE OVERLAY DISTRICT²⁰

8500. Purpose. The Mixed Use Overlay District (sometimes referred to herein as a “MUOD”), allows by Special Permit from the Planning Board an alternative pattern of land development to the pattern normally permitted in the underlying District(s). A Mixed Use District Overlay shall be permitted by Special Permit in the Commercial or Industrial Districts provided the area to be so designated shall have at least five (5) acres (inclusive of wetlands). It is intended to create mixed commercial, residential, and open space areas, called Mixed Use Developments (sometimes referred to herein as MUD”), where the visual and physical dominance of the automobile is made secondary to pedestrian needs; to encourage pedestrian activity by creating a pleasant, rich and diverse experience for pedestrians; to reduce traffic congestion and air pollution by providing opportunities for retail services, housing and employment in close proximity; and to encourage the sharing of parking lots and driveway curb cuts, minimizing the amount of paved parking surface area, and reducing traffic congestion. For the purposes of this section, a “Mixed Use Development (MUD)” shall mean any eligible use set forth in Section 8530, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site, all subject to the issuance of a Special Permit as set forth in Section 8590.

8510. Authority. The Planning Board shall be the Special Permit Granting Authority for a MUD. The Planning Board may vary the dimensional and parking requirements of this section if, in its opinion, such change will result in an improved design of the MUD. This authority continues subsequent to occupancy by Special Permit issued by the Planning Board. Section 9300 et. seq. of this Zoning Bylaw applies with respect to the Planning Board’s consideration of the grant of a Special Permit for the MUD.

8520. Exclusivity/Control. All other uses and provisions not otherwise impacted by this Section (8500 et. seq.) shall continue to remain in full force and effect. This Section (8500 et. seq.) of the Bylaw shall exclusively control development of any MUD and shall take precedence over any other provision of the Zoning Bylaw (except the provision of any other applicable overlay district). In the event of any conflict between the provisions of this Section 8500 et. seq. and the Zoning Bylaws, the provisions of this Section shall govern and control. Upon the construction and operation of a MUD pursuant to a Special Permit granted under this Section 8500, the underlying zoning regulations shall be superseded by the MUD Special Permit.

8530. Eligible Uses. Except as noted below, all uses permitted in a Commercial District shall be eligible for consideration as part of a MUD. In addition to the foregoing, the following types of uses shall be eligible for consideration as part of a MUD:

8531. Multifamily Dwellings - defined as a structure or structures containing three or more residential units.

8532. Municipal Facilities - defined as facilities owned or operated by the Town of Pepperell.

8533. Underground and Above Ground Utilities

8534. Parking Facility - defined as a structure or structures permitting above ground or below grade parking including parking at or below grade under a building.

8535. Prohibited Uses.

a. Notwithstanding the foregoing, the following uses shall be expressly PROHIBITED in the Mixed Use Overlay District:

b. Motor vehicle sales and rental

c. Motor vehicle light service

d. Motor vehicle general and body repair

e. Car Wash

f. Commercial Kennel

- g. Flea Market
- h. Drive through service for fast food establishments

8540. Density.

8541. Business Professional Office or Retail uses shall comprise a minimum of 10% of the floor area of permitted uses in a MUD.

8550. Dimensional Requirements. The dimensional requirements below shall apply to the Mixed Use Overlay District:

8551. Minimum contiguous area required for a Mixed Use Overlay District shall be five (5) acres. A Mixed Use Overlay District shall consist of one or more lots.

8552. Minimum lot frontage shall be 100 feet for lots within the Mixed Use Overlay District.

8553. Minimum lot width shall be 100 feet for lots within the Mixed Use Overlay District.

8554. The minimum front yard for lots within the Mixed Use Overlay District shall be 30 feet.

8555. The minimum Side Yard and Rear Yard for lots within the Mixed Use Overlay District shall be as set forth in Section 4140 of the Bylaw for the underlying zoning district.

8556. There shall also be at least 15 feet separation between any two structures in the MUD and the areas behind and between all structures shall be clear and accessible to the Town's fire suppression vehicles.

8557. Maximum height shall be 60 feet.

8558. Maximum lot coverage shall be 70 percent for lots within the Mixed Use Overlay District.

8559. Screening - When a Mixed Use Overlay District abuts a residential district, there shall be appropriate screening as approved by the Planning Board between the Mixed Use Overlay District and residential district.

8560. Parking and Curb Cut. Parking and Curb Cut Requirements. Unless as provided below, parking and circulation requirements shall be in accordance with Section 5000 et. seq. of this Bylaw except as described below for Mixed Use Developments:

8561. General - In a MUD adequate off-street parking shall be provided. The Planning Board and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall consider complimentary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.

8562. Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses.

8563. Parking at Buildings - Parking shall be primarily located at the rear, side or under buildings.

8564. Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit.

8565. Granting of Relief from Parking Regulations - The Planning Board may waive any of the foregoing requirements or the requirements of Section 5000 et. seq. if it makes a finding that to do so will enhance the overall design of the MUD.

8570. Signage. As part of the Special Permit Application, the applicant shall submit for review and approval a signage plan to govern signage in the MUD.

8580. Application. An application for a Special Permit for a Mixed Use Development shall comply with the requirements of Section 9300 et. seq. of the Zoning Bylaws.

8590. Planning Board Findings. A Special Permit shall be issued under this Section if the Planning Board finds that the MUD is in harmony with the purpose and intent of this Section and that it contains a compatible mix of uses sufficiently advantageous to the Town to render it appropriate to depart from the requirements of the Bylaw otherwise applicable to the underlying district in which the MUD is located.

