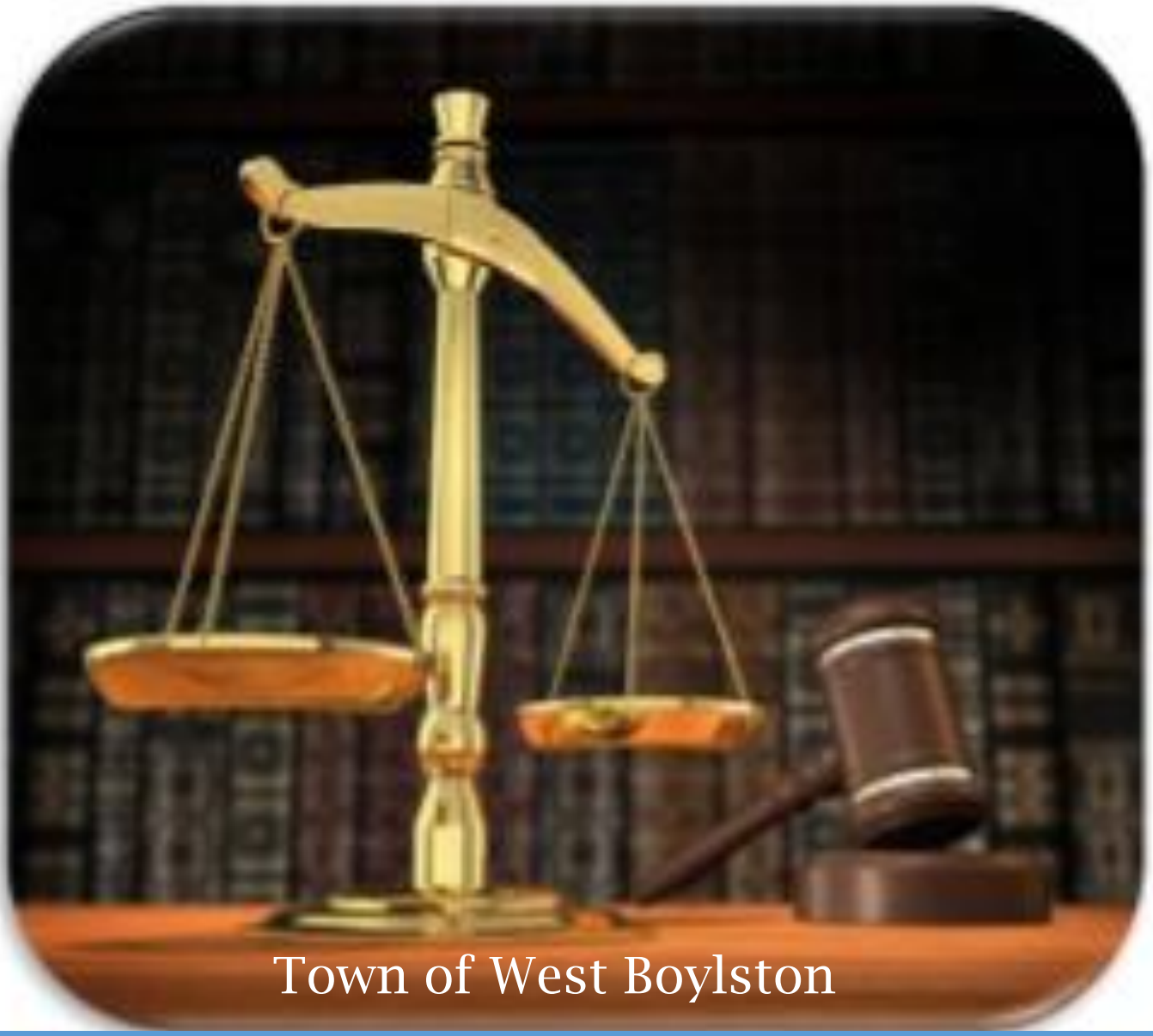

Town of West Boylston

Zoning Bylaws

As amended by the -Oct. 15, 2018- Semi-Annual Town Meeting

Elaine S. Novia, Town Clerk

Lynn Harding-Smith, Assistant Town Clerk

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Section 1- General

1.1- Authority

This zoning by-law is adopted in accordance with the provisions of the General Laws, Chapter 40A.

1.2- Purpose

The purpose of this by-law is to promote the health, safety, convenience and welfare of the inhabitants of West Boylston by dividing the town into zones or districts and regulates the use and construction of buildings and premises therein and such other objectives as set forth in Section 2A of Chapter 808 of the Massachusetts Acts of 1975.

*1- Amended April 4, 1977 – Article 23

1.3- Basic Requirements

Except as hereinafter provided, no building, structure or premises shall be erected, altered or used for any purpose, except in conformity with the regulations herein specified for the district in which it is located, except that nothing in this by-law shall effect the existing use of any building or lot.

1.4- Non-Conformity

A. Continuation of Non-Conforming Uses

Any lawful building or use of a building or premises or part thereof at the time of this by-law or any amendment thereto is adopted may be continued, although such building or use does not conform to the provisions thereof, provided such use has not been discontinued for a period of one year.

B. Change of Non-Conforming Uses *28, *76

The Board of Appeals shall hear and decided upon application for special permits for extension, change, or alteration of non-conforming structures or uses as provided under Section 6, Chapter 40A of the Massachusetts General Laws. Special permits granted thereunder may be granted only in those cases where a finding is made that such a change, extension, or alteration shall not be substantially more detriment to the neighborhood than the existing use.

Non-conforming structures shall include structures which are otherwise conforming but are located on nonconforming lots. Reconstruction, extension, alteration or structural change to a single- or two-family residential, non-conforming structure may be permitted by the Building Inspector pursuant to Section 1.4.D.

*28 Amended May 21, 1990 – Article 11, and *76-May 19, 2003 – Article 29

C. Temporary Use

The Inspector of Buildings may permit a non-conforming temporary building or use incidental to the development of a neighborhood; such permit to be issued for an initial period of not more than one year, and for renewal periods of not more than one year.

*95 May 16, 2011 Article 36

D. * 77 Reconstruction, extension, alteration or structural change to a single- or two-family residential, non-conforming structure shall be allowed, and shall not require a special permit or variance from the Board of Appeals under Section 1.4B, provided that such reconstruction, extension, alteration or structural change does not increase the non-conforming nature of said structure.
The Inspector of Buildings may determine that reconstruction, extension, alteration or structural change to a single- or two-family residential, non-conforming structure does not increase the non- conforming nature of said structure when:

a) such change does not intensify the structure's existing nonconformities or result in additional ones, or

b) It retains the existing footprint and does not increase the envelope of that structure. The "envelope" of a structure shall be the existing outer surfaces of the structure.

*77- Amended May 19, 2003 – Article 29

1.5- Definitions

Public Utility Facilities: Fixed equipment or installations for electricity, gas, water, or communications services for the public, privately or publicly owned.

A "Wireless Communications Tower" means a structure (with antennas, if any) designed to facilitate the following types of services; cellular telephone service, personal communications service and enhanced specialized mobile radio service.

Section 2- Establishment of Classes

2.1- Classes of Districts

The Town of West Boylston is hereby divided into zones or districts as follows:

1 Single Residence Districts
2 General Residence Districts
3 Business Districts
4 Industrial Districts
5 Conservation Districts
6 Commercial/Limited Industrial Districts *85

*85- Amended Oct 15, 2007 – Article 13

2.2- Incorporation of Zoning Map

The boundaries of these zones or districts are hereby established as shown on the Zoning Map drafted in June 1974 by Joseph F. Murr and approved by the Town on June 9, 1975, at the adjourned session of the June 2, 1975 Special Town Meeting. This zoning map has been approved by the Office of the Attorney General on Jan. 10, 2008 and is hereby declared a part of this by-law.

*75- Amended May 20, 2002 – Article 29;
*80- Oct 17, 2005 – Article 16, and
*89- Oct. 15, 2007 – Articles 14 & 15

2.3- District Boundaries

The district boundaries shall be determined by concrete bounds separating the districts as shown on the zoning map prepared by the Central Massachusetts Regional Planning Commission, drafted in June of 1974 by Joseph F. Murr. Figures in all cases serve as a guide, and the scale of the map may also be used. In cases of uncertainty, the boundary lines shall be determined by the Board of Selectmen.

2.4- Lots in Two Districts

Where a district boundary line divided a lot in a single or joint ownership at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has a frontage on a street in the less restricted district.

2.5- Flood Plain Overlay Districts

A. Statement of Purpose

Town of West Boylston Zoning Bylaws as Amended by the May 21, 2018 Semi-Annual Town Meeting

The purposes of the Floodplain District are to:

1.) Ensure public safety through reducing the threats to life and personal injury;

2.) Eliminate new hazards to emergency response officials;

3.) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;

4.) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

5.) Eliminate costs associated with the response and cleanup of flooding conditions;

6.) Reduce damage to public and private property resulting from flooding waters.

B. Floodplain District Boundaries and Base Flood Elevation and Floodway Data

Floodplain district boundaries and base flood elevation data The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within West Boylston designated as Zone A, AE, AH, and AO on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency management Agency (FEMA) for the administration of the national Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within West Boylston are panel numbers 0439E, 0443E, 0444E, 0463E, 0606E, 0607E, 0610E and 0620E dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission.

a) Base Flood Elevation and Floodway Data

1. **Floodway Data**.

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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

b) Notification of Watercourse Alteration

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse.

- Adjacent Communities
- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation 251 Causeway Street, Suite 600-7700 Boston, MA 02114-2104
  - NFIP Program Specialist Federal Emergency Management Agency, Region I 99 High Street, 6th Floor Boston, MA 02110

C. Use Regulations

Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All Development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas;
- Wetland Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetland Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirement for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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

2. Other Use Regulations

a) In Zone AE, along watercourses that have a regulatory floodway designated within the Town of West Boylston on the Worcester County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b) All Subdivision proposals must be designed to assure that:

1.) Such proposals minimize flood damage;
2.) All public utilities and facilities are located and constructed to minimize or eliminate flood damage: and
3.) Adequate drainage is provided to reduce exposure to flood hazards.

c) Existing contour intervals of site and elevations of existing structure must be included on plan proposal.

d) There shall be a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Inspector for comments which will be considered by the appropriate permitting board prior to issuing applicable permits

D. Development Regulations

The following requirements apply in the Flood Plain District:

1. With Zone A, where the base flood elevations are not provided on the FIRM, the Wetland Protection Act regulations require determination of base flood elevation data by engineering calculations. This information must be supplied to the Building Inspector for utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building code.

2. In the floodway, designated on the Flood Insurance Rate Maps, the following provisions shall apply:

   a) All encroachments, including fill, new construction, substantial improvement to existing structures, and other developments are prohibited unless certification by a registered professional engineer or architect is proved by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.

   b) Any encroachment meeting the above standard shall comply with the flood plain requirements of the State Building Code.

E. Permitted Uses

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

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

F. Definitions

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1 – 30, AE, A99, VE or V.

BASE FLOOD means the flood having a one-percent change of being equaled or exceeded in any given year.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100- year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

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

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

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also included park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD – see BASE FLOOD

REGULATORY FLOODWAY – see FLOODWAY.

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, 199, V, V1-30, VE.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored , before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

ZONE A1-30 and ZONE AE (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

ZONE AH and ZONE AO means the 100-year floodplain with flood depths of 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*6- Amended Sept. 29, 1981 – Article 4
*97 Amended May 16, 2011 Article 38, section deleted and replaced

2.6- Aquifer and Watershed Protection District

A. Purpose of District The purpose of this Aquifer and Watershed Protection District is: *12, *45

1.) To promote the health, safety, and general welfare of the community by ensuring the adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of West Boylston;
2.) To preserve and protect existing and potential sources of drinking water supplies;

3.) To conserve the natural resources of the town; and

4.) To prevent temporary and permanent contamination of the environment.

B. Definitions

1.) **"Aquifer"** means a geological formation which contains potable water and which yields or could yield a significant quantity of water

2.) **"Discharge"** means the pouring, dumping, spilling, leaking, pumping, depositing or injecting of any hazardous substance upon or into any land or water within the town.

3.) **"District"** means the zoning district defined to overlay the other zoning districts in the Town of West Boylston.

The Aquifer Protection District includes two recharge areas:

Zone II: The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days at safe yield with no recharge from precipitation) as defined in 319 Code of the Commonwealth of Massachusetts Regulations (CMR) 22.00. Zone III: The land area beyond the area of Zone II from which the surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00

4.) **"Groundwater"** means all the water beneath the surface of the ground.

5.) **"Hazardous Substance"** means any material, the presence of which in drinking water, poses a significant, actual or potential risk of injury to the health of person, animals, or plants, including, without implied limitations, any material which constitutes "hazardous waste" for the purpose of M.G.L. Chapters 21C, 21E and 310 CMR 30.00. The Town Clerk shall maintain a list of the substances so designated under M.G.L. Chapters 21C, 21E and CMR 30.00.

6.) **"Impervious"** means impenetrable by water.

7.) **"Map"** means the Aquifer and Watershed Protection Overlay District identified below.

8.) **"Mining"** means the removal or relocation of geological materials including, without implied limitation, topsoil, sand, gravel, ores and rock.

9.) **"Recharge Area"** means:

a. A geological formation of permeable, porous material which allows the infiltration and/or collection of precipitation or surface water and the transmission of such water to an aquifer;

b. Any wetland, stream, or body of water surrounded by, or adjacent to such an area; and

c. The watershed of any such area, wetland, stream, or body of water.

10.) **"Solid Waste"** means useless, unwanted, or discharge materials with insufficient liquid content to be free flowing, including, without implied limitation, scrap, junk, garbage, rubbish, inert fill material and landscape refuse.

11.) **"Septic Waste"** means wastewater from normal domestic use containing normal kinds and concentrations of hazardous substances.

12.) **"Town"** means the Town of West Boylston.

C. Scope of Authority

The Aquifer Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Aquifer Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Aquifer Protection District.

D. Establishment and Delineation of the Aquifer Protection District

For the purpose of this district, here are hereby established within the town certain groundwater protection areas consisting of aquifers or recharge areas and delineated on map as "Aquifer Protection District". This map is at a scale of 1 inch to 800 feet and is entitled "Town of West Boylston Zoning Map", dated June 2, 1975 and revised December 1992. This map is hereby made a part of the Town by-laws and is on file in the office of the Town Clerk.

E. District Boundary Disputes

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a Special Permit for this purpose shall be accompanied by an adequate documentation.

The burden of proof in such case concerning the proposed designation of the land at issue shall be upon the owner(s) of the land in question. The owner(s) may engage a geologist, hydrologist, soil scientist or a Massachusetts Professional Engineer experienced in groundwater evaluation or hydrology to determine more accurately the boundaries of the District with respect to the individual parcel(s) of land.

The SPGA may engage a professional geologist, hydrologist, soil scientist or a Massachusetts Professional Engineer experienced in groundwater evaluation or hydrogeology for the purpose of determining whether the land in question possesses the characteristics by which resource protection districts are delineated or whether land designated a lying within Zone II actually possesses the characteristics by which Zone II is delineated and may charge the owner(s) for the cost of making such determination.

The SPGA shall provide the owner(s) with a statement of work performed and the cost thereof when charging owner(s) hereunder.

F. Use Regulations

Within the District both the regulations of this Section 2.6 and the regulations of the underlying district shall apply, except that in case of a conflict or inconsistency between such regulations, the more restrictive regulations shall apply.

1) Permitted Uses

The following uses are permitted within the Aquifer Protection District, provided all necessary permits, orders or approvals required by local, state or federal law are also obtained and remain in force for such use:

a) Conservation of soil, water, plants and wildlife;

b) Outdoor recreation not involving the use of motorized vehicles, nature study, boating, fishing and hunting;

c) Foot, bicycle and/or horse paths and bridges;

d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control supply and conservation devices;

e) Maintenance, repair, and enlargement of any existing structure, subject to Section 2 (Prohibited Uses) and Section 3 (Special Permit Uses);

f) Residential development, subject to Section 2 (Prohibited Uses) and Section 3 (Special Permit Uses);

g) Farming, gardening, nursery, conservation, forestry, harvesting and grazing subject to Section 2 (Prohibited Uses) and Section 3 (Special Permit Uses);

h) Construction, maintenance, repair and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts and tunnels;

i) Operation and maintenance of roads and existing highways:

j) Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 or the Town of West Boylston's Board of Health Codes, whichever is more strict, provided that:

i. The replacement or repair of a system, which will not result in an increase of design capacity over the original design, or design capacity of 310 CMR 15.00 whichever is greater, shall be exempted;

ii. In the event cluster zoning subdivisions become allowed, the total sewage flow allowed shall be calculated based on the number of lots in the entire parcel.

2. Prohibited Uses

Landfills and open dumps

a) Storage of liquid petroleum products except the following;

i. Normal household use, outdoor maintenance and heating of a structure;

ii. Waste oil retention facilities required by statue, rule or regulation;

iii. Emergency generators required by statue, rule or regulation;

iv. Treatment works approved under 314 CMR 5.99 for treatment of ground or surface water;

Provided that such storage listed in items 1 through 4 above is in free standing containers within building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.

c) Landfilling of sludge or septage as defined in 310 CMR 32.05;

d) Storage of sludge and septic unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

e) Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

f) Storage of animal manure unless covered or contained in accordance with the specification of the United States Conservation Service;

g) Earth removal consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within 10 feet of historical high groundwater as determined from

monitoring wells and historical water tables fluctuation data compiled by the United States Geological Survey except for excavations for building foundations, roads or utility works.

h) Facilities that generate, treat, store or dispose of hazardous waste subject to M.G.L. 21C and 310 CMR 30.00 except the following:

   i. Very small quantity generators as defined under 310 CMR 30.00;

   ii. Household hazardous waste centers and events under 310 CMR 30.390;

   iii. Waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;

   iv. Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.

i) Automobile graveyards and junkyards;

j) Treatment works that are subject of 314 CMR 5.00 including privately owned sewage treatment facilities except the following;

   i. The replacement or repair of and existing treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);

   ii. The replacement of existing sub-surface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);

   iii. Treatment works approved by the Massachusetts Department of Environmental Protection (DEP) designed for the treatment of contaminated groundwater;

   iv. Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the Special Permit Granting Authority's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

k) Storage of hazardous materials as defined in M.G.L. chapter 21E, unless in a free standing container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity;

l) Industrial and commercial uses which discharge process water on site;

m) Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;

n) Storage of commercial fertilizers as defined in M.G.L. Chapter 128, Section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff and lechate;

o) The use of septic system cleaners which contain toxic or hazardous chemicals;

p) Any floor drainage systems as defined in 310 CMR 22.21 (2) (a) 8;

q) All development in which more than 15 percent on the building lot (including one- half of the area portion of any new street which abuts the lot) is rendered impervious.

3. Uses and Activities Requiring a Special Permit

The following uses and activities are permitted upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

a) Enlargement or alteration of existing uses that do not conform to the Aquifer and Watershed Protection District;

b) The Application of pesticides, including herbicides, insecticides, fungicides and rodenticides for non-domestic or non-agricultural uses in accordance with state and federal standards. The Special Permit shall be granted if such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan (PMP) or Integrated Pest Management (IPM) program under 333 CMR 12.00;

c) The application of fertilizers for non-domestic or non-agricultural uses. Such application shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation;

d) Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use is permitted in the underlying Zone (except as prohibited under Section 2). Such activities shall require a Special Permit to prevent contamination of groundwater.

e) The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses created for swimming, fishing or other recreational uses, agricultural uses or drainage improvements. Such activities shall not adversely affect water quality or quantity.

G. Procedures for issuance of Special Permit

1.) The Special Permit Granting Authority (SPGA) under this by-law shall be the Planning Board. Such Special Permit shall be granted if the SPGA determines that the intent of this by-law as well as its specific criteria are met.