8600. Affordable Housing

8610. Any MUD which will result in the creation of ten (10) or more residential dwelling units, shall include as a condition of said permit that:
8611. At least 10% of the units, and in no case less than one unit, be priced for qualified affordable housing purchasers;
8612. The mix of affordable dwelling units and rate of affordable dwelling units built in any one year shall be equivalent to the overall mix for the entire MUD. It is intended that the affordable dwelling units authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth of Massachusetts or its agencies, and that said units count toward Pepperell's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended.
8613. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth of Massachusetts or its agencies, shall be placed on the appropriate property to ensure that affordable dwelling units created under this section shall remain affordable dwelling units in perpetuity or for as long a period as is allowed by law.
8614. Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Mixed-Use Bylaw.
8615. Affordable dwelling units required under Section 8610 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board.
- a. Constructed on the locus subject to the Special Permit;
 - b. Constructed on a locus different than the one subject to the Special Permit;
 - c. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site that the Planning Board determines are suitable for the construction of an equivalent number of affordable dwelling units. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;
 - d. For fractional affordable dwelling units, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units proportionate to the percentage of the unit required; and
 - e. Preservation of existing market-rate dwelling units as affordable dwelling units through the purchase of deed restrictions.
8616. All affordable dwelling units that are constructed on-site under this Bylaw shall be situated within the MUD so as not to be in less desirable locations than market-rate units in the MUD and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots/locations selected for affordable dwelling units.
8617. With the approval of the Planning Board, as an alternative to the requirements of Section 8610, an applicant subject to the Bylaw may develop, construct or otherwise provide affordable dwelling units equivalent to those required by Section 8610 off-site. To the maximum extent practicable, all requirements of this Bylaw that apply to on-site provision of affordable dwelling units shall apply to provision of off-site affordable dwelling units. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.
8618. As an alternative to the requirements of Section 8610 and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of construction such affordable dwelling units, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town Housing Authority or its designee for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing

and offering affordable dwelling units within the locus of the proposed development or off-site, as set forth in Section 8670, below.

8619. The applicant for a MUD subject to this Bylaw may pay fees-in-lieu of the construction. For the purposes of this Bylaw, the fees-in-lieu of the construction or provision of each affordable dwelling unit is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

8700. Standards for Roadways and Drainage

8710. Roadways - MUD roadways to be accepted by the Town of Pepperell as public ways shall be designed and constructed in accordance with the Rules and Regulations for the Subdivision of Land in the Town of Pepperell. Private ways within the MUD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the Town of Pepperell, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.

8711. Storm Water Management System - The MUD shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the Town of Pepperell and the Department of Environmental Protection's Storm Water Management Guidelines, as amended.

- 8800. Amendments.** After approval, the owner/developer may seek amendments to the approved plan. Minor amendments may be made by a majority vote of the Planning Board. It shall be a finding of the Planning Board, not subject to dispute by the applicant, whether a requested amendment is deemed to be major or minor. A major amendment shall require the filing of an application pursuant to Section 9300 of the Zoning Bylaw

SECTION 9000. ADMINISTRATION AND PROCEDURES

9100. ADMINISTRATION

- 9110. General.** Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law. No building permit for a new building or for an addition to or accessory use to an existing building shall be issued by the Building Commissioner until the applicant has received a certification for use. No building code occupancy permit shall be issued by the Building Commissioner until the applicant has received a zoning certificate of occupancy.

- 9120. Building Commissioner.** This Bylaw shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth, as set forth below.

- 9130. Application Requirements.** Every application for a permit for building or use shall be accompanied by the following documents or plans:

9131. A plot plan certified by a land surveyor showing:

- a. Dimension and area of the lot.
- b. Location of all ways adjacent to and within the lot.
- c. Accurate distances from all lot lines and ways.
- d. Existing and approved street grades.
- e. Location of existing sewer, gas, water, and/or location of existing septic system and well, and other utilities on the subject property and in the adjacent street.
- f. Location of existing buildings on the lot.

9132. A plot plan certified by a land surveyor may be waived upon application for minor alterations, enlargements, reconstructions or extensions where the Building Inspector is satisfied that the applicants plot plan contains the required information and is sufficiently accurate so as not to bring the proposed building into conflict with this chapter.

9133. The applicant for a permit for building or use shall submit a completed application form and required filing fee along with the plot plan. An application shall not be considered received until the applicant has submitted all required information.

9140. Referral. The Building Commissioner shall refer applications for building or use permits and zoning certificates of occupancy requesting appropriate comments and recommendations as to compliance with applicable land use laws, as relevant, to the Board of Selectmen, Planning Board, Board of Health, Conservation Commission and Highway Surveyor where the Building Commissioner finds that one or more of the following impacts may result from the proposed activity:

9141. The proposed use may result in violation of the standards established in this chapter in Section 5500, regarding environmental protection, including soil removal.

9142. The proposed use involves filling, altering or dredging or lands which are wet, marshy, swampy or lands which are subject to flooding or periodic flooding and may require further proceedings under other statutes, bylaws or regulations of the town or commonwealth.

9143. The proposed use is subject to a driveway permit, special permit, variance or other permit or conditions in such permits or Planning Board determination, including but not limited to release of land from subdivision covenant.

The referral of permits for building, use or zoning certificate of occupancy applications is for the purpose of advising and informing the Building Inspector and the applicant of concerns and procedures that may need to be followed prior to or in addition to the issuance of a permit for building, use or zoning certificate of occupancy. Those to whom the applications are referred shall report the results of their review to the Building Inspector and the applicant within fourteen (14) days of the receipt of a copy of the application. Failure to make a report shall not delay the issuance of a permit for building, use or zoning certificate of occupancy, nor shall it constitute approval of the proposed use by a board or agency failing to respond.

9150. Decision.

9151. The Building Inspector shall have thirty (30) days from the date of the filing of a complete application for a permit for building or use within which to issue or deny the permit. In the case of a denial, the Building Inspector shall specify in detail where the applicant's proposal is not in compliance, referencing specific sections of this chapter.

9152. The Building Inspector shall have thirty (30) days from the date of the filing of a completed application form and filing fee for a zoning certificate of occupancy within which to issue a certificate, issue a temporary certificate or deny the certificate. In the case of denial, the Building Inspector shall specify in detail where the applicant's proposal is not in compliance with a section in this chapter or a condition in a special permit, variance or other zoning permit.

9160. Enforcement. The Building Commissioner shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Bylaw and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

9170. Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

9180. Noncriminal Disposition. When authorized by separate bylaw, the Building Commissioner may enforce this Zoning Bylaw by the non-criminal disposition of the matter.

9200. BOARD OF APPEALS

9210. Establishment. The Board of Appeals of the Town of Pepperell, is hereby established under the Zoning Act, consisting of three (3) members and two (2) associate members appointed by the Selectmen, and shall be continued as presently provided and for the same terms.

9220. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this Bylaw. The Board's powers are as follows:

9221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 9300, or as otherwise specified.
9222. To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10, where owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such Bylaw. The Board of Appeals shall not grant use variances.
9223. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.
9224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.
- 9230. Conditions.** The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.
- 9240. Variance; Lapse.** As provided in G.L. c. 40A, s. 10, if the rights authorized by a variance are not exercised within one (1) year of the date of the grant of such variance, such rights shall lapse, except that the Board of Appeals, in its discretion and upon written application by the grantee of such rights, may extend the time for the exercise of such rights for a period not to exceed six (6) months, and provided further that the application for extension is filed with the Board of Appeals prior to the expiration of the one year period. If the Board of Appeals does not grant an extension within thirty (30) days of the date of application, upon the expiration of the original one year period, the rights granted by the variance may be reestablished by the Board of Appeals only after application for a new hearing and a decision based upon the specific findings required for the issuance of a variance as stated herein.
- 9250. Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.
- 9260. Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.
- 9300. SPECIAL PERMITS**
- 9310. Special Permit Granting Authority.** In each instance, the Special Permit Granting Authority shall be the Board of Selectmen, the Planning Board, or the Board of Appeals, as specified herein.
- 9320. Criteria.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure will not cause substantial detriment to the town or the neighborhood, in view of the particular characteristics of the site and its surroundings. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:
9321. Social, economic, or community needs which are served by the proposal;
9322. Traffic flow and safety, including parking and loading;
9323. Adequacy of utilities and other public services;
9324. Neighborhood character and social structures;
9325. Impacts on the natural environment; and
9326. Potential fiscal impact, including impact on town services, tax base, employment, and property values.
- 9330. Procedures.** Applications for special permits shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.
- 9340. Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

9350. Plans. Unless otherwise provided in the rules and regulations of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9452, herein.

9360. Regulations; Fees. The special permit granting authority may adopt rules and regulations for the administration of this section, including reasonable administrative fees and technical review fees for applications for special permits.

9370. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

9400. SITE PLAN REVIEW

9410. Applicability. The following types of activities and uses require site plan review by the Planning Board:

9411. Except for single and two-family dwellings or their accessory uses, minor site plan approval shall be required for the construction, exterior alteration, conversion, expansion or change in use of a structure that will have not more than three thousand (3,000) square feet of gross area, including all usable space, and for additions which will extend a structure to not more than three thousand (3,000) square feet of gross area.

9412. Except for single and two-family dwellings or their accessory uses, major site plan approval shall be required for the construction, exterior alteration, conversion, expansion or change in use of a structure that will have more than three thousand (3,000) square feet of gross area, including all usable space, and for additions which will extend a structure to more than three thousand (3,000) square feet of gross area and for any building construction proposing to incorporate a drive-through or drive-up window.

9413. Construction or expansion of six or more parking spaces for a use other than single or two-family residential structures shall require major site plan review.

9414. The removal of more than ten percent (10%) of the vegetation on a lot shall require major site plan review. The following activities are exempt: landscaping on a lot with an existing structure or for which a building permit has been issued; clearing necessary for percolation and other site tests; work incidental to agricultural activity; work in conjunction with an approved subdivision plan; or work pursuant to an earth removal permit.

9420. Procedures. Applicants for site plan approval shall submit sixteen (16) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Board of Health, Conservation Commission, Building Commissioner, Board of Fire Engineers, Police Chief, Highway Surveyor, Town Engineer, Water Department, and Sewer Department for their advisory review and comments.

9421. *Minor Site Plans.* The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

9422. *Major Site Plans.* An application for major site plan approval shall be governed by the procedures set forth for special permits in G.L. c. 40A, ss. 9 and 11. A public hearing shall be required. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, or unless 90 days lapse from the termination of the public hearing without action by the Planning Board.

9430. Coordination with Other Permits.

9431. *Application for Building Permit.* An application for a building permit to perform work as set forth herein available as of right shall be accompanied by an approved site plan.

9432. *Application for Special Permit or Variance.* An application for a special permit or a variance to perform work as set forth herein shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth herein shall contain the following condition:

The work described herein requires the approval of a site plan by the Planning Board pursuant to Section 9400 of the Zoning Bylaw. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

9433. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.
9434. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
9435. No deviation from an approved site plan shall be permitted without modification thereof.

9440. Pre-application Sketch Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board.

9450. Submittal Requirements

9451. *Minor Site Plans.* Minor site plans may be required to contain all of the information required by this section; provided, however, that the Planning Board shall normally relax such requirements. The exact submittal requirements of a minor site plan shall be agreed upon in a pre-application scoping session between the applicant and the Planning Board at a regularly scheduled meeting of the Board.
9452. *Major Site Plans.* Major site plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'. The Planning Board may, upon written request of the applicant, waive any of the technical requirements of this section where the project involves relatively simple development plans. Otherwise, the contents of the major site plan are as follows:
- a. Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Planning Board. The plans are as follows:
 1. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board.
 2. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage.
 3. Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.
 4. A conceptual building plan, which shall include site sections, the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
 5. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.
 - b. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof.
 - c. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.
 - d. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Town of Pepperell subdivision regulations.