The SPGA shall not grant a Special Permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed information to support positive findings in relation to the standards delineated in Section 2.6 E and given in this section.

2.) Upon receipt of the Special Permit application under this Section 2.6, the SPGA shall, in addition to complying with Section 2.6, transmit one copy to the Water District, the Inspector of Buildings, the Board of Health, the Conservation Commission, and the Town Engineer/Department of Public Works for their written recommendations.

Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies shall be furnished by the applicant.

3.) The SPGA may grant the required Special Permit only upon finding that the proposed use meets the following standards in Section 2.6 of this by-law and shall:

a) Not during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Aquifer Protection District; and

b) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

4.) The SPGA may adopt regulations to implement this by-law to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town.

5.) The applicant shall file required number of 6 copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a Massachusetts Professional Engineer. All additional submittals must be prepared by qualified professionals. The site plan and its attachments shall, at a minimum, include the following information where pertinent:

a) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

b) For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief and Board of Health.

c) Proposed down-gradient locations(s) for the groundwater monitoring well(s) should the SPGA deem the activity a potential aquifer threat.

The Plan shall include:

i. Provisions to protect against discharge of hazardous materials or wastes to the environment die to spillage, accidental damage, corrosion, leakage or vandalism including spill containment and cleanup procedures;

ii. Procedures for indoor secured storage of hazardous materials and wastes with impervious floor surfaces;

iii. Evidence of compliance with the Regulation of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of environmental Protection.

6.) The SPGA shall hold a hearing in conformity with the provision of M.G.L. chapter 40A, Section 9 within 65 days after the filing of the application and after the review by the Town boards, departments, commissions and the Water District.

Notice of the public hearing shall be given by publication and posting and by first-class mailing to “parties of interest” as defined in Chapter 40A, Section 11.

The SPGA shall obtain with each submission a filing fee (to be established by the SPGA) and a deposit sufficient to cover any expenses connected with the public hearing and review of the Special Permit application. Review fees shall be paid by the applicant before the Special Permit application review process shall begin. Any portion of the fee not used shall be returned to the applicant.

The decision of the SPGA and any extensive, modification or renewal thereof shall be filed with the SPGA and the Town Clerk within 90 days following the close of the Public Hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said Section 11.

7.) Written notice of any violations of this Section 2.6 shall be given by the Zoning Officer (Inspector of Buildings) to the responsible person as soon as possible after the detection of a violation or a continuing violation.

Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation and may also identify the actions necessary to remove or remedy the violations and preventative measures required for avoiding future violations and a schedule of compliance.

A copy of such notice shall be submitted to the Planning board, the Board of Health, conservation commission, Town Engineer/Department of Public Works and Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Aquifer Protection District, the Town of West Boylston, the Inspector of Buildings, the Board of Health, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of West Boylston, the Inspector of Buildings, the Board of health or any of their agents, if authorized to enter upon such premises under the terms of the Special Permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and/or operator of the premises.

H. Severability

A determination that any portion or provision of this Aquifer Protection District is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any Special Permit previously issued hereunder.

*12- Amended June 23, 1986 – Article 2; and *45- May 16, 1994 – Article 2

2.7- Wireless Communications Services District

1. Purpose

The purpose of this section is to establish a district in which wireless communications services may be provided with minimal harm to the public health, safety and general welfare. Specifically, the Wireless communication Services District has been to:

a. Protect the general public from hazards associated with wireless communications towers, and

b. Minimize visual impacts from wireless communications towers on residential districts within West Boylston.

For purposes of this section, “wireless communications services” shall mean the provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service. Such services, it is anticipated, will be provided communications towers, including antennas and accessory structures, if any.

2 Location

The Wireless communications Services District shall be located on all land owned by the Town of West Boylston and on all land located in business and Industrial Districts. The Wireless communication Services

District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

3 Submittal Requirements

As part of any application for a permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein at Section 3.6 applicants shall also describe the capacity of the tower, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity, and any accessory structures.

4 Use Regulations

A wireless communications tower (including antennas and accessory structures, if any) may be erected in a Wireless Communications Services District upon the issuance of a special permit by the Planning Board pursuant to Section 3.2E(3) subject to site plan approval, as set forth at Section 3.6, and subject to all of the following conditions:

a) To the extent feasible, all service providers shall co-locate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten year period) technically practicable. *51 Horizontal co-location is not permitted. Co-locators must make application for a Special Permit to the Planning Board. All co-locations shall have the same lease term.

*51- Amended Oct. 20, 1997 – Article 22

b) New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.

c) In no event shall any tower be located closer that two (2) miles to any other such tower.

d) *53 Tower heights and any appurtenant devises including antennas shall not exceed 100 feet (100') above the existing terrain

*53- Amended Oct. 20, 1997 – Article 24

e) A tower shall not be erected nearer to any property line than a distance equal to the vertical height of the tower (inclusive of any appurtenant devices), measured mean finished grade of the lower base.

f) To the extent feasible, all network interconnections from the communications site shall be via land lines.

g) Existing on-site vegetation shall be preserved to the maximum extent practicable. h.)

h) The tower 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 and lighting standards.

i) Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

j) Applicants proposing to erect wireless communications towers, accessory facilities and structures on municipally-owned land or structures shall provide evidence of contractual authorization from

the Town of West Boylston to conduct wireless communications services in municipally-owned property.

NON-USE All unused towers or parts thereof or accessory facilities and structures which have not been used for two years shall be dismantled and removed at the owner's expense.
*52 Bonding shall be provided by any applicant prior to the issuance of a Special permit to ensure proper dismantling and removal of the tower from the site.
* 52- Amended Oct 20, 1997 – Article 23

EXEMPTIONS
The following types of wireless communications towers are exempt from this Section 2.7:

a) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that:
   i. The tower is not used or licensed for any commercial purpose;
   ii. The tower must have a cost or replacement value of less than $100,000.00; and
   iii. The tower must be removed if the use is discontinued for six months; and

b) Towers used for the purposes set forth in M.G.L. Chapter 40A, Section 3.

5.) **Definitions** *56

Antenna: The surface from which wireless radio signals are sent and received by a personal wireless service facility.

Applicant: A person or entity with an application before the Planning board for a permit for a personal wireless service facility.

Array: A set of antennas for one carrier or service that are placed on a mount at a give height Above Ground Level (AGL), and spaced so as to avoid internal interference.

Camouflaged: A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "Camouflaged".

Cellular Phone Service: A mobile telephone service operating in the 800 megahertz (Mhz) spectrum.

Co-location: The use of a single mount on the ground by more than one carrier (vertical co- location and/or several mounts on an existing building or structure by more than one carrier

Commercial Mobile Radio Service (CMRS): Pursuant to Section 704 of the Federal Telecommunications Act of 1996, CMRS are any of several technologies using radio signals at various frequencies to send and receive voice, data and video. These are considered "functionally equivalent services" by the Telecommunications Act. (See definition below).

Coverage: The geographic area reached by an individual personal wireless service facility installation.

Cross-polarized (or dual-polarized) antenna: A low mount that has three panels flush mounted or attached very close to the shaft.

Design: The appearance of personal wireless service facilities including their materials, structural strength, color and shape.

Electromagnetic Fields (EMF): EMF are fields of radiation produced by all electromagnetic waves, from gamma rays to radio waves, some of which are harmful. Radiofrequency radiation (see definition below) produced by wireless facilities is one kind of electromagnetic field.

Elevation: The measurement of height above a given point.

Enhanced Specialized Mobile Radio (ESMR): Private land mobile radio with telephone services.

Environmental Assessment (EA): An EA is the document required by the Federal Communication Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in an area which meets certain criteria, and therefore, may be environmentally impacted by or with that personal wireless service facility. The EA must show how any possible impacts can be mitigated.

Equipment Shelter: An enclosed structure, cabinet, shed or box at the base of the mount used to contain batteries and electrical equipment. This equipment is connected to the antenna by cable. Equipment shelters are also called "base transceiver stations" for Personal Communications Systems (PCS).

Fall Zone: The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris or collapsing material.

Functionally Equivalent Services: Cellular, PCS, Enhanced Specialized Mobile Radio and Paging are considered functionally equivalent services.

Guyed Tower: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Horizontal Co-location: the clustering of one mount next to another.

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

Licensed Carrier: A company authorized by the FCC to construct and operate a commercial mobile radio services system.

Location: The area where a personal wireless service facility is located or proposed to be located

Modification: The changing of any portion of a personal wireless service facility from its description in a previously approved special permit. Examples of modification are changes in design or ownership.

Monopole: A type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed on top.

Mount: The structure or surface upon which antennas are mounted.

There are four types of mounts;

- **Roof-mount:** mounted on the roof of a building.
- **Side-mount:** mounted on the side of a building.
- **Ground-mount**: mounted on the ground.
- **Structure-moun**t: mounted on a structure other than a building.

Omni-directional antenna: Often called a "whip" antenna, a thin rod that beams and receives a signal in all directions.

Paging: A service that provides tone, text and limited voice messaging.

Panel Antenna: A fiat surface antenna usually deployed in three directional "sectors" (0 degrees to 120 degrees, 120 degrees to 240 degrees and 240 degrees to 360 degrees) and used to concentrate or beam the signal into (or from) that sector only.

PCS (Personal Communications Service): An advanced form of radiotelephone services, capable of transmitting and receiving voice, data, text and video messaging. PCS operates in the 1850-1990 Mhz range.

Personal Wireless Service Facility: Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

Public Utility Facilities: Fixed equipment or installations for electricity, gas, water, or communications services for the public, privately or publicly owned. f West Boylston Zoning

Radiofrequency (RF) Engineer: Someone with a background in electrical engineering or microwave engineering who specializes in the study of radio frequencies.

Radiofrequency Radiation (RFR): The emissions from personal wireless service facilities which can, in excessive amounts, be harmful to humans.

Security Barrier: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Separation: The distance between one carrier's of antennas and another carrier's array.
Site: A portion of a subject property.

Siting: The method and form of placement of personal wireless service facilities on specific area of a subject property.

Specialized Mobile Radio (SMR): A group of services serving dispatch and data communication users, usually over a small geographic area. SMR operates over several frequencies in the 800 to 900 plus Mhz range.

Unlicensed Wireless Services: Commercial mobile services that can operate on public domain frequencies and that, therefore, need no Federal Communications Commission (FCC) license for each personal wireless service facility.

Whip Antenna: A very thin antenna, usually omni-directional.

Wireless Communications Tower: A structure (with Antennas, if any) designed to facilitate the following types of service: cellular telephone service, personal communications service, and enhanced specialized mobile radio service.
*47-Amended Jan. 27, 1997 – Article 14; and *56- Nov. 11, 1998 – Article 13

2.8- Multi-Story District

1 Purpose

The purpose of this section is to establish an overlay district and a process in which buildings having a height greater than thirty-five feet (35') may be provided with minimal harm to the public health, safety and general welfare. The Multi-Story District has been created to allow greater flexibility of development and to minimize visual impacts from multi- story buildings on single-family residential districts within West Boylston.

2 Location

The Multi-Story District is an overlay district which is located on land consisting of the following properties denoted on the West Boylston Assessors' sheets revision date January 1, 2000; Map 172 Parcels 15, 16, 17, 18, 19; Map 176 Parcels 1, 4, 5, 6, 7; Map 179 Parcels 1, 2; Map 180 Parcel 2; Map 182 Parcels 1, 2, 3, 4, 5; and Map 183 Parcel 1. These parcels are shown on a plan entitled, "Multi-Story District Overlay Map", dated March 23, 2000, on file with the Town Clerk, Planning Board, and Building Inspector and is incorporated herein by reference.

3 Submittal Requirements

As part of any application for a Multi-Story Special Permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth in Section 3.6 of the Town of West Boylston zoning By-lays. Applicants shall also describe the architecture, solar access impact, and certify to the structural integrity and safety of the building.

4 Use Restrictions

Buildings proposed within the Multi-Story District having an average height of 35 feet or less do not require a Special Permit. A building having an average height greater than 35 feet, being the average of the heights, as measured from the ground surface to the eaves, at every exterior building corner, may be constructed in a Multi-Story District upon the issuance of a Special Permit by the Planning Board. The building and its associated site improvements are subject to site plan approval, as set forth in Section 3.6, and subject to all of the following conditions:

a) The maximum floor area ratio (FAR) shall be 1:2, meaning the total floor area of all floors contained within the boundaries of the exterior building faces shall be no more than half the total lot area.

b) The maximum building height shall be 68 feet.

c) The impervious lot coverage shall not be more than 70% of the lot. Impervious areas shall include, but not be limited to roof, paved or gravel parking and sidewalks and accessory equipment such as transformers, rubbish receptacles, etc.

d) The building shall be provided with complete peripheral access acceptable to the Fire Chief.

e) The building and appurtenances shall minimize, to the extent feasible, adverse visual effects on the environment, including solar access for abutting properties. The Planning Board may impose reasonable conditions to ensure this result, including painting and lighting standards.

f) A traffic analysis, stan1ped by a Professional Engineer specializing in Traffic Engineering, to assure acceptable interior circulation and that nearby roadways can effectively carry the additional traffic, shall be submitted for approval to the Planning Board.

g) All requirements of the underlying zoning district shall remain in full force and effect, except as may be expressly superseded herein.

*63- Amended May 21, 2001 – Article 38

2.9- Continuing Care Retirement Community Overlay District

*78- Amended Oct. 17, 2005 – Article 14

A. Purpose

This Continuing Care Retirement Community Overlay District is established by the Town of West Boylston in order to achieve the following purposes:

1.) The provisions of a variety of housing choices for elderly persons.
2.) The provisions of professional services routinely used by elderly persons.
3.) The design of site plans and structures adapted to the needs of the elderly population.

B. Applicability

*92 A Continuing Care Retirement Community (CCRC), as defined herein, may be allowed upon a grant of a Special Permit by the Planning Board upon any parcel of land situated within a General Residence District, within the Industrial District located south of Hartwell Street or in the Continuing Care Retirement Community Overlay District as shown on the Zoning Map.

*92- Amended May 19, 2008 – Article 46

C. Definitions

For the purpose of this section of the by-law the following definitions shall apply:

1.) Elderly Person: any person having reached the age of 55 years.
2.) Elderly Household: any household having at least one person 55 years or older.
3.) Continuing Care Retirement Community (CCRC):
a development comprised of a dwelling or dwellings with residential services operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for persons 55 years or older.
4.) Coordinated Units: a building or group of buildings under common management which provide housing and associated services which assist the elderly in maintaining an independent lifestyle.
5.) Associated Services: a program of resident services primarily for the benefit of the residents of the CCRC.

D. Types of Dwellings, Uses and Associated Services Permitted

1) A CCRC may contain any or all of the following housing types, attached or detached, in any combination:

a) Detached single family;
b) Multi-family;
c) Congregate: a structure which provides a range of housing and support services. The structure may contain, but is not limited to the following uses:
Dwelling units with kitchen facilities; bedrooms with a bathroom and sitting area or without kitchen facilities; common, social and recreational areas such as dining rooms, libraries, and indoor and outdoor recreation facilities and gardening areas;
d) Assisted or Catered Living: buildings or structures other than a hospital or nursing home/institution designed to accommodate assistance with one or more activities of daily living, such as dressing, eating, bathing, walking or toileting;
e) Nursing Care: a facility which must be licensed by the Department of Public Health;
f) Living quarters for support staff.

2.) A CCRC may contain any or all of the following uses and associated services, individually or in any combination, as part of dwellings or as separate structures, including, but not limited to:

a) Dining rooms, coffee shops and related kitchen areas and facilities;
b) Living rooms, libraries, music rooms, auditoriums, greenhouses;
c) Lounges, card rooms, meeting rooms, and other social and recreational areas;
d) Administrative offices, social service offices, educational uses;
e) Mail rooms, gift shops, convenience stores;
f) Medical offices, diagnostic and treatment centers, wellness centers, exercise areas, home health care centers;

g) Professional offices;
h) Barbers, hairdressers, beauty salons;
i) Banks and ATM banking machines;
j) Home health care;
k) Adult and child care services;
l) Cleaning services;
m) Other uses, services and activities incident to the operation of a CCRC.

E. Affordability *91

To assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a Comprehensive Permit and to prevent the Town from falling behind in meeting the requirements for Affordable Housing as detailed in Massachusetts General Law Chapter 40B, CCRC projects with greater than five (5) dwelling units must provide Affordable Housing Units to serve low or moderate income households, as follows:

1.) Percentage of Affordable Units: At least 15% of ownership units must be Affordable Housing Units. At least 20% of rental units must be Affordable Housing Units.

2.) Living quarters for support staff, if any, are excluded from the Affordable Housing provision. Definitions, provisions and procedures for Affordable Units are governed by the provisions of Section.

3.) 3.10 Incentive Zoning, except to the extent that there is a conflict between the bylaws. In case of a conflict, the provisions of this bylaw shall apply.

*91-Amended May 19, 2008 – Article 45

F. Design Objectives

1) Structure and site designs which blend the scale of residential units, institutional structures and professional office space;

2) Minimization of traffic impacts and safe design of all ways, vehicular and pedestrian;

3) Maximization of preservation of natural features and the protection of wetlands, scenic vistas and open spaces;

4) Structure and site designs which meet the specific needs of the elderly;

5) Site plan design which visually emphasizes building design and landscaped areas and minimizes the visual impact of parking areas;

6) Site plan design which creates open space by using cluster principles. At least 25% of the site shall be preserved as open space and maintained as natural vegetation or landscaped areas. Use of open space, except for passive recreation, plantings, footpaths, and agriculture shall be prohibited. Easements may be granted for the installation of underground utilities, provided all disturbed areas be restored to a natural state after construction. A restriction, enforceable by the Town of West Boylston, shall be recorded to ensure that such land shall be kept in an open, natural or landscaped state and not built upon for residential use or developed for accessory use such as parking or roadways. A landscape management plan shall be developed with restrictions to provide for maintenance of the open areas in a manner which will ensure its suitability for its function, appearance, cleanliness, and for proper maintenance of drainage, utilities and the like.

7) Site and structure design shall provide suitable means of access and egress to dwellings for handicapped persons. Enclosed walkways and/or unenclosed walkways connecting all buildings shall be permitted.

8) Structures shall be located on the site so as to provide for the privacy of residents adjacent to the CCRC.

G. Site Requirements

Minimum Lot Size: No CCRC shall be allowed on a parcel of land containing less than 10 acres.

1) Maximum number of units allowed shall be calculated by the following formula:
   i. **Detached single-family:** 5,500 square feet per/DU
   ii. **Multi-family (4 units or less):** 5,500 square feet per/DU
   iii. **Multi-family (more than 4 units):** 4,000 square feet per/DU

2) Not withstanding the provisions of Section 4.3, the number of habitable buildings on a lot and the maximum number of dwelling units permitted per habitable building shall be determined by the Planning Board on a case by case basis.

3) Non-residential uses: the total area devoted to non-residential uses located in the buildings may not exceed twenty-five percent (25%) of the total area of the living areas.

4) The open space requirement is substituted for the more conventional rear and side yard requirements in order to provide flexibility in the protection of natural features; to maintain significant open space areas for the enjoyment of the residents; and to promote a variety of site plans tailored to the needs of the elderly.

5) While there are no yard requirements between buildings within the CCRC, all structures must conform to the Massachusetts Building Code with respect to building separation and fire walls.

6) Location and design of all structures shall be reviewed by the West Boylston Fire Chief with regard to accessibility of fire and other emergency vehicles.

7) No structure shall be more than thirty-five feet (35') in height measured from the average grade at the base of the building to the eave line.

8) Disposal areas shall be located in screened areas according to law standards contained in this zoning by-law.

H. Roadway and Parking Requirements

1) The following minimum parking standards shall apply to CCRC facilities approved under this section of the by-law. The Planning Board may waive the construction of parking until it is demonstrated that it is actually needed. Parking areas shall be designated as either to be constructed at the time of building construction or at a future date when it is demonstrated that it is needed. Where there is a mix of uses, the total parking area for the CCRC must equal or exceed the sum of the minimum requirements required by the following:

   a) There shall be provided one parking space for each dwelling except as follows:

      i. Congregate housing and assisted or catered living facilities:
      One (1) parking space for every five (5) beds and one (1) parking space for each employee on the largest shift.

      ii. Nursing Care facility:

One (1) parking space for every twenty (20) beds and one (1) parking space for every employee on the largest shift.

iii. **Congregate housing and assisted or catered living facilities:**
One (1) parking space for every five (5) beds and one (1) parking space for each employee on the largest shift.

2.) All other parking and screening provisions of the West Boylston Zoning By-laws shall apply unless changed by this section.

3.) Roads and utilities shall be designed and constructed in conformance with the Town of West Boylston Site Plan review standards. The Planning Board may modify said standards if it determines that such action will more acceptably meet the purposes of this section.

I. Sewer Disposal

No special permit for a CCRC may be granted unless the proposed developer is or is to be connected to a municipal sewer system. No on site subsurface sewage disposal system shall be allowed.

J. Signs

Signs will be regulated by Section 5.6 of the Zoning By-law.

K. Procedure

1) Application, submission requirements, and procedures contained in Section 3.6 Site Plan Review shall be followed before a Special Permit for a Continuing Care Retirement Community may be granted.
2) Plans submitted in connection with this section may be drawn as may be appropriate to the size of the site, with the consent of the Planning Board.

Section 3- Use Regulations

3.1- Basic Requirements

*30- Amended May 21, 1990 – Article 13

No building, structure, or land shall be used for any purpose or in any manner other than is permitted and set forth in Section 3.2 Schedule of Use Regulations, of this by-law and in accordance with the following notation;

Y	Use Permitted
SP	Use Permitted only by Special Permit issued by the Board of Appeals
SPR	Use Permitted only by Special Permit issued by the Planning Board
SPS	Use Permitted only by Special Permit issued by the Board of Selectmen
N	Use Prohibited

3.2- Schedule of Use Regulations

*88- Amended Oct. 15, 2007 – Article 13

A		Agricultural Uses	SR	GR	B	I	C	CLI
	1	Farms, stock farms, greenhouses, nurseries and truck garden	Y	Y	Y	Y	Y	Y
	2	Sale of farm or garden produce the major part of which is raised on the premises	Y	Y	Y	Y	Y	Y
B		**Residential Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Detached One-family dwelling	Y	Y	Y	N	N	Y

	2	Multi-family (4 units or less)	N	Y	Y	N	N	N
	3	Multi-family (more than 4 units)	N	SPR	SPR	N	N	N
	4	Motels or hotels	N	N	SPR	SPR	N	SPR
	5	Bed and Breakfast	SP	Y	Y	N	N	N
	6	Accessory apartments subject of Special Condition 3.4	SP	SP	SP	N	N	SP
C		**Recreational Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Riding stables, subject to Special	SP	SP	N	N	Y	SP
	2	Golf Courses	SPR	SPR	SPR	SPR	N	SPR
	3	Indoor commercial recreation	N	N	Y	SP	N	SP
	4	Outdoor commercial recreation	N	N	SPR	SPR	N	SPR
D		**Institutional Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Municipal structure or use	Y	Y	Y	Y	Y	Y
	2	Religious use	Y	Y	Y	Y	Y	Y
	3	Cemetery	N	N	Y	Y	Y	Y
	4	Educational use exempted by Section 3, Chapter 40A, M.G.L.	Y	Y	Y	Y	Y	Y
	5	Other educational use	SP	SP	SP	SP	SP	SP
	6	Museums or art galleries	SP	Y	Y	SP	N	SP
	7	Philanthropic, historical or charitable organizations	N	N	Y	Y	N	N
	8	Private clubs, business associations, professional membership organizations	N	N	Y	Y	N	N
E		**Transportation & Utility Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Carriers of passengers for hire	N	N	Y	Y	N	N
	2	Public utility facility, except wireless communications towers *49 *49- Amended May 28, 1997 – Article 29	SP	SP	SP	SP	SP	SP
	3	Wireless Communications Tower Districts *47 *47-Amended Jan. 27, 1997 – Article 14	N	N	SPR	SPR	N	SPR
F		**Business Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Retail business not involving in manufacture on the premises except of product, the major portion of which is to be sold at retail on the premises by the manufacturer to the consumer	N	N	Y	Y	N	Y
	2	Offices, business or professional *15- Amended March 19, 1988 – Article 2	N	N	Y	Y*15	N	Y
	3	Eating places, except fast food and drive- in restaurants	N	N	Y	Y	N	Y
	4	Fast foods and drive-in restaurants	N	N	SP	SP	N	SP
	5	Animal Kennel or hospital	N	N	SP	SP	N	SP
	6	Medical Clinic	N	N	SP	SP	N	SP
	7	Bank or financial service	N	N	Y	Y	N	Y
	8	Free standing automatic vending machine, such as soda, ATM, newspaper or photo developing	N	N	SP	SP	N	SP
	9	Funeral Home	N	N	SPR	N	N	N
	10	Wholesale Business	N	N	Y	Y	N	Y
	11	Personal or business services such as barber shop, dry cleaning establishment or print shop	N	N	Y	Y	N	Y

	12	Business centers (3 or more business uses which share a common parking area), up to a maximum of 100,000 sq. ft. of floor space	N	N	SPR	N	N	SPR
	13	Automobile-fuel, services and repair	N	N	SP	N	N	N
	14	Motion Picture Theaters	N	N	SP	N	N	SP
	15	Building material stores	N	N	SP	SP	N	SP
	16	Miscellaneous repair shops	N	N	SP	N	N	SP
	17	Convalescent or nursing homes *84 *84- Amended May 21, 2007 – Article 40	N	SP	SP	SP	N	N
	18	Outdoor sales, such as motor vehicles or recreational vehicles	N	SP	SP	N	N	N
	19	Warehousing, accessory to retail or wholesale business	N	N	Y	Y	N	Y
	20	Any business allowed under this section operating between the hours of 2:00 a.m. and 6:00 a.m.	N	N	SP	SP	N	SP
	21	Adult Entertainment *54 *54- Amended May 18, 1998 – Article 31	N	N	N	SP	N	N
	22	Medical Marijuana Treatment Center *99 Amended May 19, 2014- Article 16	N	N	SPR	SPR	N	N
G		**Industrial Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Research laboratories	N	N	N	Y	N	SPR
	2	Manufacturing or industrial use including processing, fabrication and assembly, employing unobjectionable motive power, utilizing hand labor or quiet machinery and process	N	N	N	Y	N	SPR
	3	Retail and/or wholesale accessory to products manufactured or assembled on premises	N	N	N	Y	N	SPR
	4	Warehousing or trucking company	N	N	N	Y	N	SPR
	5	Removal of sand, gravel or loam subject to Section 5.4	Y	Y	Y	Y	N	SPR
	6	Construction contractors	N	N	SP	SP	N	SP
	7	Fuel suppliers	N	N	SPR	SPR	N	N
	8	Rail freight yards	N	N	N	SP	N	N
	9	Any industrial use allowed under this section which contains more than 10,000 sq. ft. as required by Section 3.6 B	N	N	N	SPR	N	SPR
	10	Industrial Park (2 or more industrial uses which share a common parking area, common lot or contiguous lots under that same ownership)	N	N	N	SPR	N	SPR
	11	Storage of dumpsters, trash containers roll-off trash containers, portable toilets, not in enclosed buildings *43 *43- Amended Feb. 24, 1992 – Article 7	N	N	N	SP	N	N
	12	Medical Marijuana Treatment Center *100 Amended May 19, 2014- Article 16	N	N	SPR	SPR	N	N
H		**Cottage Uses**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Family day care home	Y	Y	Y	SP	N	Y
	2	Home occupation, subject to Special Condition 3.5 * 31 *31- Amended May 21, 1990 – Article 14	SP	SP	Y	N	N	Y
I		**Marijuana Establishments**	**SR**	**GR**	**B**	**I**	**C**	**CLI**
	1	Retail sale of marijuana and marijuana products and accessories	N	N	SPR	SPR	N	SPR

2	Independent testing laboratory	N	N	SPR	SPR	N	SPR
3	Marijuana product manufacturer *110 – Amended Oct 15, 2018- Article 3	N	N	SPR	SPR	N	SPR
4	Marijuana cultivator - indoor	N	N	SPR	SPR	N	SPR
5	Marijuana cultivator - outdoor	N	N	SPR	SPR	N	SPR
6	Marijuana social consumption establishment	N	N	N	N	N	N
7	Marijuana membership club	N	N	N	N	N	N
8	Marijuana research facility	N	N	SPR	SPR	N	SPR
9	Marijuana transporter or distribution facility	N	N	SPR	SPR	N	SPR

3.3- Special Conditions

A. In a Business District, no building, structure, or premises shall be erected, altered, or used for any purpose, injurious, noxious, offensive, or tending to reduce property values in the same or adjoining districts by reason of emission of light, odor, fumes, dust, smoke, noise, and/or commercial waste or debris nor for any purpose other than as permitted in Section 3.2, F.

B. In an Industrial District, no building shall be erected or altered, and no building or premises shall be used for any purpose, injurious, noxious, or offensive, or tending to reduce property values in the same or adjoining districts by reason of emission of odor, fumes, dust, smoke, vibration, sewage, and/or industrial waste, noise, danger of explosion fire or other cause, nor for any purpose other than as permitted in Section 3.2D.

C. *50 A Special Permit for Public Utility Facility, with the exception of wireless communications towers, shall be issued if the Zoning Board of Appeals finds the resulting facility in harmony with the general purpose and intent of this bylaw
*50- Amended May 28, 1997 – Article 30

1.) Any building or structure enclosing a Public Utility Facility shall conform to all zoning and building requirements of the particular area.
2.) A Public Facility shall be screened and landscaped to present an attractive appearance.
3.) *32 This section shall not apply to permits granted by the Board of Selectmen as allowed under Section 22 of Chapter 166 of the Massachusetts General Laws.

*32- Amended May 21, 1990 – Article 16

D. *9 Family Day Care Home is defined as any residence licensed by the Commonwealth of Massachusetts which, on a regular basis, receives for temporary custody and care during part or all of the day children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a Family Day Care Home shall not exceed six, including participating children living in the residence.

Family Day Care Home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.
*9- Amended Sept. 17, 1984 – Article 9

E. *10 A Special Permit for a riding stable may be granted by the Board of Appeals if it is determined that the said use is in compliance with all state and local regulations governing the operation and that the term 'Riding Stable" may include the boarding of horses for a fee.
*10- Amended Oct 28, 1985 – Article 16

3.4- Accessory Apartments

*23- Amended May 22, 1989 – Article 35

A. Definition:

An accessory apartment is a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single family dwelling, but functions as a separate unit.

B. Purpose:

The purpose of the Accessory Apartment by-law are to:

1) Provide an opportunity for the older home owners who can no longer physically or financially maintain their single family home to remain in homes they might otherwise be forced to leave;

2) Make housing units available to moderate income households who might otherwise have difficulty finding homes in town;

3) Provide a variety of types of housing to meet the needs of its residents;

4) Protect stability, property values, and the single family residential character of a neighborhood; and

5) Legalize conversions to encourage the Town to monitor conversions for code compliance.

C . Special Permit Procedures and Conditions

The Board of Appeals may authorize an accessory apartment by Special Permit in any SR (Single Residence), GR (General Residence), or B (Business) District, provided the following standards and criteria are met:

1.) The owner of the premises shall occupy one of the dwelling units, except for bona fide temporary absence.

2.) Only one apartment will be created within a single family dwelling.

3.) The accessory apartment shall be designed so that the appearance of the building remains that of a one family residence as much as possible.

4.) Any new entrances shall be located at the side or the rear of the building.

5.) The accessory apartment shall be clearly a subordinate part of the single family dwelling and any additions shall not increase the square footage of the original structure by more than 10 percent.

6.) An accessory apartment shall be no greater than 700 sq. ft. nor shall it contain more than one bedroom.

7.) At least three off-street parking spaces are available for use by owner(s) and tenant(s).

8.) The Board of Health shall certify that the septic system is adequate for the disposal of sewage to be generated by both units, or that plans have been approved which will bring the system into compliance with the Board's regulations. No occupancy permit shall be issued until the Board of Health issues a Certificate of Compliance in accordance with Title 5 of the State Environmental Code.

D. Special Permit Application Procedure

The application for a Special Permit to the Board of Appeals for an accessory apartment allowed under this section shall also include the following:

1.) A notarized letter from the owner(s) stating that he/they will occupy one of the dwelling units on the premises.

2.) In order to provide for the development of housing for disabled and handicapped individuals, the Board of Appeals will allow reasonable waivers from this by-law where necessary to install features that facilitate access and mobility for disabled persons.

E. Transfer of Ownership of a Dwelling With An Accessory Apartment

1.) The temporary special permit for an accessory apartment in a single family dwelling shall terminate upon the sale of the property or transfer of title of the dwelling. The permit holder shall notify the Building Inspector within thirty (30) days of the of the sale or transfer.

2.) Upon receiving a special permit the owner(s) must file on the subject property a Declaration of Covenants at the Worcester County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time stamped copy of the recorded Declaration shall be provided to the Board of Appeals.

3.) Upon transfer of title new owners wishing to maintain an accessory apartment must re- apply for a new special permit in accordance with the procedures specified herein.

4.) Upon receiving a special permit the new owner(s) must file on subject property a Declaration of Covenants at the Worcester County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time stamped copy of the recorded Declaration shall be provided to the Board of Appeals.

F. Accessory Apartments in Existence Before the Adoption of Accessory Apartment Bylaw

It is the intent of this by-law to ensure that accessory apartments or conversions in existence before the adoption of this by-law are in compliance with the State Building Code Regulations.
Application Procedure:

1.) The Board of Appeals may authorize, under a special permit and in conjunction with the Building Inspector, an accessory apartment. The Board will review each existing use on a case-by-case basis to determine if the dwelling conforms to State Building Code Regulations.

2.) The applicant must follow the same procedure described in Sections D and E of this by- law, including the submission of a notarized letter declaring the owner occupancy and a Declaration of Covenants.

3.) *33 Fines shall be levied in accordance with Sections 6.3 of the Zoning By-law, if the owner of an existing accessory apartment fails to apply to the Board of Appeals for a special permit for an accessory apartment before July 1991.

*33- Amended May 21, 1990 – Article 17

G. Fees

Special Permit filing fees set by the Board of Appeals shall be included with the application for an accessory apartment. These fees shall be used to cover the cost of processing the application.

3.5- Home Occupations

*31- Amended May 21, 1990 – Article 14

A. Definition

Home occupation: a business, profession, occupation or trade conducted for gain or support; or business activities associated with a non-profit organization and located entirely within a residential building, or a structure accessory thereto, which is secondary to the use of the building for dwelling purposes.

B. General Requirements

An owner of a single family dwelling in a SR or GR district may apply for a special permit from the Board of Appeals to convert a portion of the dwelling to a Home Occupation use subject to the following criteria and standards;

1.) There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or other variation from the residential character of the principal building.

2.) One sign not to exceed two (2) square feet in area, which shall be attached to a building, is permitted but only to display the occupant's name and occupation.

3.) The home occupation shall not generate traffic, parking, sewage, water use, or noise in excess of what is normal in the neighborhood.

4.) No more than twenty-five (25) percent of the floor area of the residence shall be used for the purpose of the home occupation.

5.) No more than one (1) non-resident of the dwelling may be employed in the home occupation. An off-street parking space shall be provided for the home occupation employee, in addition to those required for residential use.

6.) The home occupation shall not create a hazard to persons or property, result in electrical interference, or become a nuisance.

7.) The home occupation shall not discharge any hazardous substance as defined in Section 2.6 of this bylaw.

8.) A special permit for a home occupation shall terminate upon the sale of the property or transfer of title of the dwelling or if the use allowed by the special permit has ceased for a period of one year. The permit holder shall notify the Building Inspector within thirty (30) days of the sale or transfer.

9.) Upon receiving a special permit the owner(s) must file on the subject property a Declaration of Covenants at the Worcester County Registry of Deeds. The Declaration shall state that the right to the Home Occupation use allowed by this special permit shall cease upon transfer of the title. A time stamped copy of the recorded Declaration shall be provided to the Board of Appeals.

10.) A Special Permit shall not be required for a Home Occupation within a Business District.

3.6- Site Plan Review

*26- Amended May 21, 1990 – Article 9; and *64-May 20, 2002 – Article 34

A. Purpose

The purpose of the Site Plan Review By-law hereby established is to protect the safety, public health, convenience and general welfare of the inhabitants of the town by ensuring that the design and layout of

certain developments permitted by right or by special permit will constitute suitable developments and will not result in a detriment to the neighborhood or the environment.

B. Scope - Projects Requiring Site Plan Review: *44, *46, *59

1.) New construction or exterior expansion of any non-residential building or multi-family dwelling containing more than four (4) units. "Expansion" shall include a floor space increase of 5,000 square feet, or a floor space increase of 25% or more within any ten (10) year period, whichever is less.

2.) The construction or enlargement of any multi-family dwelling containing more than four (4) units, or buildings accessory to such dwellings, including such dwellings on contiguous lots under the same ownership.

3.) The construction, rehabilitation, or change of use of a building involving fifteen (15) or more parking spaces.

4.) The construction or renovation of parking facilities involving fifteen (15) or more spaces, with the exception of normal maintenance.

5.) Any use designated "SPR" in Section 3.2, "Schedule of Use Regulations".

*44- Amended Feb. 24, 1992 – Article 8; *46- Oct 21, 1996 – Article 15; and *59- Oct 18, 1999 – Article 25

C. Procedure:

1.) **Preliminary Site Plan:**
Preliminary Plan may be submitted to the Planning Board and any waivers concerning the required content may be requested at this time. The Planning Board shall act on any waiver requests submitted with the Preliminary Plan within thirty (30) days.

2.) Submittal of Site Plan:

a. An applicant for a Site Plan Review under this section shall file with the Planning Board twelve (12) copies of the site plan (drawn at a scale of 1" = 20', or other approved scale) accompanied by a completed Site Plan Review Application, all fees, and a list of abutting property owners. The date of filing with the Town Clerk shall be the official filing date.

b. The Planning Board will distribute copies of the plan to the following municipal departments, boards and commissions for review and comment:

c. Said departments, boards and commissions shall have thirty (30) days to submit recommendations/comments in writing to the Planning Board. Failure to report within the allotted time shall be interpreted as approval of the submitted site plan.

Planning Board	Water Department	Town Clerk
Board of Health	Building Inspector	Fire Department
Police Department	Conservation Commission	Review Engineer
Sewer Department	Superintendent of Streets and Parks	Municipal Lighting Plant

d. The Planning Board is authorized to retain a registered professional engineer or other professional consultant to advise the Board on any or all aspects of the site plan. Site plan applicants shall pay all review fees before the site plan review process shall begin. Any portion of the fee not used shall be returned to the applicant.

e. Site plan applicants shall submit application and review fees in accordance with the Planning Board's Site Plan Review Fee Schedule.

f. Site plans depicting roadways, utilities, bridges, culverts, or drainage shall be prepared and stamped by a registered professional engineer licensed in Massachusetts. In specific cases, the Board may waive this requirement when deemed appropriate.

3.) Public Hearing on Site Plans:

The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of an application and shall take final action within ninety (90) days from the time of the hearing, as provided for in MGL Chapter 40A, Sections 9 and 11. The Planning Board's final action, rendered in writing, shall consist of either:

a) Approval of the site plan based upon determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this by-law; or
b) Disapproval of the site plan based upon a determination that the proposed plan does not meet the standards set forth in this by-law; or

c) Approval of the site plan subject to any condition, modification or restriction required by the Planning Board which will ensure that the project meets the standards set forth in this by-law.