- e. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

9460. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

- 9461. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
- 9462. Maximize pedestrian and vehicular safety on the site, egressing from it, and in the immediate vicinity;
- 9463. Minimize obstruction of scenic views from publicly accessible locations;
- 9464. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- 9465. Minimize glare from headlights and lighting intrusion;
- 9466. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
- 9467. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
- 9468. Provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations; and
- 9469. Ensure compliance with the provisions of this Zoning Bylaw, particularly including parking, signage, landscaping, and environmental protection.

9470. Lapse and Appeal. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant. Any decision rendered by the Planning Board pursuant to this Section 9400 shall be appealed to a court of competent jurisdiction as set forth in G.L. c. 40A, s. 17.

9480. Regulations; Fees. The Planning Board may adopt and from time to time amend reasonable regulations, including reasonable administrative fees and technical review fees, for the administration of site plan review.

9500. ASSOCIATE MEMBER OF PLANNING BOARD

9510. General. Under the provisions of G.L. c. 40A, s. 9, the Planning Board and Board of Selectmen shall annually appoint, at a joint meeting of these Boards by majority vote of the members present at this meeting, one associate member of the Planning Board for the purpose of acting upon special permit applications in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. This appointment shall be made within 30 days of the first regular meeting of the Planning Board in May, except that the first appointment to this position may be made 30 days after passage of this amendment, and in the case of resignation, an associate member may be appointed 30 days after the Town Clerk's receipt of the letter of resignation. The Chairman shall designate the associate member to sit on the Board to act upon specific special permit applications when one or more of the above-listed purposes limits the Board's ability to act as the special permit granting authority. The associate shall sit as a member of the Board at the public hearing, including any continuances on the application, in order to participate in all discussions of the application during the decision making process, and to be recorded on all votes on the special permit application.

SECTION 10000. DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind.

The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

ACCESSORY BUILDING: A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

ACCESSORY USE: A use customarily incidental to that of the main or principal building or use of the land.

ADULT DAY CARE FACILITY: A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

AGRICULTURAL USE, NONEXEMPT: Agricultural use of property not exempted by G.L. c. 40A, s. 3.

ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

ANIMAL CLINIC OR HOSPITAL: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

APPLICANT: An owner or his agent or representative or his assigns.

ASSISTED LIVING FACILITY: Residences that provide rooms, meals, personal care, and supervision of self administered medication. They may provide other services such as recreational activities, financial services and transportation.

BARN: A structure used or designed for storing farm products and equipment, and/or sheltering livestock.²¹

BED AND BREAKFAST ESTABLISHMENT: Accommodations with not more than five bedrooms occupied by bed and breakfast guests, in which the owner of the establishment also resides. Bed and breakfasts are intended for guests on intermittent visits, and shall not be used as long-term rental units or apartments; any meals served shall be for guests only. All parking for residents and guests shall be off-street. A bed and breakfast may be allowed as a home occupation by special permit under Section 3320 of the zoning Bylaw.²²

BOARDING HOUSE: A dwelling or part thereof in which lodging is provided by the owner or operator to more than four (4) boarders. Where four (4) or more unrelated individuals rent a dwelling, it shall be considered a boarding house.

BUILDING: Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of any person, process, equipment or goods.

BUILDING HEIGHT: The vertical distance as measured from the average finished grade at the intersection with the front wall of the building to the top of the roof structure. The maximum building height for any building shall be thirty-five (35) feet, except in the Urban Residence or Commercial Districts, as provided in section 4300 of this Bylaw.²³

BUILDING COMMISSIONER: A duly appointed official of the Town of Pepperell charged with the enforcement of the Building Code, with the administration, interpretation and enforcement of the Zoning Chapter and with monitoring for compliance with the conditions of all special permits, variances and building permits.

BUILDING PERMIT: A document issued by the Building Commissioner, which authorizes the erection, moving, adding on or altering structurally of a building or structure.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the lot.

BUSINESS OR PROFESSIONAL OFFICE: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

CERTIFICATE OF OCCUPANCY: A document issued by the Building Commissioner authorizing the use hereafter created of a building, structure or lot in conformity with this chapter. A temporary "certificate of occupancy" may be issued with conditions to protect the health and safety of the occupants and the public while work is being undertaken to bring a use into such conformity, which temporary certificate shall be effective for a period not to exceed six (6) months.

CHILD CARE FACILITY: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

CLUB or LODGE: A building or land used for the activities of a private club or social organization and not an adjunct to or operated as or in connection with a public tavern, cafe or other place open to the public.

COMMERCIAL DUMPING GROUND: A disposal site for garbage, rubbish, the deposit of demolition materials or other refuse or as a site for a refuse disposal incinerator. Nothing in this Zoning Bylaw shall be construed to prohibit the Town of Pepperell from continuing the operation of its existing dumping ground or from operating a sanitary landfill as may be necessary to protect the public health, comfort and convenience of the Town of Pepperell.

COMMERCIAL RECREATION, INDOOR: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

COMMERCIAL RECREATION, OUTDOOR: Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this Bylaw.

COMMON DRIVE: A private way, extending from a public way, serving as common access to a maximum of five (5) house lots, permitted only by Planning Board approval of a special permit. All lots to be served by a common drive must meet the requirements of a lot as defined in the definition of "lot" herein. Common drives are not streets and do not provide frontage for lots.