Failure of the Board to take final action upon an application for site plan review within the time specified above shall be deemed to be approval of said application. Upon issuance by the Town Clerk of an appropriate certification that the allowed time has passed without Planning Board action, the required building permits may be issued.

D. Site Plan Contents and Submission Materials

1) Site Plan Contents:

The purpose of this plan is to provide general information on the site, its existing conditions, and to illustrate and fully explain the proposed changes taking place within the site. All submitted site plans shall depict the following information:

a. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan.

b. Title, date, north arrow, names of abutters, and scale.

c. A vicinity sketch showing the Zoning District(s) and the location of the land/site in relation to the surrounding public street system and other pertinent location features within a distance of 1,000-feet.

d. Natural features including watercourses and water bodies, tree lines, significant trees, and other significant vegetative cover, topographic features, soil properties, and any other environmental features of the landscape that are important to the site design process.

e. Existing and proposed contours at intervals of 2-feet with spot elevations provided when needed.

f. Surveyed property lines including angles and bearings, distances, monument locations, and size of the entire parcel. A professional land surveyor licensed in Massachusetts must attest to said plan.

g. Lines of existing abutting streets and driveway locations within 200-feet of the site.

h. Location, elevation, and layout of existing and proposed storm drainage systems including catch basins and other surface drainage features.

i. Shape, size, height, location, and use of all existing and proposed structures on the site and approximate location of structures within 200-feet of the site.

j. Location of all existing and proposed easements, rights-of-way, and other encumbrances.

k. All floodplain information, including the contours of the 100-year flood elevation based upon the most recent Flood Insurance Rate Map for West Boylston, or as calculated by a professional engineer for unmapped areas.

l. Shape, size, height, and location of all proposed structures, including expansion of existing structures on the site and first floor plan(s), and building elevation(s) of the proposed structure(s).

m. Location, flow, volume and timing patterns of existing and proposed traffic.

n. Location, width, curbing and paving of all existing and proposed streets, rights-of- way, easements, alleys, driveways, sidewalks and other public ways.

o. Location, size, and layout of all existing and proposed off-street parking, including loading zones. The plan shall indicate the calculations used to determine the number of parking spaces required and provided.

p. Size and location of all existing and proposed public and private utilities, including but not limited to: water lines, sewage disposal facilities, gas lines, power lines, telephone lines, cable lines, fire alarm connection, and other utilities.

q. Location, type, and size of all existing and proposed landscaping, screening, green space, and open space areas.

r. Location and type of all existing and proposed on-site lighting including the proposed cone(s) of illumination to a measurement of 0.5 foot-candle.

s. Location, size, and exterior design of all existing and proposed signs to be located on-site.

a. Type and location of all existing and proposed solid waste disposal facilities and accompanying screening

u. Location of all existing and proposed on-site snow storage areas.

v. A signature block for Planning Board approval.

2.) Additional Submission Materials:

a) The applicant shall submit such material as may be required to ensure the proposed development will not pollute surface or ground water, cause soil erosion, increase runoff, change ground water levels, nor increase flooding during or after construction.

b) The applicant shall submit such materials as may be required regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.

c) The applicant shall submit such materials as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

E. Site Design Standards

All site plan review applicants shall adhere to the following general principles when designing a site plan for land within the Town of West Boylston.

1.) **Landscaping Within the Setbacks:** Site plan applicants are required to landscape the setbacks as part of the site plan approval process. Site plan applicants are expected to maintain the landscaping approved for the site and replace any landscaping that has not fully established itself within two growing seasons, after which all failed landscaping shall be replaced. Front yard setback landscaping shall consist of street trees and low-level plantings. Landscaping within 20 feet of a driveway shall consist solely of low-level plantings such that vehicular and pedestrian sight lines are not restricted.

2.) **Driveways and Curb Cuts:** Each property shall be limited to one entrance and one exit per street unless the Planning Board determines that the specific site conditions warrant an alternative configuration. At the main entrance, one combined entrance/exit location is encouraged to facilitate traffic movement. Unless deemed appropriate by the Planning Board, the combined entrance/exit shall be separated by a traffic island with separate in and out movements. For corner lots fronting on two public ways, the Planning Board may require the lot's exit to be located on the public way having the lesser traffic volume.

3.) **Service Roads/Connection of Parking Lots:** To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems (service roads) that connect to adjacent developments (parking area to parking area). Site plans that propose service roads and/or connection of parking areas shall show on the plan how the connection of parking areas will be achieved and have a deeded agreement from the abutter.

4.) **Shared Parking:** The Zoning Board of Appeals may allow a reduction of the required number of spaces in conformance with section 5.2.B.3 of this bylaw.

5.) **Parking and Loading Areas:** All parking and loading areas shall be striped and marked on the ground as a condition of site plan approval. All off-street parking and loading spaces shall be provided with safe and convenient access and shall not be located within a public right-of-way or within required setbacks. Access locations shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. See Section 5.2.A.4 of the Zoning By-Laws for the Town's parking and loading standards.

6.) **Parking Area Landscaping: Site** plans involving more than thirty (30) parking spaces shall provide interior landscaping covering not less than five percent (5%) of the total area of the parking area. In total, there shall be provided one shade tree placed within the parking lot for every ten (10) spaces and complemented by shrubs and other planting material. Such trees shall be at least two (2) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter. In case it can be shown to the Planning Board that the planting of trees is impractical, the Planning Board may authorize plantings and shrubbery instead of trees.

7.) **Interior Walkways and Pedestrian Paths:** Site plans involving more than thirty (30) parking spaces shall provide walkways and pedestrian paths that safely connect the parking areas to the principal uses they will serve. Such walkways shall be constructed with brick, decorative pavers, or other materials, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Car stops shall be provided to prevent parked cars from damaging trees, shrubs and curbing, and shall not disrupt pedestrian walkways.

8.) **Stormwater Management (Grading and Drainage):** All site plan applicants must submit drainage calculations to show compliance with DEP (Department of Environmental Protection) Stormwater Guidelines.

9.) **Lighting:** All exterior lights shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. Each outdoor luminaire shall be a full cutoff luminaire, and the use of decorative luminaires with full cutoff optics is desired. A full cutoff luminaire is an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture is projected below the horizontal plane. Developments shall eliminate glare onto adjacent properties through the use of lighting shields, earthen berms, or retention of existing natural vegetation. All outdoor lighting fixtures, including display lighting, shall be turned off within one hour after close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

F. Standards for Site Plan Review:

In reviewing a site plan application, the Planning Board shall take the following items into consideration:

1.) Compliance with all applicable provisions of the West Boylston Zoning By-Laws and Subdivision Regulations.

2.) Traffic safety and ease of access at street and highway entrances and exits, taking into account grades, sight distances, distance between such exits and entrances, and the proximity of existing street and driveway entrances.

3.) Safety and adequacy of driveway layout and pedestrian walkways; off-street parking areas; off-street loading areas for materials and products; adequate access for service and emergency vehicles such as electricity, gas, fuel, telephone, laundry, rubbish removal, water, sewage, fire, police, ambulance and other routine emergency vehicles.

4.) Safe and adequate means of disposal of sewage, garbage and rubbish.

5.) Safe and adequate water supply and distribution; including sufficient water and facilities for firefighting on the site.

6.) Safe and adequate storm drainage consistent with building and surface coverage, grades, slopes, soils and water table which shall result in zero increase in the rate of runoff from the site, as measured by the 2-Year (24-hour) and 10-Year (24-hour) Storm Event Standards; and there will be no negative impacts to downstream property- owners in a 100-year (24-hour) storm event.

7.) Prevention of soil erosion during and after construction; provisions for an increase in the volume of runoff of surface water from the site and the protection of adjacent areas against detrimental or

offensive uses on the site by the provision of adequate buffers against light, sight, sound, dust and vibrations.

8.) Open space provisions and landscaping, including the maximum retention of on-site natural features.

9.) Placement of underground utilities, night lighting and signs.

10.) Compatibility of soil and subsoil's to type and intensity of development.

G. Modifications to an Approved Site Plan:

Once a site plan has been approved by the Planning Board, said plan shall not be changed, amended or modified without approval of the Board. There shall be only one final site plan in effect for a parcel of land at a time.

H. Construction of an Approved Site Plan:

1.) Construction on a site with an approved site plan must be started within one (1) year from the date of the Planning Board's approval of the site plan. Site plan approval may be extended for one (1) year at the discretion of the Board after receipt of a written request from the landowner, showing good cause. If one year has elapsed from the date of approval; and no extensions have been granted; or if one year has elapsed since the granting of said extension; the final site plan approval shall become null and void without requiring any further action by the Planning Board. This time period shall not include delays resulting from litigation.

2.) No permit to build, alter or expand any building or structure, or change of use requiring Site Plan Review under this by-law shall be issued by the Building Inspector; nor shall any construction commence before a written statement of Final Approval has been issued by the Planning Board.

3.) The Building Inspector may inspect a site under construction for compliance with the approved site plan.

I. Enforcement:

1.) It shall be the duty of the Building Inspector to administer and enforce the provisions of this by-law.

2.) The Planning Board shall provide a schedule of inspection fees to be paid by the applicant prior to the start of construction.

3.) The Planning Board may use inspection fees paid by the applicant to offset the cost of hiring any additional engineers or inspectors necessary to monitor all phases of construction covered by an approved site plan.

4.) The Planning Board may suspend its site plan approval when work is not performed as required by the approved site plan.

5.) "As Built" plans, certified by a registered professional and noting any change from the approved plan, shall be filed with the Building Inspector and the Planning Board before a Certificate of Completion shall be issued.

6.) The Building Inspector shall issue a Certificate of Completion when all construction has been performed and all other requirements have been met in compliance with the approved site plan. A copy of the Certificate of Completion will be filed with the Planning Board.

7.) No Certificate of Occupancy shall be issued for any structure or use subject to site plan review unless a Certificate of Completion has been issued.

8.) The Building Inspector may issue a Temporary Certificate of Occupancy for a period of one (1) year if the required construction has been substantially completed and the permitted uses of the development can be carried on in a safe and convenient manner.

9.) Any person aggrieved by any decision of the Planning Board or Building Inspector regarding a site plan review application may appeal that decision to the Zoning Board of Appeals as provided in Article 6.2 of this by-law.

J. Rules and Regulations

1.) The Planning Board may adopt such rules and regulations for carrying out its duties under this section. The Board may, where such action allowed by law, in the public interest and not inconsistent with the purpose and intent of this by-law, waive strict compliance with any requirement of this site plan review by-law or its rules and regulations.

2.) The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this site plan review by-law, by majority vote of the Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date.

3.9 Adult Entertainment

*55- Amended May 18, 1998 – Article 32

A. Authority

This bylaw is enacted pursuant to M. G. L. Chapter 40A and pursuant to the Town of West Boylston's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling town interests of limiting the location of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

B. Purpose

It is the purpose of this Adult Entertainment Bylaw to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crimes, adverse impacts on the property values of residential and commercial properties and adverse impacts on the quality of life in the town.

All of said secondary impacts are adverse to the health, safety and general welfare of the Town of West Boylston and its inhabitants.

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

C. Definitions

Adult entertainment uses: shall include the following uses:

1.) adult bookstores, as defined by M.G.L. Chapter 40A, Section 9A;
2.) adult motion picture theaters, as defined by M.G.L. Chapter 40A, Section 9A;
3.) adult paraphernalia store, as defined by M.G.L. Chapter 40A, Section 9A;
4.) adult video store, as defined by M.G.L. Chapter 40A, Section 9A;
5.) establishment which displays live nudity for its patrons, as defined by M.G.L. Chapter 40A, Section 9A.

D. Adult Entertainment uses by Special Permit; Criteria, Conditions

Adult entertainment uses shall be prohibited in all zoning districts except as otherwise permitted in this bylaw and may be permitted only upon the granting of a special permit by the Board of Appeals. Such a special permit shall not be granted unless each of the following standards has been met.

1.) The application for a special permit for an adult use shall provide the name and address of the legal owner of the establishment, the legal owner of the property and the manager of the proposed establishment.

2.) No adult use special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63, or M.G.L. Chapter 272, Section 28.

3.) Adult uses shall not be located within:

   a. 50 feet from the nearest residential zoning district: or

   b. 500 feet from the nearest church, school, park, playground, play field or youth center. The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

4.) All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

5.) No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent materials any sexually explicit figures or words as defined in M.G.L. Chapter 272, Section 31.

6.) No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

7.) The proposed adult entertainment use shall comply with the off-street parking requirements set forth in this bylaw.

8.) No adult entertainment use shall be established prior to submission and approval of a plan by the Zoning Board of Appeals. The plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. The plan shall show the distances between the proposed adult entertainment use and the boundary of the nearest residential zoning district and the property line of each of the uses set forth in subsection D 3 above.

9.) The Zoning Board of Appeals may retain professional assistance to review and give recommendations in assessing the application, at the expense of the applicant, pursuant to the board's rules and regulations for consultant fees.

10.) The hours of operation shall be between 6:00 a.m. and 1:00 a.m.

E. Adult Entertainment District

Adult entertainment uses shall be allowed by special permit within the existing Industrial Zone, Adult entertainment uses shall be prohibited at any other location in the town. Adult entertainment uses proposed as accessory uses must comply with Section D above.

F. Conditions

The special permit granting authority may impose reasonable conditions, safeguards and limitations on time or use of any special permit granted and shall require that any such special permit granted shall be personal to the applicant, shall not run with the land, and shall expire upon expiration of the applicant's lease or upon sale of the subject property.

G. Expiration

A special permit to conduct an adult entertainment use shall expire after a period of two calendar years from its date of issuance and shall be renewable for successive two year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original permit was granted.

H. Severability

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

3.10 Incentive Zoning

*81- Amended May 15, 2006 – Article 33 *96 Amended May 16, 2011 - Article 37 section deleted and replaced.

3.10.A Purpose

The purpose of this By-law is to encourage new, converted or renovated housing developments, where adequate public services exist, to include a proportion of housing units that are affordable. This bylaw is intended to ensure that such housing is affordable over the long-term and is provided in accordance with the requirements set forth by the Massachusetts Department of Housing and Community Development ("DHCD," or the successor agency thereto), the West Boylston Master Plan, the West Boylston Housing Production Plan, and the West Boylston Open Space and Recreation Plan.
Accordingly, the provisions of the Section are designed to:

1.) increase the supply of affordable rental and ownership housing in the Town of West Boylston,

2.) assist in the achievement of the 10% Affordable Housing threshold established by the Commonwealth in M.G.L. Chapter 40-B, Section 20-23,

3.) encourage a greater diversity and distribution of housing to meet the needs of residents and employees of the Town of West Boylston.

3.10.B Definitions

Affordable Housing: Housing which is **perpetually** restricted (to the maximum extent legally possible) for sale, lease or rental to low or moderate income households within specific income ranges as defined by this By-law; and at specific prices not exceeding an amount that is deemed Affordable for the subject household, or other standards as may be established pursuant to any Town, state or federal housing program designed to assist very low-, low-, and moderate income households and adopted by the Town of West Boylston.

Affordable Housing Unit (AFU): A dwelling unit that is sold or rented for an amount that is deemed Affordable for a household at or below 70% of the area median income as reported by DHCD or the U.S. Department of Housing and Urban Development ("HUD"). In calculating the price of an Affordable Unit, no more than 30% of the subject household's income may be devoted to qualifying housing costs.

Dwelling Unit: A single habitable space with facilities which are used, arranged or designed to be occupied for living, sleeping, cooking and eating.

Low or Moderate Income Household: A household that earns no more than 80% of the Area Median Income, as published by DHCD or HUD or the successor agencies thereto.

Very-low-income household: A household having an income less than or equal to fifty (50) percent of the Area Median Income as published by DHCD or HUD or the successor agencies thereto.

3.10.C Applicability

The provisions of this Section shall apply in all zoning districts, where residential use is permitted, but only in areas where adequate public sewerage and public water are available. The applicant shall follow the procedures stipulated in Section 3.6 Site Plan Review, with the Planning Board as the Special Permit Granting Authority (SPGA); or the West Boylston Subdivision Regulations (where applicable). All requirements and procedures must be satisfied before a Building Permit may be issued.

3.10.D Provision of Affordable Units

All AFUs that result from this by-law shall be considered as Local Action Units and shall comply with requirements of the DHCD-Local Initiative Program, or another DHCD program that allows for inclusion of AFUs on the Town's subsidized housing inventory. The following characteristics shall apply to the development:

1.) **Density Bonus:** The Planning Board may allow increased density, based on project design and site appropriateness, as follows. Land that is considered wetland, water, or land containing slopes greater than 25% shall not be included in the area used to calculate the density bonus.

   a. For all developments including a residential component with Single-Family residences the Planning Board MAY allow increased densities no greater than one hundred and fifty (150) percent of the dwelling unit density that is allowed by right under the current zoning bylaw (1.5 units for every unit currently allowed – i.e. a project that is permitted to construct 10 units may construct up to 15 units with a special permit issued under this by- law), provided that a minimum of fifteen (15) percent of the total number of dwelling units are set aside as Affordable Housing Units, as defined hereunder.

   b. For all developments including a residential component with Multi-Family residences the Planning Board MAY allow increased densities no greater than two hundred (200) percent of the dwelling unit density that is allowed by right under the current zoning bylaw, provided

that a minimum of twenty (20) percent of the total number of dwelling units are set aside as Affordable Housing Units.

2.) **Dispersion:** Affordable Housing Units shall be dispersed throughout the development so as to ensure a true mix of housing; shall be comparable and indistinguishable from market rate units in the same development; shall have a similar mix of unit sizes proportional to the market rate units; and shall have all rights, privileges and responsibilities accorded to market rate units including access to all non-fee amenities within the development.

3.) **Multiple Habitable Buildings Per Lot:** Notwithstanding the provisions of Section 4.3, the number of habitable buildings on a lot and the maximum number of dwelling units permitted per habitable building shall be determined by the Planning Board on a case by case basis. This paragraph only applies to parcels located in Zoning Districts where multifamily development is allowed.

4.) **Distribution of Affordable Units**: Affordable Units shall be set aside, as a minimum, in compliance with Housing Production Plan and the Housing Needs assessment.

5.) **Buffer Requirement:** When multi-family units are proposed, a buffer of at least 30' wide by 8' high vegetated visual buffer must be constructed in areas of the site that border single-residence uses or Zoning Districts.

6.) **Relationship to public funding programs:** Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

7.) **Relationships to other organizations:** In consultation with the West Boylston Housing Partnership, or its successor, and the applicable subsidizing agency, the Planning Boardmay allow developers to work with a local nonprofit housing provider, to distribute, maintain or operate the units in accordance with the requirements of this section.

8.) **Preference for Town residents and persons employed within the Town:** Unless otherwise prohibited by law or the requirements of the Local Initiative Program, not less than seventy percent (70%) of the Affordable Units shall be initially offered to residents of the Town of West Boylston, to persons employed within the Town of West Boylston, and persons who, although not currently residents of the Town, have previously resided in the Town of West Boylston for a minimum of five (5) years.

3.10.E Alternative Methods of Affordability

This bylaw mandates that Affordable Units shall be provided onsite. However in certain exceptional circumstances the Planning Board may, at the formal written request of the applicant and with the support of the Housing Partnership, consider an alternative method of compliance. In granting such authorization, the Planning Board must find that the applicant has demonstrated that building the required Affordable Units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the Town. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required Affordable Units and/or related requirements, such as height, setbacks or parking due to topographic conditions, other than size, of the property. To have such a request considered, the burden of proof shall be on the applicant, who must make full disclosure to the Town of all relevant information. Approval of the alternate methods of compliance shall be only for the method described. The Town may consider these only in rare and exceptional circumstances:

1.) **Fees-in-lieu-of-units:** An applicant may contribute to the established local Affordable Housing Trust Fund to be used for the development of Affordable Housing in lieu of constructing and offering Affordable Units within the locus of the proposed development or at an off-site locus.

a. Calculation of fee-in-lieu-of-units payment. The applicant for development subject to this bylaw may pay fees in lieu of construction of Affordable Units. For the purposes of this bylaw the fee-in-lieu-of-units of the construction or provision of Affordable Units will be determined as a per-unit cost as calculated from regional construction and sales reports. The Planning Board will make the final determination of acceptable value.

b. Schedule of fees-in-lieu-of-units payments. Fees-in-lieu-of-units payments shall be made according to a schedule set by the Planning Board as a condition of approval.

c. Creation of Affordable Units. Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with this section shall be used only for purposes of providing Affordable Housing for low or moderate income households. Using these contributions and donations, Affordable Housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or Affordable Units within larger developments.

9.) **Off-site Location:**
With authorization by the Planning Board as described above, Affordable Units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development, be within the Town of West Boylston, add to the Town's stock of Affordable Housing units and contain an appropriate mix of market-rate and Affordable Housing units. Off-site units shall be comparable in quality, size and type to the market-rate units being created, and include at least one Affordable Housing unit in addition to the number of Affordable Housing units that would have otherwise been provided on-site. Affordable Off-site Units allowed by this Bylaw may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to a schedule set by the Planning Board as a condition of approval.

3.10.F Procedures

All projects shall comply with the procedures described in the Rules and Regulations of the West Boylston Planning Board for Incentive Zoning Special Permits and adopted by the Planning Board under the Home Rule Authority of Article 89 of the amendments to the Massachusetts Constitution, the Zoning Bylaws of the Town of West Boylston and Chapter 40A, Section 9 of the Massachusetts General Laws.

3.10 G Administration and Enforcement

1. **Authority:**
The approval process, and oversee construction, in accordance with recommendations from the Housing Partnership, or its successor. The Housing Authority shall be the enforcement agent regarding issues relative to certification of unit eligibility and implementation of the Housing Plan, following issuance of a final occupancy permit from the Building Inspector.

2. **Legal restrictions:**
Affordable Units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their Affordability in perpetuity. All restrictive instruments shall be subject to prior review and approval by the Planning Board and no occupancy permits may be issued until the Planning Board, in consultation with Town Counsel, issues such approval. All Subdivision and/or Homeowner or

Condominium documents and fees shall be subject to review and approval by the Planning Board and the Town Counsel.

3. **Timing of commitments:**
   All contractual agreements with the Town and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of a Building Permit or occupancy permit, as may be specified herein.

4. **Timing of construction**: As a condition of the issuance of approval under this Section, the Planning Board may set a time schedule for the construction of both Affordable and market-rate units. When no schedule is specified as a condition of approval, all construction in the development must be completed within five (5) years of the date of approval.

5. **Administration**: The Planning Board may adopt regulations to facilitate the administration of Section 3.10.

3.10.H Conflict with Other By-laws

The provisions of this by-law shall be considered supplemental to existing zoning by-laws. To the extent that a conflict exists between this by-law, and others, the provisions of this by-law shall apply.

3.10.I Severability

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

3.11 Residential Cluster Development *93

*93 Amended Oct 18, 2010, Article 4

3.11. A Purpose

The purpose of this Residential Cluster Development (RCD) By-law is to provide an alternative residential subdivision design concept to increase the supply of desirable housing in the Town of West Boylston, while maintaining or creating additional open spaces within the community.

Accordingly, the provisions of this section are intended to:

1.) allow Residential Cluster Development in all zoning districts where residential use is allowed, subject to Subdivision Approval.
2.) allow greater flexibility and creativity in the design of residential developments,
3.) preserve the rural character while increasing the supply of attractive housing in the Town of West Boylston,
4.) encourage the permanent protection and preservation of open space, agricultural and forestry land, and to protect natural and/or historical resources and vistas; and
5.) encourage a greater diversity and distribution of housing to meet the needs of West Boylston residents and employees of the Town.

3.11 B Definitions

Basic Density: The number of residential dwelling units or lots (in a subdivision) as allowed in the zoning district without regard to this section and without waivers to the West Boylston Subdivision Regulations.

Cluster Development: A development pattern that arranges the layout of buildings in a compact area of the site so as to reserve a portion of the site for community open space or green space that is protected in perpetuity. Dwelling Unit: A single habitable space with facilities which are used, arranged or designed to be occupied for living, sleeping, cooking and eating.

Protected Open Space: The portion of the tract(s) set aside in common ownership controlled by a Homeowners' Association and with a perpetual conservation restriction under G.L. c.184, §§31-32 held by the Town of West Boylston or by another governmental body or by a charitable corporation or trust. The Protected Open Space shall not consist of more than 50% of land that is considered wetland and/or contains slopes greater than 25%.

3.11. C Applicability

The provisions of this Section shall apply in all zoning districts where residential use is permitted. The tracts must have a minimum area of five (5) acres. The applicant shall follow the procedures stipulated in Section 3.11.E, and the West Boylston Subdivision Regulations. All requirements and procedures must be satisfied before a Building Permit may be issued.

3.11. D Standards

1.) The maximum number of lots/dwelling units permitted within the RCD shall be based on the Basic Density unless granted a Special Permit under the Incentive Bylaw, Section 3.10 of the Zoning Bylaws.

2.) The Protected Open Space shall be a minimum of forty (40) percent of the tract area.

3.) A minimum vegetated buffer of 30 feet wide and 8 feet high shall be required along the perimeter of the development tract that borders public ways, Residential Districts or residential uses. This vegetated buffer shall provide visual screening during all seasons. Access ways shall be the only allowable openings. This vegetated buffer can be used as all or part of the Protected Open Space.

4.) There shall be a minimum lot frontage of 50 feet for subdivided lots in the development tract.

5.) Multi-family housing must be located where multi-family use is allowed according to Section 3.2.B Schedule of Use.

6.) There shall be a minimum building setback of 50 feet from all tract perimeter boundaries.

7.) There shall be a minimum 10 foot setback from internal lot lines.

8.) There shall be a minimum lot size of 5,000 square feet. (Chapter 40A, Sec. 6).

3.11. E Procedures

All projects shall comply with the following procedures as applicable:

1.) **Pre-application Meeting:** The applicant is encouraged to request a pre-application meeting with the West Boylston Planning Board to discuss the project proposal.

2.) **Submit Planning Board RCD Application Package:** The applicant shall make a formal application that includes two design plans: one following conventional Preliminary Subdivision design (to determine the Basic Density), as well as the Residential Cluster Design subdivision to the West Boylston Planning Board. The applicant is required to comply with all other applicable Zoning and/or Subdivision

Regulations not expressly specified in this section. Low impact development concepts and practices are strongly encouraged.

3.) **Planning Board Review:** The Planning Board shall hold a public hearing regarding the application and follow the process in accordance with the Subdivision regulations. The Planning Board decision may require modifications, conditions and safeguards or trust.

4.) **Planning Board Decision:** Following the close of the public hearing, the Planning Board shall issue Definitive Subdivision Plan Approval as the specific timeline of approval stipulates, and which shall contain conditions of approval.

3.11. F Administration and Enforcement

(1) **Authority:** The Planning Board shall be the authority to administer and enforce this section

(2) **Legal restrictions:** All restrictive instruments shall be subject to prior review and approval by the Planning Board and no occupancy permits may be issued until the Planning Board, in consultation with Town Counsel, issues such approval. All Subdivision and/or Homeowner or Condominium documents and fees shall be subject to review and approval by the Planning Board and review and approve as to form by Town Counsel.

(3) **Timing of commitments**: All contractual agreements with the Town and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of a Building Permit or occupancy permit, as may be specified herein.

(4) **Timing of construction:** As a condition of the issuance of approval under this Section, the Planning Board may set a time schedule for the construction. When no schedule is specified as a condition of approval, all construction in the development must be completed within five (5) years of the date of approval.

(5) The Planning Board may adopt regulations to facilitate the administration of this section.

3.11. G Conflict with Other By-law

The provisions of this by-law shall be considered supplemental to existing zoning by-laws. To the extent that a conflict exists between this by-law, and others, the provisions of this by-law shall apply.

3.11. H Severability

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

3.12 Medical Marijuana Treatment Center

*98 – Amended May 20, 2013 – Article 22 *101 – Replaced Section, Amended May 19, 2014 – Article 16

1 Establishment:

The Medical Marijuana Overlay District ("MMOD") is established as an overlay district. The boundaries of the MMOD coincide with the boundaries of the Business and Industrial Districts as shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district remains in effect, except

where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary ("RMD"), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

2 Purpose:

To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

3 Definitions:

Where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

a) Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products ("MIPs"), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

4 Location

a. RMDs may be permitted in the MMOD pursuant to a Special Permit.

b. RMDs may not be located within five hundred (500) feet of the following:

1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
2) Child Care Facility;
3) Library;
4) Playground;
5) Public Park;
6) Youth center;
7) Public swimming pool;
8) Video arcade facility; or
9) Similar facility in which minors commonly congregate.

c. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed RMD.

d. The distance requirement may be reduced by twenty-five percent or less, but only if:

1) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality;
2) The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

5 Procedure:

The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD Special Permit.

a) Application:

In addition to the materials required under Section 3.6 Site Plan Review, the applicant shall include:

1) A copy of its registration as an RMD from the Massachusetts Department of Public Health ("DPH");
2) a detailed floor plan of the premises of the proposed RMD that

3) identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;

4) detailed site plans that include the following information:

    a) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;
    b) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
    c) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
    d) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
    e) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
    f) Adequacy of water supply, surface and subsurface drainage and light.

5) a description of the security measures, including employee security policies, approved by DPH for the RMD;

6) a copy of the emergency procedures approved by DPH for the RMD;

7) a copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;

8) a copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;

9) a copy of proposed waste disposal procedures; and

10) a description of any waivers from DPH regulations issued for the RMD.

a. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Department of Public Works, Board of Water Commissioners, and the Zoning Board of Appeals. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
b. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.

6 **Special Permit Conditions on RMDs:** The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Bylaw:

a. Hours of Operation, including dispatch of home deliveries.

b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.

c. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.

d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

e. The special permit shall lapse within five (5) years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.

f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.

g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

h. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

7 **Exemption from RMD Special Permit Requirement:** RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section 3.6 Site Plan Review of the Zoning Bylaw.

8 **Prohibition Against Nuisances:** No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

9 **Severability:** The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

Section 3.13: Adult Use Marijuana Establishments

*109 Amended May 21, 2018 –Article 29, *111 Amended Oct. 15,2018 -Article 3

A. Purpose

The purpose of this Section is to regulate the time, place, and manner of adult use Marijuana Establishments in West Boylston in accordance with the provisions of Massachusetts General Law Chapter 94G. This Section serves to preserve the character of the community and create a place for the public to responsibly access legal marijuana while mitigating impacts on adjacent properties, residential neighborhoods schools and other sensitive land uses by regulating the siting, design, placement, security, safety, monitoring, modification, and discontinuance of Marijuana Establishments.

B. Scope

1. Section 3.13 relates only to Marijuana Establishments authorized by General Laws, Chapter 94G, and does not apply to Medical Marijuana Treatment Centers authorized by General Laws, Chapter 94I, the location and operation of which are governed locally by Section 3.12 of these Bylaws, nor to marijuana-related businesses not required to be licensed by Chapter 94G, except as otherwise provided herein.

C. Definitions

The terms used herein shall be interpreted as defined in the regulations governing Adult Use of Marijuana (935 CMR 500.02) and otherwise by their plain language.

Adult On-Site Marijuana Social Consumption Operator: A marijuana retailer licensed to purchase marijuana and Marijuana Products from a Marijuana Establishment and to sell marijuana and marijuana products on its premises and to allow customers to consume marijuana and marijuana products on its premises only.

Marijuana Cultivation: Use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media promoting the growth of marijuana by a Marijuana Cultivator, Microbusiness, Marijuana Research Facility, Craft Marijuana Cultivator Cooperative, or other entity licensed by the Cannabis Control Commission for Marijuana Cultivation. Such use shall not be considered exempt from zoning as an agricultural use.

Marijuana Cultivator: An entity licensed to cultivate, process, and package marijuana, to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana

Transporter, or any other type of licensed marijuana-related business, except a Medical Marijuana Treatment Center.

Marijuana Membership Club: An organization, club, lodge or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, regardless of whether marijuana or marijuana products are sold on the premises, but not operating as a licensed Adult On- Site Marijuana Social Consumption Operator.

Marijuana Product: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package marijuana or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Retailer: An entity licensed to purchase and transfer marijuana or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering marijuana or marijuana products to consumers and from offering marijuana or marijuana products for the purposes of onsite social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter or Distribution Facility: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess marijuana or marijuana products solely for the purposes of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. A Marijuana Transporter may be an Existing Licensed Transporter or Third Party Transporter.

Commission: The Massachusetts Cannabis Control Commission (CCC) established by M.G.L.c.10 Section 76, or its designee.

Host Community Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth additional conditions for the operation of a Marijuana Establishment, including stipulations of responsibility between the parties.

Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand marijuana or marijuana products and to transport marijuana to Marijuana Establishments, but not to consumers.

Family Day Care Home: Any residence licensed by the Commonwealth of Massachusetts which, on a regular basis, receives for temporary custody and care during part or all of the day children under seven years of age or children under sixteen years of age if such children have special needs.

Independent Testing Laboratory: A laboratory that is licensed by the Commission to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

Microbusiness: A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Process or Processing: To harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except that it shall not include manufacture as defined in 935 CMR 500.002.

Research Facility: An entity licensed to engage in research projects by the Commission.

D. Place

1. Allowed Uses - Marijuana Establishments shall be permitted to locate as specified in Section3.2 Schedule of Use Regulations and in accordance with the specific requirements of this Section of the Bylaw.
2. All Marijuana Establishments shall be contained within a building or structure. No Marijuana Establishment shall be located in a trailer, cargo container, motor vehicle, or other similar nonpermanent enclosure.
3. Marijuana Establishments shall not have a drive-thru services.
4. No Marijuana Establishment shall be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12; licensed day-care center; Family Day Care Home, place of worship; library; park; or playground establishment in operation at the time of application for a Special Permit or Site Plan approval. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located. In any case, the Planning Board requires verification of distances by a Registered Land Surveyor as part of the permit submittal package.
5. No Marijuana Establishment shall be located within a building containing residential units. This prohibition includes transient housing such as motels and dormitories, and group housing. Additionally, with the exception of a Marijuana Transporter, no Marijuana Establishment shall be permitted inside a movable or mobile structure such as a van or truck.
6. The number Marijuana Retailers permitted in the Town shall be limited to no more than two (2). Special Permit applications will be considered in the order in which the Planning Board receives a completed Special Permit application accompanied by confirmation that a completed license application has been received by the Commission.

E. Time and Manner

1. No marijuana shall be smoked, eaten, or otherwise consumed or ingested on the premises of a Marijuana Establishment. All Marijuana Establishments permitted under this section shall comply with all state and local laws, rules and regulations, including those governing the smoking of tobacco.
2. Odor: No Marijuana Establishment shall allow the escape of noxious odors or gases. Marijuana Establishments shall incorporate odor control technology to ensure that emissions do not violate MGL Chapter 1111, Section 31C. All Marijuana Establishments shall be ventilated in such a manner that no:
    i. Pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere.
    ii. Odor from marijuana can be detected by a person with a normal sense of smell at the exterior of the marijuana establishment or at any adjoining use or property.
3. Signage: All signage shall comply with the requirements of 935 CMR 500, and Section 5.6 of the West Boylston Zoning Bylaws.
4. Hours: Unless otherwise specified in the conditions of a Special Permit, Marijuana Retailers shall be open to the public no earlier than 8:00AM or later than 8:00pm.
5. Visual Impact: Marijuana plants, products, and paraphernalia shall not be visible from the outside of the building in which the marijuana establishment is located and shall comply with the requirements

of 935 CMR 500. No outside storage of marijuana, related supplies, or promotional material is permitted. Any artificial screening device erected to eliminate the view from a public way shall also be subject to a vegetative screen and the Planning Board shall consider the surrounding landscape and views to determine if an artificial screen would be out of character with the neighborhood.

6. Nuisance: Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of marijuana, excessive pedestrian or vehicular traffic, illegal drug activity under state or local law, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) or other obstructions in the public or private way (sidewalks and streets).

7. Home Occupation: Marijuana Establishments are not permitted as a Home Occupation, as defined in Section 3.5 of the West Boylston Zoning Bylaw.

8. Security: Every application for a Special Permit for the operation of a Marijuana Establishment shall include a security plan describing all security measures. This should include site security and security for the transportation of marijuana and marijuana products. Safety plans should mitigate any potential harm to employees and the public including insuring customers are at least 21 years of age. The security plan shall meet all security requirements of 935 CMR 500.110.

9. Host Community Agreement: No Special Permit shall be granted without the applicant first having an executed Host Community Agreement with the Town of West Boylston

10. Community Outreach Meeting: No Special Permit application shall be deemed complete by the Planning Board until a Community Outreach Meeting in accordance with 935 CMR 500.101 has occurred.

11. State Law: Marijuana establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.

12. License requirements:

    i. The Applicant shall submit proof that the application to the Commission has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as an integral component of the application to the Planning Board and no Special Permit application shall be deemed complete by the Planning Board until this information is provided.

    ii. No Special Permit shall be granted by the Planning Board to an applicant without the Marijuana Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.102.

    iii. No person shall operate a marijuana establishment without having a license in good standing from the Commission.

13. Energy Use: All marijuana cultivators shall submit an energy use plan to the Planning Board to demonstrate best practices for energy conservation, water usage, and waste disposal. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.

14. Line Queue Plan: The applicant shall submit a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.

15. Traffic Impact Statement: Any Marijuana Establishment open to the general public shall submit a detailed Motor Vehicle Access Statement in accordance with West Boylston Zoning Bylaw Section 3.6.

16. Parking: Parking shall be in accordance with West Boylston Zoning Bylaw Section 3.6.

17. Permitting: The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to West Boylston Zoning Bylaw Section 6.2 Special Permits.

F. Special Permit Requirements

1. A Marijuana Establishment shall only be allowed by Special Permit from the Planning Board in accordance with MGL c.40A § 9 and Section 6.2 Special Permits of this chapter's subject to the following statements, regulations requirements, conditions, and limitations.

2. No Special Permit for any marijuana establishment shall be issued without Site Plan Review approval having been obtained from the Planning Board, Section 3.6 Site Plan Review. In addition to the standards set forth within, the site plan must meet all dimensional, parking ,landscaping, and signage requirements within this chapter and comply with Section 3.6 of the Zoning Bylaws.

3. A Special Permit for a Marijuana Establishment shall be limited to one or more of the following uses:

    i. Marijuana Cultivator

    ii. Marijuana Product Manufacturer

    iii. Marijuana Retailer

    iv. Independent Testing Laboratory

    v. Marijuana Research Facility

    vi. Marijuana transporter or distribution facility

    vii. Any other type of licensed marijuana-related business

4. In addition to the application requirements set forth above, a Special Permit application for a Marijuana Establishment shall include the following:

    i. The name, email, phone number, and address of each owner of the Marijuana Establishment

    ii. Copies of all required licenses and permits issued to the applicant by the Commission and any other applicable regulatory body;

    iii. Evidence of the applicant's right to use the site of the Marijuana Establishment for the proposed use, such as a purchase of sale agreement, deed, owner's authorization, or lease;

    iv. Proposed security measures for the Marijuana Establishment, including lighting, fencing, gates, and alarms to ensure the safety of persons and to protect the premises from theft. A letter from the Town of West Boylston Police Chief, or designee, acknowledging review and approval of the Marijuana Establishment security plan is required. To the extent allowed by law, all such security documents shall be confidential.

    v. All application requirements for Site Plan Review are as specified in Section 3.6 of West Boylston Zoning Bylaw unless certain non-applicable requirements are waived by the Planning Board.