COMMON LAND(S): Those areas within a parcel which remain or would remain in an open or natural state, except for alteration, construction or development, related to beautification, conservation or noncommercial recreation purposes and held or dedicated for the public use and for the use of all residential occupants of the parcel.

COMPOSTING FACILITY: A facility that processes manure and/or other food waste materials and/or other organic materials, whether or not separated at source, into fertilizers, soil additives and fuel products or materials.

CONSTRUCTION AREA: Area where any erection, alteration, repair, renovation, demolition or removal of any building or structure takes place, including, but not limited to excavation, filling and grading of driveways, roadways and septic systems.

CONTRACTOR'S YARD: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

DOMESTIC ANIMALS: Those animals which are ordinarily kept within a dwelling unit, including dogs, cats, canaries, fish and the like, but not including horses, chickens, geese, ducks, cattle, sheep, goats and like non domestic animals.

DRIVE-IN OR DRIVE-THROUGH FACILITY: Any facility or window at which customers obtain goods or services while in a vehicle, excluding car wash.

DWELLING: Any building used exclusively for human habitation, including any permitted home occupation, but excluding hotels, motels or mobile homes.

DWELLING TYPES:

A. **SINGLE FAMILY DWELLING:** a building, other than a mobile home, containing only one dwelling unit.

B. **TWO FAMILY DWELLING:** a building containing two dwelling units.

C. **MULTIFAMILY DWELLING:** a building containing three or more dwelling units.

DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a weekly, monthly or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

EDUCATIONAL USE, NONEXEMPT: Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

ERECT: To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

ESSENTIAL SERVICES: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

FAMILY: Any number of persons living together in a single nonprofit dwelling unit and sharing the same kitchen facilities.

FAMILY DAY CARE HOME, LARGE OR SMALL: A private residence operating a facility as defined in G.L. c. 28A, s. 9.

FARM STAND, NONEXEMPT: Facility for the sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, s. 3.

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 are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent profit seeking businesses that require all local permits and licenses.

FLOOD HAZARD AREAS: Lands which are subject to flooding, which lands are located and described on maps entitled "Commonwealth of Mass., Dept. Of Natural Resources, Division of Water Resources, Nashua River," dated April 1973 and prepared by the Raytheon Co. and/or shown as special flood hazard areas inundated by one hundred year flood on the Federal Flood Insurance Rate Maps revised June 2, 1993, and which are on file in the office of the Town Clerk.

FUNERAL HOME: Facility for the conducting of funerals and related activities such as embalming.

GARAGE, RESIDENTIAL: A structure that is accessory to a residential building and that is used or intended to be used for the parking and storage of vehicles.²⁴

GENERAL SERVICE ESTABLISHMENT: Establishments for trades and crafts which require manual dexterity, including but not limited to shops such as the following: plumbers, electricians, painters, paperhangers, upholsterers, sign painters, printers and monument works.

GROSS FLOOR AREA (OR GROSS AREA): The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces.²⁵

HABITABLE STRUCTURE: any building or edifice used for habitation, employment, or amusement, and any other facility requiring a potable water supply for sanitary or culinary purposes.²⁶

HAZARDOUS MATERIAL: Any substance which is listed in, but not limited to, the EPA priority pollutants as described in section 307(a) of the Clean Water Act, G.L. c. 21C and 310 CMR 30.000, as may be amended.

HOME OCCUPATION: An occupation, business, trade, service or profession which is customarily incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

IMPERVIOUS SURFACE: A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including but not limited to driveways, parking areas, decks, garages, barns and sheds as well as principal buildings.

JUNK: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can not be used for its original purpose as readily as when new shall be considered junk.

JUNKYARD OR AUTOMOBILE GRAVEYARD: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

KENNEL, COMMERCIAL: A commercial establishment in which four or more dogs three months old or older or other domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation.²⁷

LIGHT MANUFACTURING: Fabrication, assembly, processing, finishing work or packaging.

LOT: For purposes of this chapter, a clearly defined piece of land of sufficient area and dimensions to meet minimum zoning requirements for width, area, use and coverage and to provide such yards and other open spaces as are required herein, and shall contain a minimum of 30,000 contiguous square feet of land exclusive of wetland and flood hazard areas.

LOT, CORNER – A lot or parcel of land abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than 135 degrees.²⁸

LOT, THROUGH – A lot that fronts upon two (2) parallel streets or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.²⁹

LOT AREA: A horizontal area of the lot exclusive of any area in a public or private way.

LOT AREA PER DWELLING UNIT: That portion of the lot area required for each dwelling unit located on a lot.

LOT COVERAGE: The portion of the lot area, expressed as a percent, that is covered by buildings. Structures below the finished grade shall not be included in calculating the "lot coverage."

LOT DEPTH: The average depth, measured in the mean direction of the side lot lines, from the front street line to the rear lot line. The rear lot line shall be deemed to be no further back than a line drawn parallel to the front street line, entirely on the lot and not less than 10 feet long.

LOT FRONTAGE: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

LOT LINE: Any boundary of a lot.

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

MEDICAL CENTER OR CLINIC: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

MOTEL OR HOTEL: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

MOTOR VEHICLE BODY REPAIR: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

MOTOR VEHICLE GENERAL REPAIRS: Premises for the servicing and repair of autos, but not to include fuel sales.

MOTOR VEHICLE LIGHT SERVICE: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

MUNICIPAL FACILITIES: Facilities owned or operated by the Town of Pepperell.

NONDOMESTIC ANIMALS: Those animals which are not domestic animals.

NURSING OR CONVALESCENT HOME: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

ONE HUNDRED PERCENT SCREENING: One hundred percent screening shall consist of either a seven foot high wall or tight fence or a dense evergreen hedge.

OPEN SPACE RESIDENTIAL DEVELOPMENT: A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open land. The dwelling types contained therein must be of the type permitted or allowed by special permit in the applicable zoning district.

PARCEL: A plot or tract of land which does not meet all of the requirements of a lot as defined herein.

PARKING GARAGE: A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

PERSONAL SERVICE ESTABLISHMENT: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, copy center, photography studio, and the like.

RESTAURANT: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

RESTAURANT, FAST-FOOD: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

RETAIL: A facility selling goods but not specifically listed in the Table of Use Regulations.

RIDING ACADEMY OR PUBLIC STABLE: A licensed establishment where horses are kept for sale, riding, driving or stabling, for compensation or incidental to the operation of a club, association or similar establishment.

SIGN: Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered "signs." The following, however, shall not be considered signs within the context of this Bylaw:

- (a) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (b) Legal notices, or informational devices erected or required by public agencies.
- (c) Temporary devices erected for a charitable or religious cause, provided they are removed within seven (7) days of erection.
- (d) Temporary displays inside windows, covering not more [than] thirty (30) percent of window area, illuminated by building illumination only.
- (e) Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.
- (f) Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.
- (g) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.
- (h) Address identification through numerals or letters not exceeding three (3) inches in height.

SIGN AREA: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs need be included in calculating sign area.

SMALL CRAFT SHOP: A building or structure of no more than 1,000 square feet of gross floor area where products manufactured on the premises are offered for retail sales.

STREET: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, "structures" include buildings, mobile homes and freestanding in-ground signs. For purposes of this chapter, "structure" does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, walkways, driveways, shelters for pets, open stairs, recreational equipment, flagpoles, underground fallout shelters, mailboxes or outdoor fireplaces and tool sheds or like buildings with a floor area of less than 100 square feet.

SUBDIVISION RULES AND REGULATIONS: The regulations for subdivision of land adopted by the Planning Board in accordance with municipal planning and subdivision control legislation contained in G.L. c. 41, ss. 81K to 81GG.

SURFACE WATERS: All waters other than groundwaters, including without limitation rivers, streams, lakes, ponds, springs, reservoirs, impoundments, wetlands and certified vernal pools.

TEMPORARY STRUCTURE: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the Building Commissioner.

TOURIST HOMES, ROOMING OR LODGING HOUSES: A dwelling unit in which more than three persons are housed or lodged for hire by the day, week or month, either with or without meals. Such use shall not be deemed a home occupation.

TRANSPORT TERMINAL: Terminal facilities for handling freight with or without maintenance facilities.

UNREGISTERED VEHICLE: A motor vehicle to which the motor vehicle registration laws of the commonwealth are applicable and which is not currently registered by the Registry of Motor Vehicles of the commonwealth.

USE: The purpose or activity for which land or buildings are designed, arranged or intended or for which land or buildings are occupied or maintained, including any such activity with respect to the requirements of this chapter.

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

WETLAND: A wetland as defined in G.L. c. 131, s. 40 and accompanying DEP regulations.

WIRELESS COMMUNICATIONS FACILITIES: A facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment and equipment shelters, accessory buildings and structures, and site improvements, involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land based or other telephone lines.³⁰

YARD, FRONT: A yard extending the full width of the lot and situated between the street line and the nearest point of the building or structure. Front and rear yard lines shall be the lines most parallel to each other.³¹

YARD, REAR: A yard across the full width of the lot extending from the rear line of the building or structure to the rear line of the lot. In the case of through lots and corner lots, there will be no "rear yards" but only front and side yards. Depth of a required "rear yard" shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel to the rear lot line.³²

YARD, SIDE: A yard between the building or structure and the adjacent side line of the lot and extending from the front yard to the rear yard. In the case of through lots, "side yards" shall extend from the rear lines of required front yards. In the case of corner lots, yards remaining after front yards have been established shall be considered "Side yards." Width of a required "side yard" shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel to the side lot line.³³

APPENDIX A
TABLE OF PRINCIPAL USES

D I S T R I C T S

A. RESIDENTIAL	RR	TR	RCR	SR	UR	C	I
Single family dwelling	Y	Y	Y	Y	Y	N	N
Two family dwelling	N	N	N	PB	Y	N	N
Multifamily dwelling	N	N	N	N	PB	PB	N
Dwelling unit(s) above first floor	N	N	N	N	N	Y	N
Boarding house	BOS	BOS	BOS	BOS	Y	Y	N
Assisted living facility	PB	PB	PB	PB	PB	N	N
Trailer or mobile home park	N	N	N	N	N	N	N
B. EXEMPT USES	RR	TR	RCR	SR	UR	C	I
Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y
Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y
Child care facility located in an existing structure	Y	Y	Y	Y	Y	Y	Y
Child care facility located in a new structure	PB	PB	PB	PB	PB	PB	PB
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y
Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y
C. GOVERNMENTAL OR INSTITUTIONAL USES	RR	TR	RCR	SR	UR	C	I
Cemetery	BOS	BOS	BOS	BOS	BOS	N	N
Hospital	PB	PB	PB	PB	PB	PB	N
Airport, public or private	N	N	PB	N	N	PB	PB
Essential services	PB	PB	PB	PB	PB	PB	PB
Government administration building or fire or police station	Y	Y	Y	Y	Y	Y	Y
Public recreation or water supply	Y	Y	Y	Y	Y	Y	Y
Public garage, yard, or service area	BA	BA	BA	BA	BA	BA	BA
Public solid waste disposal facility	BA	BA	BA	BA	N	BA	BA
Community center	N	Y	N	N	Y	Y	N
D. COMMERCIAL USES	RR	TR	RCR	SR	UR	C	I
Nonexempt educational use	N	N	N	N	N	PB	PB
Nonexempt commercial greenhouse	Y	BOS	Y	BOS	N	Y	N
Nonexempt dairy, poultry, or livestock farm	Y	BOS	Y	BOS	N	N	N
Nonexempt farm or nursery	Y	Y	Y	BOS	BOS	N	N
Fur farm or piggery on nonexempt parcel	N	N	N	N	N	N	N
Nonexempt farm stand	BOS	BOS	BOS	BOS	BOS	BOS	N
Adult day care facility	PB	PB	PB	PB	PB	PB	PB
Family day care, small	Y	Y	Y	Y	Y	Y	Y
Family day care, large	PB	PB	PB	PB	PB	PB	PB
Hotel, motel or inn	N	N	PB	N	PB	Y	N
Retail of building, plumbing or heating supplies	N	N	N	N	N	Y	Y