5. Mandatory findings. The Planning Board shall not issue a Special Permit for a Marijuana Establishment unless it finds that:
    i. The Marijuana Establishment is designed to minimize any adverse impacts on abutters and the general public.
    ii. The Marijuana Establishment demonstrates that it will meet all the permitting requirements of all applicable agencies and will comply with all applicable state laws and regulations; and
    iii. The applicant has satisfied all of the conditions and requirements set forth herein.
6. A Special Permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Marijuana Establishment. A Special Permit may be transferred only with the approval of the Planning Board in the form of an amendment to the Special Permit with all information required in Section 3.13.F.4.

G. Severability

If any provision of Section 3.13 is found to be invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected but shall remain in full force. The invalidity of any provision of this Section shall not affect the validity of the remainder of this zoning Bylaw.

H. Abandonment or Discontinuance of Use

1. A special permit granted hereunder shall lapse at the end of one (1) year from the date of issuance, not including such time required to pursue or await the determination of an appeal, referred to in G.L.c.40A, § 9, from grant thereof, if a substantial use thereof has not commenced, except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
2. A Marijuana Establishment shall be required to remove all material, plants, equipment and other paraphernalia within thirty (30) days of ceasing operations.

Section 4- Dimensional Requirements

4.1 Basic Requirements

*3- Amended Feb 25, 1980 – Article 20

Except as otherwise provided in the General Laws, Chapter 40A, Section 5A and Section 7A, any lot used for dwelling purposes shall meet the requirements of Section 4.2.

A. The frontage of a lot shall be measured as the straight line distance between the points of intersection of the side lot lines and the street lines.

B. On all corner lots the required front yard dimensions shall apply from both street lines. The required side yard dimension shall apply from all other lot lines. In all cases one street line shall be accepted as the front street line for the measurement of another frontage.

C. The minimum front yard dimensions required in the following schedule are to be measured from the street line where a plan for the street is on file with the Registry of deeds, or in absence of such plan, from a line twenty-five feet (25') from and parallel with the apparent centerline of the traveled way or street.

D. The direction of side lot lines shall be as close as possible to perpendicular to the street line or to its tangent at the point of intersection of the side lot line. In no case shall the direction of the side lot line from an angle of less than 75 degrees with the street line or the aforesaid tangent.

This angle must be maintained for a distance of 25 feet. *48

*48- Amended May 28, 1997 – Article 28

E. *16, * 34 The minimum lot width, which is the shortest distance between side lot lines, when measured anywhere between the lot frontage and the existing or proposed main building on the lot, shall not be less than the required minimum lot frontage.

*16- May 16, 1988 – Article 24; and *34- May 21, 1990 – Article 18

4.2 Schedule of Dimensional Requirements

			Min. Yards (in feet)		
District	**Min. Lot Size**	**Min. Lot Frontage (in feet)**	**Front**	**Side**	**Rear**
Single Residence	40,000 square feet *7	120	25	10	10
General Residence	40,000 square feet*7	120	25	10	10
Business	1 acre	150	10 *70	10	10
Industrial	2 acres *82	150 *71	50	10	10
Commercial/ Limited Industrial *86	2 acres	150	50	10	10
Aquifer Protection	50,000 square feet *13	150	25	10	10

*7- Amended Sept. 17, 1984 – Article 7; *13- June 23, 1986 – Article 3; *70-71- May 20, 2002 –Articles 36-37; *82- Oct 16, 2006 – Article 16; and *86- Oct 15, 2007- Article 13

A. This shall not prevent the construction or placing of a dwelling or any other structure allowed by these by-laws in that district, on any lot not satisfying the foregoing minimum requirements, providing such lot has been continuously held in ownership separate from that of adjoining land since the date of pertinent amendments.

B. Where there are buildings within one hundred feet (100') on either side which are nearer to or farther from the street line than 25', the Building Inspector, when granting the building permit, shall determine the setback distance to reasonably conform to the existing buildings, except that in all districts no portion of any building or structure shall hereafter be constructed nearer than ten feet (10') to the side or rear lot line.

C. *73 The board of Appeals shall hear and decide upon applications for special permits for the reduction of the minimum residential lot frontage requirements outlined in Section 4.2 of this by-law. Special permits shall be granted only for residential lots with a minimum of 40,000 sq. ft. and only in those cases the Board finds that a lot frontage which is less than the required minimum, but not less than 100 feet, shall provide adequate access for the intended use of that lot and the Board may restrict or otherwise limit the use of said lot. Adequate access shall be defined for the purpose of this by-law as sufficient frontage to ensure safe access for vehicular traffic and for the provision of municipal services and utilities to the lot.

*21- Amended May 22, 1989 – Article 33; and *29-Amended May 21, 1990 – Article 12 *73- Amended May 20, 2002 ATM

4.3 Modifications to Dimensional Requirements

A. Multi-family Dwellings

1) *83 For multiple dwelling use, the minimum lot area shall be 10,000 square feet for each dwelling unit on lots where sewer service is available and permitted. For multiple dwelling use on lots where sewer service is not available and permitted, the minimum lot area shall be 20,000 square feet for each dwelling unit.

*83- Amended Oct. 16, 2007 – Article 15

2) The Maximum number of dwelling units per habitable building shall not be greater than twelve units.

B. Appurtenant Open Space

No yard or other open space required for a building by this by-law shall, during the life of such building, be occupied or counted as open space for another building.

C. Projections *35

Nothing herein shall prevent the projection of steps, handicap access ramps, cornices, window sills, belt courses, and other ornamental features into any required yard.

*35- Amended May 21, 1990 – Article 19

D. Corner Clearance

Within the area formed by the lines of intersecting streets and a line joining points on such lines fifteen feet (15') distance from their point of intersection, or increase of a rounded corner of the point of intersection of their tangents, no structure and no foliage shall be maintained between a height three and one-half feet and a height eight feet above the plane through their curb grades.

E. Green Belt

Industrial Districts provision shall be made for the planting of a green belt, if required, and in a manner approved by the Planning Board. A "Green Belt" is defined as a protective screen which shall be planted and maintained in evergreen trees or shrubs, not more than fourteen feet apart or less than six feet high at the time of planting.

F. Building Height

*17 *63 *72 *87

In all districts, except the Multi-Story District as specified within Section 2.8, and the Business District, no building shall be erected or altered to an average height of more that thirty-five feet (35'). Average height is calculated by taking the average of the heights, as measured from the ground surface to the eaves, at every exterior building corner. The maximum building height allowed within the Business District and Commercial/Limited Industrial District shall be fifty feet (50'). Where such building is proposed to be greater than thirty-five feet (35') tall, it shall be set back from the property line abutting a Residential District a horizontal distance the same as the height of the building.

*17- Amended May 16, 1998 – Article 25; *63- May 21, 2001 – Article 38; *72- May 20, 2002 – Article 36; and *87- Oct. 15, 2007 – Article 13

G. Habitable Buildings Per Lot

Only one habitable building shall be placed on any one lot.

H. Common Driveways * 57

*57- Amended May 17, 1999 – Article 34

For lots to be used for residential dwelling purposes where adequate access is provided across the frontage, the Planning Board may grant a Special Permit to allow common driveways for no more than four (4) lots that meet the zoning requirements. Common driveways shall not be used to satisfy zoning frontage requirements.

Common drives may be permitted to allow for more efficient traffic flow, to reduce traffic hazards from numerous individual driveways, to consolidate access to lots across wetland resources, and otherwise where, in the Planning Board's judgment, such an arrangement will be more advantageous to the neighborhood than separate driveways.

1) The applicant shall submit documents, plans, and profiles, stamped by a professional engineer, to the Planning Board for its approval of the proposed common driveway to assure compliance with the following standards for common driveways prior to the issuance of a building permit:

    a. The maximum grade shall be 12%. The minimum grade shall be 1%, with a 3% maximum grade within 50' of its intersection with a street right of way. The maximum length shall be five hundred feet (500'), and the angle of intersection with the street right of way shall be no less than 600.

    b. The minimum width shall be fifteen feet (15') for the durable surface, with a three foot (3') wide improved gravel shoulder on at least one side. Driveways shall be surfaced with a durable, all-season non-dusting material, drained and suitably maintained to the extent necessary to avoid any nuisance by reason of dust, erosion or water flow onto streets or adjoining property. The common driveway shall be paved within the right of way of the street to the satisfaction of the Superintendent of Streets.

    c. The common driveway shall exit onto the frontage street, and shall be located entirely within the boundaries of the lots served thereby. The plans shall show grading adjacent to the driveway to assure compliance with these standards.

    d. The minimum easement width of 24 feet shall be created so that appropriate legal devices (easements or restrictive covenants which run with the land and hold the town harmless) shall be executed and recorded along with the deeds for the lots to assure that maintenance, repair, snow removal, de-icing, rubbish collection, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

2) The applicant shall submit certified As-built plans and obtain the approval of the Building Inspector prior to the issuance of the occupancy permit.

3) The Planning Board may establish appropriate procedures, including applications and review fees, for Common Driveways Special Permit Applications.

*8- Amended Sept 17, 1984 – Article 8; and *60- Oct 18,1999 – Article 26

Section 5- Special Regulations

5.1- Accessory Use

In Single Residence, General Residence and Business Districts accessory use is permitted on the same lot with and customarily incident to any of the uses permitted in Section 3.2, and not detrimental to a residential neighborhood. All accessory uses shall comply with the dimensional requirements for the primary use to which they are an accessory, as stated in Section 4.2. Swimming poo1s and racquet courts are permitted as accessory structures in all districts and require a building permit. They shall be fenced or otherwise protected against intrusion as required by the State Building Code. Racquet court fencing shall be at least eight feet (8') high. Swimming pools shall comply with the Town's General Bylaws, Article XV, Section 6.

The term "accessory use" in this section shall not include:

1) Garage space for more than three automobiles except for owner's use;

2) The sale of produce unless the major portion thereof is raised on the premises.

*58- Amended Oct. 18, 1999 – Article 24; and *61-May 15, 2000 – Article 38 5.2 Off-street Parking and Loading *18 Amended May 16, 1988 – Article 23

5.2- Off Street Parking and Loading

*18 Amended May 16 1988 Article 23

A. General Provisions for Off-street Parking and Loading

1) Application

a) It is the intent of this by-law that all new buildings and land uses be provided with sufficient space located off-street for:

i.) the accessory parking of motor vehicles;

ii.) the standing, loading and unloading of motor carriers, to meet the needs of persons employed at or otherwise making use of such buildings or land under normal conditions.

b) Any application for a permit for the erection of a new building, or for an alteration or change of use of an existing building that provides additional accommodations, or for the development of a land use shall include a plan for parking and loading for the new or expanded facilities or areas in accordance with Section 5.2 and 5.2 C.

c) Where a building or land area is used by two or more categories of uses as defined under Section 5.2 B, the off-street parking and loading facilities required shall be not less than the sum of the requirements for the individual uses computed separately.

d) Buildings and land uses legally in existence on the effective date of this by-law are not subject to these off-street parking and loading requirements, provided that any parking or loading facilities now serving such buildings or uses may not in the future be reduced below these requirements.

If existing parking or loading spaces exceed the requirements of this by-law, any excess shall be applied to the requirements for additions.

If existing parking or loading spaces are less than the requirements of this by-law, only the requirements for the additions need to be fulfilled with additional spaces.

e) *58 For non-residential uses in the Business and Industrial Districts common driveways may be used to serve both parking and loading spaces, but no part of a designated loading space may be extended into the common driveway.

*58- Amended Oct. 18, 1999 – Article 24

f) *106 Commercially-licensed vehicles in excess of 20,000 pounds gross vehicle weight rating are prohibited from parking overnight in a residential zoning district, except school buses or farm vehicles, or construction equipment during actual construction on the site. The definition of gross vehicle weight rating is the maximum operating weight/mass of a vehicle, as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo.

*106 Amended Oct. 16, 2017 – Article 19

2) Jurisdiction and Modification

a) Jurisdiction:

All off-street parking plans shall require Building Inspector approval. Such approval shall be required prior to the issuance of the building permit.

Parking plans and loading plans submitted for approval should identify elevations and contours of the finished site, existing right-of-way, entrances and exits, driveways, aisles, parking spaces, loading spaces, circulation, capacity, drainage, lighting, berms, curbing, fences, walkways and landscaped areas.

The Building Inspector shall examine said parking plans with respect to access, drainage, capacity, circulation and safety of pedestrians and vehicles using the facilities and using abutting streets.

b) Modification

The Board of Appeals may, by special permit, modify the requirements for off-street parking and/or loading where it is demonstrated that with such modification there will be, under normal use, adequate space for parking and/or loading to provide for the needs of the subject building or uses.

3) Construction and Maintenance

Parking and loading areas shall be graded, surfaced and drained so as to dispose all surface water through approved catch basins to preclude drainage onto other properties or streets.

Parking and loading areas located adjacent to a way shown on the official map shall maintain a permanent fence, berm, curbing, or its equivalent on or near the property line abutting the way.

A landscaped separation strip of at least five feet (5') shall be provided between a parking area and an adjoining public way, except in manufacturing districts. All off-street parking and loading facilities shall be maintained by the owner or operator in good repair, neat and orderly in appearance and free from refuse and debris.

Parking and loading areas shall be arranged for convenient access, egress and safety to pedestrians and vehicles.

4) Design Standards

All off-street parking and loading facilities shall be provided with adequate vehicular access. Backing directly onto a street shall be prohibited except for single and multi-family residences.

Adequate ingress and egress to the parking facilities by means of clearly limited and defined drives shall be provided for all vehicles. Said access shall be limited to well defined locations away from street intersections, and in no case shall there be unrestricted access along the length of the street.

5) Lighting

All lighting used to illuminate any off-street parking or loading shall be installed so that direct rays from such lighting shall not cause a public nuisance to adjacent property.

6) Snow Storage

Storage of snow in parking or loading facilities shall be arranged so as not to unduly reduce sight distances and visibility at entrances and exits and aisles intersection.

B. Off-street Parking (See Section 5.2, A for General Provisions)

1) **Off-street Parking Requirements**

Parking spaces are to be provided according to the following units of measurement.
Multiple use requires space calculations for each applicable use. Capacities and areas include outdoor use where applicable.

Note: Utility, energy, corridor, stairway, restroom, and building maintenance areas are exempted from space assignment.

a) **Residences**

Single Family-
Two (2) parking spaces per dwelling unit

Two Family & Multi – family *-
Two (2) parking spaces per dwelling unit

Hotel, Motel, Lodging, Rooming-
One (1) space per bedroom

Group, Dormitory-
One (1) space per resident car

Nursing, Convalescent & Rest Home –
One (1) space per three beds

***Note:** Housing designed specifically for elderly persons need provide only 50 percent (50%, of the space required above.

b) **Place of Assembly**

Including Cultural, Sports, Religious, Recreational Entertainment-
One (1) space for each five (5) persons accommodated in the assembly place

c) **Hospitals**

Exempted from further use calculation-
One (1) space per patient bed excluding nursery .

Inpatient Outpatient –
Three (3) spaces for each room, booth or other unit exclusively assigned for outpatient treatment or counseling

d) **Drive-up Service including window, pump, wash, cash and carry**

Three (3) off-street waiting spaces will be provided leading to each service entrance or island and one (1) such space beyond each service exit.

A mechanized car wash with conveyor will provide eight (8) off-street waiting spaces leading to each line and two (2) spaces beyond the exit end.

e) **Professional offices including clinics, barbershops and beauty salon**

Three (3) parking spaces for each room, booth, or other unit assigned for client treatment or counseling.

f) **Bowling alleys and lanes**

Four (4) parking spaces per lane or alley.

g) **Public garage**
Three (3) parking spaces for each bay or stall used for service or repair.

h) **Restaurant, Cocktail Lounge or Nightclub**
One (1) parking space for each four (4) seats in the dining area, plus one (1) parking space for each two (2) seats in the cocktail area or those areas where meals are not served or where meals are self-service.

i) **Quick, Service, Fast Food, Drive-in Establishment**
One (1) parking space for each forty (40) square feet of gross floor area.

j) **Retail Areas For Sales and Display of Portable Goods and Related Retail Services**
One (1) space for each 250 square feet in such use.

k) **Office Areas Including Reception, Desk Drafting Bench, Data Processing Manufacturing Areas For Portable Goods**
One (1) space for each 500 square feet in such use

l) **Wholesale Areas For Sales And Display; Retail areas For Sales And Display of Non- portable Goods; Freight Handling Area**
One (1) space for each 1,000 square feet in such use.

m) **Storage and Warehousing Areas**
One (1) space for each 3,000 square feet in such use.

n) **Automobile/Vehicle Sales** *66
One (1) customer parking space for every four hundred (400) square feet of showroom and office, plus one (1) customer parking space for every two thousand (2,000) square feet of exterior display area.
*66- Amended May 20, 2002 – Article 35

2) Location and Dimensions

a. Required parking shall be provided on the same lot with the main use it is to serve. In business and manufacturing districts, required parking shall be provided through the same ownership within one thousand feet (1,000') of the use it is to serve.

b. **Dimensions of Parking Space:**
Each parking space shall not be less than nine feet (9') in width and eighteen feet (18') in length. Aisles shall provide adequate width for vehicles to enter or to leave parking spaces in a single motion. All vehicles must be parked completely within the property lines.

c. **Setbacks** *36
In Business and Industrial Districts all parking spaces shall be provided only at the side or to the rear of buildings, but not within the required side and rear yard setbacks.

Parking areas shall be set back a minimum of five feet (5') from any building wall and ten feet (10') from any boundary lines.
Driveways may occupy any part of the required front or side yards. Any portion of a parking area not used for parking space or circulation shall be landscaped and protected.
*36- Amended May 21, 1990 – Article 20

d. No driveway in a Business District or Industrial zone shall be located closer than fifty feet (50') to any street intersection measured along the street line.

e. *67 Uses that propose drive-through facilities such as automatic teller machines and restaurants shall be designed to be an integral component of the building complex and shall not be located within a public right-of- way. Such uses shall be safely and conveniently accessible from surrounding uses via a clearly defined circulation system that minimizes points of conflict between vehicular and pedestrian traffic. The queue length shall be arranged so that there will be no spillage onto a public right-of-way. See Section 4.B.1.d of the Zoning By-Laws for the Town's parking standards for drive- through facilities.
*67- Amended May 20, 2002 – Article 35

f. *68 Use of Parking Areas for Retail Sales: The use of designated parking areas for outdoor sales events shall be limited to five (5) days per year.
*68- Amended May 20, 2002 – Article 35

3) **Shared Parking** *69
The Board of Appeals shall hear and decide upon applications for Special Permits for the reduction of the required number of parking spaces by up to twenty-five percent (25%), if it can be demonstrated that two or more uses within a single development can share parking areas due to different hours of normal activity.
*69- Amended May 20, 2002 – Article 35

C. Off-Street Loading (See Section 5.2, A for General Provisions)

1) Table of Loading Requirements

Gross Floor Area Per Tenant (square feet)	**Number of Required Loading Spaces**
0-10,000	0
10,001 – 50,000	21
50,001 – 100,000	32
100,001 – 200,000	43
200,001 – 400,000	4
Each additional 20,000 sq. ft	1

2) Location and Dimensions of Required Loading Spaces

a) Location

Loading spaces located within one hundred feet (100') of a residence district shall have material handling activities relating thereto enclosed.