Retail stores and services not elsewhere set forth	N	N	N	N	N	Y	N
Retail sales where more than 50% of gross floor area devoted to sales is not within a building	N	N	N	N	N	Y	N
Business or professional office	N	N	N	N	N	Y	PB
Bank or financial institution	N	N	N	N	N	Y	BA
Radio or television transmission tower	N	N	N	N	N	N	BA
Restaurant	N	N	BOS	N	BOS	Y	Y
Restaurant, fast-food ⁵⁷	N	N	N	N	N	Y	PB
Indoor facility for the rental of equipment or goods ⁵⁸	N	N	N	N	N	Y	PB
Motor vehicle sales and rental	N	N	N	N	N	PB	N
Motor vehicle light service	N	BOS	BOS	BOS	N	BOS	BOS
Motor vehicle general and body repair	N	N	N	N	N	BOS	Y
Car wash	N	N	N	N	N	Y	N
Commercial Kennel ³⁴	N	N	N	N	N	BOS	BOS
Animal clinic or hospital	BOS	BOS	BOS	BOS	N	BOS	BOS
Nursing or convalescent home	Y	Y	Y	Y	Y	BOS	N
Funeral home	N	BOS	BOS	BOS	BOS	Y	N
Medical center or clinic, excluding methadone clinic	N	N	N	N	N	Y	Y
Nonprofit club or lodge ⁵⁹	BOS	BOS	BOS	BOS	BOS	Y	N
Personal service establishment	N	N	N	N	N	Y	N
General service establishment	N	N	N	N	N	Y	Y
Temporary outdoor shows or exhibitions	Y	Y	Y	Y	Y	Y	Y
Commercial parking facility	N	N	N	N	N	Y	N
Drive-in or drive-through facilities or windows	N	N	N	N	N	PB	PB
Body art or piercing	N	N	N	N	N	N	PB
Flea market	N	N	N	N	N	PB	PB
Wireless Communications Facility ³⁵	PB	PB	PB	PB	PB	PB	PB
E. RECREATIONAL USES	RR	TR	RCR	SR	UR	C	I
Commercial ski grounds, picnic grounds, bathing beach, or miniature golf course	PB	N	PB	N	N	Y	N
Commercial golf course	Y	PB	Y	N	N	N	N
Commercial recreation camp, boat or canoe livery, marina, riding academy	PB	PB	PB	N	N	Y	PB
Bowling alley or billiard parlor	N	N	N	N	N	Y	N
Theater or movie house	N	N	N	N	N	Y	N
Indoor/outdoor racquet sports facility	N	N	N	N	N	N	Y
Physical fitness training facility	N	N	N	N	N	Y	Y
Indoor soccer facility	N	N	N	N	N	N	Y
Martial arts instruction facility	N	N	N	N	N	Y	Y
Dance studio	N	N	N	N	N	Y	Y
Retail operations on premises of recreational use set forth herein ⁶⁰	N	N	PB	N	N	Y	PB
F. INDUSTRIAL USES	RR	TR	RCR	SR	UR	C	I
Manufacturing, assembly or processing	N	N	N	N	N	PB	Y
Light manufacturing; research laboratory	N	N	N	N	N	Y	Y
Warehouse, wholesale or indoor storage facility	N	N	N	N	N	Y	Y
Rail or motor freight terminal; passenger terminal; bus storage yard	N	N	N	N	N	PB	Y
Commercial storage of fuel, sand, cement, lumber or other goods	N	N	N	N	N	PB	PB
Sawmill	PB	PB	PB	N	N	N	Y
Contractor's yard or outdoor storage facility; landscaping yard ³⁶	BA	BA	BA	BA	BA	Y	Y
Junkyard or automobile graveyard	N	N	N	N	N	N	N

Earth & soil removal ⁶¹	N	N	N	N	N	N	BOS
Commercial dumping ground	N	N	N	N	N	N	N
Composting facility	N	N	N	N	N	N	N
Self-storage facility	N	N	N	N	N	Y	Y
Fuel or hazardous material storage facility	N	N	N	N	N	N	PB
G. OTHER USES	RR	TR	RCR	SR	UR	C	I
Open air display of goods or merchandise accessory to principal use	N	N	N	N	N	BOS	N
The keeping of nondomestic animals for personal enjoyment or household use, accessory to a residential use ³⁷	Y	Y	Y	Y	N	N	N
The keeping of domestic animals and a garden primarily intended for use and enjoyment of a household ³⁸	Y	Y	Y	Y	Y	Y	Y

APPENDIX B

A. RESIDENTIAL USES	MINIMUM AUTOMOBILE PARKING SPACES TO BE PROVIDED ACCORDING TO THE FOLLOWING UNITS OF MEASUREMENT
Hospital	1 space per bed
Hotels, motels	1 space per room
Dormitory	1 space per 2 beds
Lodging house	1 space per bedroom
Single-, multiple family and other dwellings	2 spaces per dwelling unit, plus 1 space for each nonresident employee in cases where there is a permitted home occupation. In addition, for multiple-family dwellings, 1 space for every 4 units shall be reserved for visitor parking. ³⁹
B. SCHOOLS	
Kindergarten, nursery or day- care center	3 spaces for each 2 employees
Elementary or junior high school	1 space for each 20 students for staff purposes, plus 1 space for each 10 students for special events, plus 1 bus space for each 40 students
Senior high school	1 space for each 4 students for students, plus 1 space for each 20 students for staff, plus 1 bus space for each 40 students
C. BANK, POST OFFICE OR LIBRARY	1 space for each 250 square feet of floor area on public use, plus 1 space for each 400 square feet of other gross floor area
D. PLACE OF ASSEMBLY WITH SEATING FACILITIES, INCLUDING AUDITORIUM, THEATER, RESTAURANT, STADIUM, ASSEMBLY HALL, FUNERAL PARLOR	1 space for each 4 seats
E. PLACE OF WORSHIP	1 space for each 4 seats or pew spaces in the main auditorium
F. PLACE OF ASSEMBLY WITHOUT FIXED SEATS, INCLUDING DANCE HALL, SKATING RINK, ARMORY, OTHER SPORTS OR AMUSEMENT PLACES	1 space for each 100 square feet of floor area in public use
G. RETAIL SALES OF BULKY GOODS AS REQUIRE EXTENSIVE OUTSIDE DISPLAY AREA	1 space for each 800 square feet of gross floor area and/or lot in such use
H. PROFESSIONAL OFFICE, OFFICE BUILDING, OFFICE OF A WHOLESALE ESTABLISHMENT INCLUDING SALES SPACE	1 space for each 500 square feet of gross floor area
I. OTHER RETAIL SERVICE ESTABLISHMENT	1 space for each 200 square feet of gross floor area
J. MAUFACTURE, ASSEMBLY, PROCESSING OR PACKAGING	1 space for each 500 square feet of gross floor area, plus number of additional spaces required for employees and transients to park on site as determined by the Building Inspector
K. STORAGE, WHOLESALE ESTABLISHMENT, FREIGHT TERMINAL OR SIMILAR AREAS	1 space for each 3,000 square feet of gross floor area and/or lot in such use
L. USES NOT LISTED ABOVE	A number of spaces comparable to the most similar use above as determined by the Building Inspector

ENDNOTES

- ¹ STM 11/3/03, Article 19; STM 11/8/04, Article 6
- ² STM 11/8/04, Article 32
- ³ ATM 5/4/09, Article 19
- ⁴ Originally adopted STM 7/1/98 for four (4) years; extended by ATM 5/6/02, Article 7 for another four (4) years which expired June 30, 2006
- ⁵ STM 10/28/02, Article 5
- ⁶ ATM 5/7/07, Article 28
- ⁷ STM 10/28/03, Article 12
- ⁸ ATM 5/1/06, Article 24
- ⁹ ATM 5/1/06, Article 29
- ¹⁰ ATM 5/1/06, Article 21
- ¹¹ STM 10/30/06, Article 2
- ¹² STM 11/3/03, Article 18
- ¹³ STM 11/8/04, Article 2
- ¹⁴ STM 11/3/03, Article 19
- ¹⁵ STM 11/8/04, Article 33
- ¹⁶ STM 11/8/04, Article 33
- ¹⁷ ATM 5/7/07, Article 29
- ¹⁸ STM 10/28/02, Article 22
- ¹⁹ ATM 5/2/05, Article 14; ATM 5/4/09, Article 28
- ²⁰ ATM 5/1/06, Article 12
- ²¹ STM 10/28/02, Article 13
- ²² STM 11/8/04, Article 30
- ²³ STM 10/28/02, Article 13; STM 11/8/04, Article 31
- ²⁴ STM 10/28/02, Article 13
- ²⁵ STM 10/28/02, Article 13
- ²⁶ ATM 5/2/05, Article 14
- ²⁷ STM 10/28/02, Article 6
- ²⁸ STM 11/8/04, Article 7
- ²⁹ STM 11/8/04, Article 7
- ³⁰ STM 10/28/02, Article 22
- ³¹ ATM 5/7/07, Article 32
- ³² ATM 5/7/07, Article 32
- ³³ ATM 5/7/07, Article 32
- ³⁴ STM 10/28/02, Article 6
- ³⁵ STM 10/28/02, Article 22
- ³⁶ ATM 5/7/07, Article 44
- ³⁷ ATM 5/6/02, Article 8; ATM 5/5/03, Article 9
- ³⁸ ATM 5/6/02, Article 8; ATM 5/5/03, Article 9
- ³⁹ STM 11/8/04, Article 2
- ⁴⁰ ATM 5/4/09, Article 8
- ⁴¹ ATM 5/4/09, Article 15
- ⁴² ATM 5/4/09, Article 15
- ⁴³ ATM 5/4/09, Article 15
- ⁴⁴ ATM 5/4/09, Article 15
- ⁴⁵ ATM 5/4/09, Article 19

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- ⁴⁶ ATM 5/4/09, Article 19
 - ⁴⁷ ATM 5/4/09, Article 20
 - ⁴⁸ ATM 5/4/09, Article 21
 - ⁴⁹ ATM 5/4/09, Article 23
 - ⁵⁰ ATM 5/4/09, Article 24
 - ⁵¹ ATM 5/4/09, Article 24
 - ⁵² ATM 5/4/09, Article 25
 - ⁵³ ATM 5/4/09, Article 25
 - ⁵⁴ ATM 5/4/09, Article 27
 - ⁵⁵ ATM 5/4/09, Article 27
 - ⁵⁶ ATM 5/4/09, Article 27
 - ⁵⁷ ATM 5/4/09, Article 29
 - ⁵⁸ ATM 5/4/09, Article 29
 - ⁵⁹ ATM 5/4/09, Article 29
 - ⁶⁰ ATM 5/4/09, Article 29
 - ⁶¹ ATM 5/4/09, Article 29