In an Industrial Park District all loading and delivery facilities shall be located either at the side or rear of the building(s) they are designed to serve, but not within the required side and rear yard setbacks.

b) Dimensions of Loading Space

Each loading space shall be twelve feet (12') in width and fifty feet (50') in length and shall be entirely contained within the property lines.

5.3 - Prohibited Uses

A. Refuse Disposal

The dumping of rubbish except in a municipal dump is prohibited.

B. Trailer or Mobile Home

The keeping of a trailer or mobile home on any lot within the town for use as a dwelling is prohibited.

C . Unregistered Motor Vehicle

Except by a person licensed under General Laws, Chapter 140, Section 59, no parcel of land shall be used for the keeping of more than one unregistered motor vehicle (farm vehicles excluded) on any lot, unless said motor vehicle is stored within a building, for a period of more than six months, provided, however, that the Board of Selectmen may grant a special permit to keep up to two unregistered motor vehicles on any lot if it finds that such keeping is;

1.) in harmony with the general purposes and intent of this by-law;
2.) will not adversely affect the neighborhood; and
3.) will not be a nuisance.

All such permits granted shall not run with the land and shall be of one year in length but may be renewed.

D Screening *37, *65

Outside storage areas for materials, equipment, vehicles, or trash, shall be provided with an opaque screen a minimum of five feet (5') in height to shield such areas from view from adjacent streets and residential districts. Such screens may consist of walls, fences, landscaped berms, evergreen plantings, or any combination thereof. Fences shall consist of wood, stone, or brick materials; chain link fences are prohibited. Walls or fences exceeding four and one-half (4 ½) feet in height shall have plantings on any side facing a residential district. Elements such as HVAC units, telephone boxes, or electrical transformers shall be screened from public view through use of landscaping, berms, or fences and shall be as unobtrusive as possible. Where possible, HVAC units shall be screened or located behind roof ridge lines so they are not visible from the front view of the building.

In locations where business or industrial uses are bordered by Residential Districts, a buffer zone of at least thirty feet (30') shall be observed for buildings, parking or storage. This area shall be landscaped and suitably screened as required above.

Expansion or reconstruction of Business and Industrial uses on non-conforming lots that fail to meet the above setback requirement shall be required to maintain a solid wooden fence, no less than five feet (5') in height. Landscaping in the form of deciduous and evergreen trees and shrubs shall be required on both sides of the fence.

In locations where potential health or safety hazards may arise, a fence, six feet (6') in height is required to deter children and animals from entering the premises. Landscaping

in the form of deciduous and evergreen trees and shrubs shall be required on both sides of the fence.

The Board of Appeals may, by Special Permit, modify the requirements for screening contained in this section, where it can be demonstrated that with such modification there will be adequate screening and that such modification is-in harmony with the intent of this by-law.

*37- Amended May 21, 1990 – Article 21; and *65- May 20, 2002 – Article 34

5.4- Earth Removal and Relocation Activities

Removal or relocation of geologic materials including, without implied limitation, topsoil, sand, gravel, rock, borrow, sand, humus, peat, clay, loam or other earth is permitted only in accordance with ARTICLE XXII of the General By-laws of the Town of West Boylston, except that blasting or drilling of rock or ledge for sale or resale is prohibited in residential zones.

*14- Amended Oct 19, 1987 – Article 3; and *24- May 22, 1989 – Article 40

5.5- Lot Coverage

In Industrial Districts buildings shall cover not more than forty percent (40%) of the total area on each lot provided, however, that if the particular lot contains less than one acre, the buildings thereon shall cover not more than thirty percent (30%) of the total area of the lot.

5.6- Signs and Billboards

*4- Amended Feb 23, 1981 – Article 1 *38- Amended May 21, 1990 – Article 22 *42- Amended May 20, 1991 – Article 1 *98 – Amended May 20, 2013 – Article 21 (replaced section 5.6) *102-105 Amended May 16, 2016- Article 26

A. General Provisions

1 Purpose

This section 5.6 of this bylaw is adopted for the regulation and restriction of signs within the Town of West Boylston. The intent of these regulations is to coordinate the type, placement, and physical dimensions of signs within zoning districts; to recognize the commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment through accurate record keeping and uniform enforcement. It is further the intent of this section to encourage signs that are attractive and compatible with the adjacent property; that will preserve and enhance property values within the community and provide for the public's safety; that will prevent overload of visual stimuli; and that will promote safe visual perception from a moving vehicle.

2 Authority and Interpretation

This section of this bylaw is adopted as a zoning bylaw pursuant to Chapter 40A of the Massachusetts General Laws.

3 Conflicts

In the event that any provision in this section conflicts with the Massachusetts Outdoor Advertising Regulations issued by the Department of Transportation, the regulations of the Commonwealth shall control. Furthermore, nothing contained in this section shall be deemed a waiver of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances or applicable regulations shall comply will all such ordinances and regulations. If there is a conflict between this bylaw and any other ordinances or regulations, the more restrictive shall apply.

4 Permitting Process Streamlining

For projects that require Site Plan Review, the Planning Board may waive strict compliance with Section 5.6 during the Site Plan Review process. Waivers to this section may be granted when the board determines that a waiver will enhance the public's safety, aesthetics and promote safe visual perception from a moving vehicle.

5 Sign Permits

a. Required. Except as provided in this Section 5.6, no person shall erect, move, re-erect, construct, alter, enlarge, repair, or allow the erection of any sign without first obtaining a sign permit from the Inspector of Buildings.

i. For the purposes of this section, the term "alter" means changing the size, shape or height of a sign, changing the construction material of a sign, changing the copy of a sign except as allowed pursuant to Section 5.6 D.3 (Changeable Copy Signs), or adding lighting to a sign.
ii. Signs may be repainted in place, or removed for maintenance and replaced on the same support, without obtaining a new permit.
iii. Sign permits shall be issued for five year periods. Renewal permits lasting 5 years shall be issued after inspection and approval by the Inspector of Buildings, and receipt of the appropriate fee as established by the Board of Selectmen.

b) **Applications.** Applications for sign permits shall be made in writing upon forms furnished by the Inspector of Buildings, and unless specifically waived by the Inspector of Buildings, shall include all information and material required by that form. A completed Sign Permit Application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and a Sign Permit Fee as established by the Board of Selectmen.

i. Any sign of more than twelve feet in height above the average adjoining grade or any roof sign, projecting sign or standing sign shall have structural drawings, including foundations, submitted by a registered professional engineer.
ii. Within thirty days after the application for a permit has been submitted, the Inspector of Buildings shall approve or disapprove the application. If the Inspector of Buildings does not take any action on the application within thirty days, the application shall be deemed approved.

c) **Application Standards.** In acting on each sign permit, the Inspector of Buildings shall apply the following standards, unless otherwise specifically provided:

i. The sign will not cause visual confusion, glare, or offensive lighting in a public way or neighborhood.
ii. The sign will not interfere with traffic safety in the area.
iii. The sign conforms to the standards and requirements of this bylaw.

d) **Non-compliant Signs.** No sign permit shall be issued or renewed for the benefit of any property where any sign is currently displayed in violation of this zoning code, except to replace the non-compliant sign with a compliant sign. This section does not apply to legal non-conforming signs. Please see the definitions
e) **Non-conforming Signs.** Applications for renewal of sign permits for non-conforming signs must include documentation to support the claim of non-conformity. Please see the definitions.
f) **Deviations Prohibited.** It shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of a sign permit without prior approval of the Inspector of Buildings.
g) **Expiration.** If construction of a sign is not completed within six months of permit issuance, the permit shall expire and a new permit shall be required.
h) **Fees.** All fees shall be paid to the Town of West Boylston and collected by the Inspector of Buildings. Sign permit fees shall be set by the Board of Selectmen.

6 Permit Revocation

a. **Authority to Revoke.** The Inspector of Buildings may revoke any sign permit that was issued by mistake, as the result of incorrect information, which results in a violation of any ordinance

or regulation, or causes a public safety hazard. It shall be unlawful for any person to continue to erect, move, construct, alter, enlarge, repair or display any sign after receiving notice of the revocation of the applicable sign permit.

b. **Fee Non-Refundable.** When any permit has been revoked under the terms of this section, permit fees shall not be refunded.

7 General Standards

Unless specifically exempted, all signs shall be governed by the provision of this section.

a. Signs not specifically permitted by this bylaw shall not be allowed.
b. Signs shall only be located on the premises of the use being advertised or identified. For purposes of this section, the term "premises" does not include easements or similar adjacent parcels of land.
c. **Sign Location.** No sign or sign structure may project closer than 10 feet to the owner's property line. No sign shall be erected in the public right of way.
d. A sign attached to a building shall not project above the top of that building.
e. No flags, banners, or air-filled devices shall be anchored to, or in any way displayed from poles or standards placed on the roof of a building or structure.
f. **Movement.** No sign shall contain any moving, flashing or animated lights, reflective elements or visible moving parts. No rotating or pivotal signs shall be permitted. No moving inflatable signs shall be permitted.
g. **Sight triangle.** No sign shall be constructed in the area along any public ways that shall impede the sight line within the public ways or when entering or exiting a property.
h. **Traffic Hazard**. No sign shall be erected that shall in any way create a traffic hazard, nor shall it in any way obscure or confuse traffic control.
i. **Maintenance.** Every sign shall be maintained by the owner in a safe and well-maintained condition. Every standing sign shall be kept free and clear of all obnoxious substances, rubbish and waste.
j. **Attachment**. Every sign must be securely attached to either a building, or in the case of a standing sign, an adequate foundation.
k. **Billboards.** Billboards and similar non-accessory signs are specifically prohibited in the Town of West Boylston unless allowed under the provisions of the Department of Transportation's Office of Outdoor Advertising of the Commonwealth of Massachusetts.
l. Materials for construction of signs and sign structures shall be of the quality and grade as specified for buildings in the building code.
m. Except for ornamental mountings, no visible guy wires, structural cables or turnbuckles shall be allowed.
n. No sign shall be attached to utility poles, stakes, or fences unless explicitly authorized by this section.
o. No sign shall contain light strings.
p. No sign shall be displayed on the surface of a street, parking lot or sidewalk.
q. Any signs displaying individual product brands or manufacturers shall be included in the total number and area of signs allowed per property.

8 Sign Measurements

a. **Size/Area**
    i. **Can, cabinet or frame sign.** The area of any sign contained within a can, cabinet or frame shall be determined by calculating the total area of the sign including the can, cabinet or frame.

ii. **Individual Letter Sign.** The area of any sign displaying individual letters or symbols on a background (façade, wall, divisional wall, awning, or canopy) shall be measured by encompassing all the letters and symbols in the smallest regular geometric shape (rectangle, triangle, circle, trapezoid, etc.)

iii. **Three-dimensional Sign**. The area of a sign consisting of a three- dimensional object shall be considered to be the area of the largest vertical cross-section of that object.

iv. **Bracing not included.** The structure or bracing of a sign shall not be included in calculating the sign area unless such structure or bracing is made part of the message or face of the sign.

v. **Illumination.** Neon lighting or other outdoor building illumination, which do not identify, highlight or convey information, shall not be included in calculating the sign area.

vi. **Architectural Treatments.** Architectural treatments that aid in integrating the signage with the building design are encouraged, but any such treatment shall not be created for the purpose of visually enlarging the size of the sign.

vii. **Distinctive Surfacing.** If more than 25-percent of a wall structure of any non-residential building or any accessory structure to a non- residential use is painted, finished, or surfaced in a distinctive color scheme that includes some or all of the same colors, shapes, symbols, images, patterns, or textures used on any sign identifying an owner, tenant, or user of the building, and the Inspector of Buildings determines that such wall or roof surfaces serve as a sign for an owner, tenant, or user of the building, such wall or roof area shall be counted as wall signage and shall be subject to the limitations on wall signage in the Sign Schedule.

b. **Height**. The maximum height of any sign shall not exceed the height of the roof or the ridge line of any associate structure. In no case shall the height of the sign exceed twenty (20) feet from the ground.

c. **Location and Number.** The setback and number of signs allowed for any given use shall be governed by the limitations contained in Section 5.6.C Sign Schedule unless provided for otherwise in the bylaw.

9 Illumination

a. Illuminated signs are not allowed in Single Residence or General Residence districts.

b. Signs shall not be illuminated directly or indirectly between the hours of 12:00 a.m. and 6:00 a.m. unless the business establishment is open to the public during those hours.

c. Permitted methods of illumination are:

i. Internally illuminated signs

ii. Luminous signs

iii. Signs illuminated from an external source directed solely toward the sign

d. the light for any sign shall be so maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect the neighboring premises or the safe vision of operators of vehicles moving on public ways.

10 Nuisances Prohibited

Signs that are unauthorized or which have fallen into disrepair are deemed to be a nuisance. By way of example and not limitation, the following signs shall constitute a nuisance:

a. Signs that neither meet the requirements set forth in the bylaw nor qualify as a Previously-Permitted Non-conforming Sign under Section 5.6.F.5;

b. Signs erected, or in the process of being erected, without a valid permit;

c. Signs that are in disrepair or unsafe, as determined by the Inspector of Buildings; or

d. Signs that advertise defunct businesses or unavailable products or services.

Once notified by the Inspector of Buildings that the sign has been deemed a nuisance, the property owner where such sign is located must, within 60 days of such notice, either bring the sign into compliance or remove it. The aforementioned signs are unlawful and the town may restrain, prevent, abate and enjoin such signs through any remedy available to it by law, including without limitation the penalties allowed in Section 6.3 of the Zoning Bylaws.

B Signs Allowed Without a Permit

Due to their small size, temporary nature, limited time duration, limited aesthetic impact and/or strong community interest in identifying land uses, locations and historical structures, the signs contained in this Section 5.6 B (Signs Allowed Without a Permit) may be erected without a sign permit so long as they meet:

a. The general sign standards contained in Section 5.6 A 7 above; and
b. The standards specific to the type of sign erected, if any, that are outlined below. Unless specifically provided otherwise, the types of signs contained in this section are allowed in all Zoning Districts.

1 Public Signs

Signs that are erected or displayed by the Town of West Boylston shall not require a permit. Nevertheless, such signs must comply with the standards applicable to the type of sign being erected or displayed unless a deviation from that standard is approved in accordance with the provisions of this bylaw. Traffic and Directional Signs owned and installed by a government agency are permitted and not subject to terms and conditions set forth in this bylaw.

2 Historical Signs

No permit is required for historical commemorative plaques, memorials, or tablets that are:

a. Built into a building or mounted flat against the wall of a building or erected in a location designated by the town as having historical significance; and
b. Contain the name of the building, the date of erection and use of the building, or the name of the location, its historical significance, and a date relating to the historical significance.

3 Real Estate Signs

One unlighted temporary freestanding or wall mounted sign per parcel that advertises the sale, rental, or lease of the property on which the sign is located may be erected without a permit, provided that such signs comply with the following standards.

a. Single Residence and General Residence Districts. Signs shall not exceed four (4) square feet in surface area and shall be set back at least ten (10) feet from the street lot line.
b. All Other Districts. Signs shall not exceed sixteen (16) square feet in area and shall be set back at least ten (10) feet from the street lot line.

4 Political Signs

Political signs are allowed in all districts but must comply with the following standards.

a. Signs must be stationary and unlighted.
b. No sign shall exceed four (4) square feet.
c. Political signs shall be displayed no earlier than thirty (30) days prior to a voting day and shall be removed within five (5) days after the voting day.
d. No sign may be placed on private property without permission of the property owner.
e. The location of any political sign must not create a hazard for automobile or pedestrian traffic.
f. Political signs are not allowed on Town or State property, and may be removed without notice.

5 Address and Building Identification Signs

Whether illuminated or not, signs that identify an individual building for purposes of information and not for advertising, including an individual house address sign, shall be allowed without permit, provided that such signs:

a. Are attached to the building identified;
b. Are limited to one per building; and
c. Do not exceed two (2) square feet in area.

6 Window Signs

Signs in windows within non-residential districts are subject to these conditions:

a. **Prohibitions**. Window signs shall not be:
   i. Animated or lighted;
   ii. Occupy more than twenty-five percent (25%) of the window area; or
   Iii. Displayed in windows above the ground floor level.

b. **Limitations.**
   Window signs shall contain only information and wording related to the service or merchandise offered in the building on which they appear. Such signs shall be located only at those windows of the unit or space occupied by the business.

c. **Special Considerations.**
   i. Temporary window signs promoting activities that are public, civic, non-profit and non-political are allowed and shall not be counted against the allowable twenty-five percent (25%).
   ii. One sign denoting "Open", "Closed", "Be Back", etc. shall be allowed if less than one square foot in size and shall not be counted against the allowable twenty-five percent (25%). These signs may be lighted but not flashing.

7 Informational and Directional Signs

Signs that give specific instructions to the public using a building or facility that comply with the following standards, shall be allowed. These signs must be located on the property to which such information and directional messages pertain.

a. **Letters.** Sign letters shall not exceed 4 inches in height;
b. **Size.** Signs shall not exceed two (2) square feet in area;
c. **Message.** Informational signs shall display instructional information pertaining to the use of the site (such as, "Enter," "Exit," "Warning," "Self Service", "Drive-Thru", "One-Way", etc.) and may display words, symbols, or images identifying the owner, tenant, or use of the building or facility provided that such words, symbols or images do not exceed four (4) inches in height; and
d. **Height**. Signs shall not exceed four feet in height.

8 Sponsorship Signs

The following signs that identify the sponsors or contributors to various civic, public, and non-profit organization and activities shall be allowed. These signs may only identify sponsors and may not contain advertising speech.

a. **Adopt-a-Square/Island Program signs:** signs erected in accordance to the Board of Selectmen's Beautification of Town Squares and Islands Policy and are limited to less than six square feet.
b. **Light Pole Banners:** the size of the banners is limited to 2 feet by 3 feet and no more than 30% of the banner may be used to identify the sponsor. The use of these banners is subject to approval by the Board of Selectmen and is intended for the promotion of civic and community events,

celebrations or other efforts. These banners may be attached to the light poles in non-residential districts and along all state highways.

c. **Paving bricks/stones.**

9 Miscellaneous Signs

The following signs may be erected and displayed without a permit. With the exception of nameplates and Open flags, these signs need not be attached to a permanent structure.

a. **Road Hazard Signs.** Signs erected in conjunction with construction for the purpose of alerting drivers to potential hazards or safety concerns.
b. **Interior Signs.** Signs located within any structure that is not visible from adjacent properties or from the public streets.
c. **Holiday Displays.** Temporary decorations or light strings associated with any national, local or religious holiday. These displays shall not contain any advertising or branding.
d. **Nameplates.** Nameplates that are not more than two square feet in area, fastened directly to the building and do not project more than six inches.
e. **Utility Signs.** Signs placed by or at the direction of a public utility showing the location of underground facilities.
f. **Temporary Vehicle Signs.** Temporary signs affixed to delivery vehicles, such as pizza delivery and couriers, provided that such vehicle is being used for bona fide delivery purposes, away from a fixed place of business, and the sign is appropriately scaled to the size of the vehicle.
g. **Contractor/Artisan Signs.** Temporary signs that identify a contractor, painter or other artisan engaged in work on the property on which the sign is erected, provided that it shall not exceed four (4) square feet in surface area and it shall be set back at least ten (10) feet from the street lot line. This temporary sign must be removed no later than 30 days following final inspection, issuance of a certificate of occupancy, or when the work has been completed, whichever comes first.
h. **Yard/Garage Sales.** Signs advertising owner's property for sale, i.e. yard sales, shall be allowed for not more than five (5) days. Signs shall not exceed four (4) square feet in area.
i. **Service Entrance.** The rear service entrance to any business establishment may have one sign, no greater than two square feet in area, stating only the name of business and/or address.
j. **Gasoline Pump.** The standard type of gasoline pumps bearing thereon, in the customary size and form generally accepted in the industry, the name or type of gasoline and the price thereof shall not be deemed to be a sign under this bylaw.
k. **Open Flags.** Any business establishment may display a flag with the message "Open" as long as the flag is hung from a pole mounted to the building and does not exceed 3 feet by 5 feet in size. Feather or blade flags are not allowed under this provision.
l. **No Trespassing Signs.**

C. Signs Allowed With a Permit

1. Allowed with Permit.

The following types of signs are allowed with a sign permit, subject to the conditions listed in Section 5.6.C.2 Sign Schedule: Wall Signs, Projecting Signs, Standing Signs, Moveable Signs, Menu Board Signs, Home Occupation Signs, Multi-family Development Signs, Subdivision/Residential Development Greater Than Three Buildings Signs, Temporary Residential Development Signs, Temporary Model Home Signs and Special Signs.

2 Sign Schedule

Signs Allowed in Business, Industrial and Commercial/Limited Industrial Districts

	Single Business	Two Businesses	Business Center (3 or more businesses)

	in Single Building	in Single Building	
Wall Signs OR	1 Wall Sign not to exceed 30 square feet	1 Wall Sign not to exceed 30 square feet per business **OR**	1 Wall Sign not to exceed 30 square feet **OR**
Projecting Signs	**OR** 1 Projecting Sign not to exceed 24 square feet Location: on **each** side of the building facing a public way, and 10' off	1 Projecting Sign not to exceed 24 square feet per business **Total square footage not to exceed 10% of the wall area to which it is affixed.** Location: on **each** side of the building facing a public way, and 10' off property line.	1 Projecting Sign not to exceed 24 square feet per business **Total square footage not to exceed 10% of the wall area to which it is affixed.** Location: on each side of the building facing a public way, and 10' off property line.
Standing Sign	1 per lot Not to exceed 40 square feet in area. Height: not to exceed building height or 20 feet whichever is less. Location: at least 10 feet from property line.	1 per lot Not to exceed 50 square feet in area. Height: not to exceed building height or 20 feet whichever is less. Location: at least 10 feet from property line.	1 per lot The portion identifying business center, shopping center or industrial park must be at least 20% of the total sign area and portion identifying individual business or industrial units not to exceed 80% of total sign area, and the total sign area is not to exceed 100 square feet. *102 - Amended May 16, 2016- Article 26 Height: not to exceed height of highest building or 20 feet whichever is less. Location: at least 10 feet from property line.
Moveable Signs	1 at a time. Not to exceed 6 square feet in area per side. Location: on the property of advertising business	1 at a time Not to exceed 6 square feet in area per side. Location: on the property of advertising business	1 for each business at a time. Not to exceed 6 square feet in area per side. Location: on the property of advertising business
Menu Board Signs (for	1 changeable-copy sign in addition to signs allowed above	1 changeable-copy sign for each restaurant in addition to signs allowed above	1 changeable-copy sign for each restaurant in addition to signs allowed above.

restaurants only			

Signs Allowed in All Districts	
Use	**Signage**
Home Occupation Sign	One sign, not to exceed two square feet in area. Must be attached to building and may only display the occupant's name and occupation.
Multi-Family Development	**(Not allowed in Single Residence Districts.)** One standing sign per parcel developed for multi-family use: not to exceed 20 square feet; located at least 10 feet from property line; no part shall exceed 15 feet in height. AND One directional or informational sign per dwelling unit not to exceed two square feet.
Sub-Divisions/Residential Developments Greater than 3 Buildings	Up to 2 signs at principal street entrance(s); not to exceed 20 square feet; located at least 10 feet from property line; maximum height of 6 feet.
Temporary Residential Development Sign	One standing sign per housing type located at entrance: not to exceed 30-square feet; located at least 10 feet from property line; not to exceed 8 feet in height.
Temporary Development Sign	**(Not allowed in Single Residence Districts.)** One standing sign: not to exceed 30-square feet; located at least 10 feet from property line; not to exceed 8 feet in height
Temporary Model Home Sign	**Group Sign:** one wall or standing sign; not to exceed 20- square feet in are and 8 feet in height; Home/ multi-family sign: not to exceed 5-square feet in area or 6 feet in height
Special Signs	According to the provisions in Section 5.6 F 4.

D. Standards Related to Sign Types

1 Standing Signs

a. **Illumination**. Standing signs may be illuminated.

b. **Location.** Standing signs over 8 feet in height shall be placed no less than 50 feet from all residential district boundaries or residential development. All standing signs shall be set back from the public way in such a manner that the forward-most projection of the sign remains at least ten (10) feet from the lot line.

c. **Supporting Structures.**

i. Supporting structures of monument signs must be solid construction at least two-thirds the dimension of the width and thickness of the sign it supports.

ii. All standing signs shall be firmly anchored to an approved foundation.

d. Landscaping.

To the maximum extent feasible, each sign should be located in a planted landscaped area, which is of a shape, design and size that will provide a compatible setting for the sign. The planted landscaped area shall be maintained by the property owner and can be counted as part of the landscape area.

2 Wall Signs

a. **Projecting Signs.** Any sign which projects from a building shall not exceed 24 square feet in area. No sign shall project over public rights-of- way or more than five feet from the building wall.

b. **Size Standards**. *See Section 5.6.C.1*

c. **Illuminated signs** are permitted in compliance with Section 5.6.A.9.

d. **Location Standards.**

i. For multi-tenant buildings, wall signs must be located on the portion of the building in which the business being advertised is located.

ii. Wall signs may not be located on the rear of buildings which abut a residential zone, district or property.

e. Awnings and Canopies.

Signs on awnings and canopies shall count towards the wall signage area allowed in the Sign Schedule. Awnings and canopies may be backlit.

3 Changeable Copy Signs

1. **Types.** The copy of the following signs may be changed without obtaining a new sign permit, as long as such signs comply with the standards contained in these bylaws. The copy of signs not listed in his section shall not be changed unless a new sign permit has been issued by the Inspector of Buildings.

a. **Identification Signs.** Up to 33% of any allowable building identification sign or center identification sign allowed in the sign schedule may have changeable copy.

b. **Theater Marquees.** One changeable copy theater or movie marquee sign identifying current offerings may be incorporated into, or may be substituted for, one building or center identification sign permitted by the sign schedule. The area of any marquee sign, including any changeable copy, shall be included in calculating the total area of the sign it is incorporated into or replaces, and shall not increase the permitted sign area of any such sign.

c. **Church Signs.** Any portion of a church sign permitted by the sign schedule may have changeable copy.

d. **Gasoline price signs.** One changeable copy gasoline price sign listing only the types and prices of gasoline may be incorporated into each freestanding or wall sign permitted by the sign schedule. The area of the changeable copy shall not exceed 8 square feet per side on any sign, and the area of changeable copy shall be included in calculating the total are of the sign it is incorporated into.

e. **Digital Display signs.** Digital display signs shall have a maximum display area of twelve (12) square feet or 33% of the permitted sign area for the sign type in the zoning district, whichever is less.

i. **Duration.** The full digital image or portion thereof may change but no portion of the image may scroll, twirl, change color, imitate movement in any manner, or meet the characteristics of a flashing sign.

*103- Amended May 16, 2016- Article 26

ii. **Transition**. Where the digital display sign or any portion thereof changes, the change sequence shall be accomplished by means of nearly

instantaneous re-pixelization (less than one second.) Messages shall not fade in or fade out, or have the appearance of dissolving.

iii. **Brightness**. The maximum luminance level for digital display signs shall not exceed 350 (cd/m2) nits from sunset to sunrise, and 6,000 (cd/m2) nits from sunrise to sunset

iv. **Sequential Messaging Prohibited**. All electronic display frames shall be complete messages and shall not require or induce drivers to watch a sign for several seconds.

*107- Amended Oct. 16, 2017-Article 20 – Removing section v. Text Only

v. **Residential Districts-** Digital display signs are not permitted within any Residential District, except at the West Boylston Middle High School.

*104- Amended May 16, 2016- Article 26 *108- Amended Oct. 16, 2017- Article 20 – changed to section v.

f. **Menu boards.** One changeable copy menu board sign is permitted for each restaurant in addition to those signs listed in the sign schedule.

i. **Drive-through restaurants.** Menu board signs may be free standing or wall mounted. The maximum area of a menu board sign is ten (10) square feet and the maximum height is six feet.

ii. **Non-drive-through restaurants.** Menu board signs must be wall mounted. The maximum area of the size must not exceed two square feet.

4 Movable Signs

Moveable signs are allowed by permit in the non-residential districts and shall be limited to self-supporting pavement or sidewalk signs such as A-Frame or sandwich board type signs.

a. Moveable sign permits may be issued to individual business by the Inspector of Buildings for continuous periods of 30, 60 or 90 days, but no more than 90 days in the aggregate per calendar year;
b. No permits for moveable signs shall be issued until the Inspector of Buildings has determined that all other signs on the property, including window signs, conform to all of the provisions of this bylaw;
c. Only one moveable sign shall be permitted per business at any time;
d. Signs shall be placed only on the property of the business displaying such a sign;
e. Signs shall be removed from the exterior of the property at the end of each business day;
f. Moveable signs shall not be larger than six (6) square feet per face, and shall not exceed four feet in height;
g. Where there is more than one business on a lot, only one moveable sign may be displayed at any time. Except that within a Business Center, one sign per business may be displayed at any time, provided that those signs are located not more than five (5) feet from the store front;
h. Moveable signs shall be located on the lot of the business being advertised;
i. Moveable signs shall not be illuminated, nor shall they contain moving parts or have attached to them any balloons, streamers, pennants, or similar adornment;
j. Signs must be constructed of materials that present a finished appearance. Rough-cut plywood is not allowed. The sign lettering shall be painted or applied in a professional manner, a “yard sales” or “graffiti” look with roughly hand-painted or paint-stenciled letters shall not be allowed;

k. Signs placed in violation of this section will be subject to immediate removal or impounding of the sign, and the business's moveable sign permit privileges will be denied for the remainder of that year; and
l. Existing moveable signs shall be subject to the conditions of this section as soon as their present permit expires.

5 Temporary Signs

Unless otherwise noted in this section, any permit for a temporary sign contained in this section shall be valid for a period of not more than 12-consecutive calendar months.

a. Residential Builder signs

Each builder of a subdivision or development having more than three buildings may have one information sign for each type of housing unit to be built (e.g. single-family, townhouse and condominium) provided that each sign:

i. Is located at a major entrance to the subdivision;
ii. includes images and text indicating layout, price of homes and directing visitors to the construction or sales site;
iii. Has a maximum area of 30 square feet;
iv. Has a maximum height of 8 feet;
v. Is located at least 10 feet from the public right-of-way; and
vi. Is not lighted.

Such sign may remain in place as long as there continues active initial sales of the type of housing shown on the sign.

b. Development Signs

Except for single-family residential districts, each new development lot may have one sign that:

i. Has a maximum area of 30 square feet;
ii. Has a maximum height of 8 feet;
iii. Is located at least 10 feet from the public right-of-way;
iv. Contains text that is limited to announcing the future development of the lot; and
v. Is not lighted.

Such sign may remain in place until the first certificate of occupancy is issued for a building on the lot.

c. Model Home Signs

Each builder within a subdivision or development may have the following types of model home signs under the following conditions, and each such sign may remain until the model home is sold to a private buyer for use.

i. **Group signs.** Each builder may have one freestanding OR one wall sign within each group of model homes that are constructed, provided that such sign:

a. Is located on a model home lot;
b. Has a maximum area of 20 square feet;
c. Has a maximum height of 8 feet;
d. Has a minimum setback of ten feet; and
e. Is not lighted.

ii. **Home sign.** Each Model home may have one freestanding OR one wall sign, provided that such sign:

a. Is located on the same lot as the model multi-family building;
b. Has a maximum area of five-square feet;
c. Has a maximum height of six feet; and
d. Is not lighted.

iii. **Multi-family signs.** Each builder may have one freestanding OR one wall sign at the entrance to each multi-family building it constructs, provided that such sign:

a. Is located on the same lot as the model multi-family building;
b. Has a maximum area of five-square feet;
c. Has a maximum height of six feet; and
d. Is not lighted.

E. Sign Standards Related to Specific Uses

1 Fuel Sales With or Without Convenience Stores

All signs located on a lot with fuel sales, whether or not accompanied by a convenience store, shall comply with provisions of this section.

a. **Price Sign**. The fuel price sign shall be integrated into a standing sign that identifies the business.
b. **Number**. Only one fuel price sign shall be allowed per property.
c. **Height**. Fuel price signs shall not exceed eight (8) feet in height, shall not exceed 32 square feet in sign area per face.
d. **Canopy Signs**. Canopy signs shall be located on the canopy fascia and shall be limited to one corporate or business logo of the principal use on each side of the canopy that is visible from a public or private street. Such logos shall have a vertical dimension no greater than 75% of the vertical dimension of the canopy fascia and shall be no greater than eight (8) square feet in sign area per logo.
    i. No more than one wall sign, whether located on the primary structure or the canopy, shall face in any given direction (i.e., there shall not be a wall sign and a canopy sign facing the same direction.)

2 Business Centers

Standing signs identifying retail, business centers, or office/industrial/technical parks or centers shall contain the name, and address of the office park or center. The name and address of the center must utilize at least 20% of the total sign area. No part of the sign shall exceed the height of the building or 20 feet, whichever is less; and be located at least 10 feet from the property line. *105- Amended May 16, 2016- Article 26

3 Subdivisions and Residential Developments Greater Than Three Buildings

Residential subdivisions shall be allowed up to two signs, provided that the applicant can demonstrate that adequate provisions are in place to ensure proper maintenance of the sign(s) and associated landscaping by the homeowner association and that such signs:

a. Include only the name of the subdivision or development;
b. Are located at the principal street entrance(s) to the subdivision or development, as determined by the Planning Board, and not interfere with sight lines entering or exiting the public way;

c. Are not located within ten (10) feet of a property line;
d. Have a maximum sign area of twenty (20) square feet each;
e. Have a maximum height of six (6) feet; and
f. Are constructed of masonry or other substantial materials.
g. Other types of decorative/architectural features that are higher than six (6) feet may be allowed provided they are not classified as a sign.

F. Miscellaneous Provisions

1 Prohibited Signs and Practices.

The following types of signs, except for signs within buildings, are prohibited in all zoning districts. No exceptions shall be allowed and no variances may be granted.

a. Any moving sign, including pennants, shark fins, and streamers, other than one explicitly permitted by this bylaw.
b. Any sign displaying flashing or intermittent lights, or lights of varying intensity, except those portions of an electronic changeable copy sign with intermittent lights due to the change of copy.
c. Any sign with direct or indirect lighting that causes glare into or upon any lot or tract with a residential use that is adjacent to the lot or tract where the sign is located.
d. Any sign that is an imitation of any official government protective or warning sign, including stop signs using the words "stop" or "danger" to imply a need or requirement to stop or a caution for the existence of danger, and including signs that are copies of, or that are likely to be confused with, any official government protective or warning sign. This prohibition does not apply to Informational and Directional signs within a developed property and allowed under Section 5.6 B.8.
e. Except as specifically provided otherwise in this section, any sign that obstructs any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ventilation, ingress, or egress for any building as required by law.
f. Any sign not permanently affixed to a permanent, rigid structure, unless explicitly authorized by this bylaw.
g. Any fabric sign, other than an awning sign.
h. Any portable sign or similar objects/signs are prohibited, except as authorized by the bylaws of the Town of West Boylston and then only in accordance with the provisions thereof.
i. Any balloons, inflatable devices, or similar types of objects, unless specifically authorized in the bylaw.
j. Search lights except by municipal entities.
k. Except as specifically authorized by this bylaw, signs attached to vehicles or movable storage containers that are parked or stored on property as a mechanism for displaying the message in the sign.
l. Wheeled advertising devices, except for permanent signs on licensed, operable vehicles used daily for service and/or delivery purposes.
m. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, destroy or remove any trees or shrubs located within a right of way, unless the work is done pursuant to written authorization of the town or unless the removal of landscaping has been provided in compliance with another section of the Zoning Bylaws.

2 Architectural Features

Architectural features that are integral to the design of the building or provide an artistic accent shall be exempt from the sign regulations provided that they:

a. Do not identify or advertise a business, business activity, or product that is available for sale on the premises;
b. Do not consist of a company name, symbol, or trademark designed to be readily identifiable as a logo; and

c. Comply with building height limits and setback requirements applicable to the property on which they are located.

3 Murals

that do not convey a commercial message shall be exempt from the standards contained in this sign bylaw. Any mural that conveys a commercial message or occupies more than 10% of any wall, roof or accessory structure may be allowed upon the issuance of a permit. A mural may be located on the same building face as a wall sign, provided they are graphically incorporated into each other.

4 Special Signs

The following special signs may be allowed by permit:

a. Temporary signs for a public, civic or non-profit organization;
b. Town Banner: temporary use of the town banner for the use of public, civic or non-profit organizations; and
c. Special district and historical district signs.

5 Non-conforming Signs

Signs that were legally established but which no longer comply with the provisions of this bylaw are nonconforming and are governed by the provisions of Section 5.6.A.5.d Non-conforming Signs. These signs may continue to be maintained subject to the requirements of the original permit, provided that no such sign shall be enlarged, reworded, redesigned or altered in any substantial way, except to conform to the requirements of this bylaw.

6 Variances

a. **Approval Criteria.**

Variances may be granted by the Zoning Board of Appeals if it is determined that the approval criteria contained in Section 6.2 F have been met. The following factors may be considered to demonstrate substantial hardship:

i. The sign has historical value; or
ii. The sign has unique architectural features.

G. Definitions

ACCESSORY SIGN: A sign that advertises, directs attention to, or identifies entities, products or activities located or offered on the same property as the sign.

AWNING**:** A permanent roof-like structure attached to a building, above storefront windows or entries, extending from an exterior wall of a building and composed of non-rigid materials except for the supporting framework.

AWNING SIGN: A permanent accessory sign attached to the surface of an awning with no part of the sign extending beyond the awning in any way.

BANNER SIGN: A permanent or temporary sign made of fabric or other similar nondurable material with no closing framework or electrical components that is supported or anchored on two or more edges or at all four corners to a building. Banners that are displayed lengthwise so that the longer side extends vertically and that are attached to a building at the top and bottom of the banner with permanent brackets shall be considered projecting signs. All other banners shall be considered temporary wall signs.

BILLBOARD SIGN: A non-accessory sign, typically located on a flat panel structure, subject to M.G.L. § 93, sections 29-33.

CANOPY: A freestanding permanent roof-like shelter not attached to or requiring support from an adjacent structure. [i.e., gas stations frequently have a canopy over the fueling pump areas.]

CANOPY SIGN: A permanent accessory sign painted on, printed on or otherwise attached to the surface of a canopy which is otherwise allowed according to the by-laws of the Town of West Boylston.

CHANGEABLE COPY SIGN: A sign or portion thereof that displays information in which each alphanumeric character, graphic, or symbol can be changed or re-arranged. The alphanumeric characters, graphics or symbols may be changed electronically, manually, or mechanically without altering the face or the surface of the sign. Electronic changeable copy signs display information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area, and include, but are not limited to, computer programmable, microprocessor or controlled electronic displays, projected images or messages with these characteristics onto buildings or other objects.

DIGITAL DISPLAY SIGN: A sign or portion thereof that incorporates light emitting diode (LED), fiber optic or similar technology to allow messages to change.

FLASHING SIGN: An internally or externally illuminated sign or portion thereof that consists of intermittent illumination that changes light intensity in sudden transitory bursts or creates the illusion of intermittent flashing light by streaming graphic bursts or any mode of lighting which resembles scrolling, sparkling or twinkling.

ILLUMINATED SIGN: A sign which is lit, whether internally or externally.

INFORMATIONAL/DIRECTIONAL SIGN: A permanent accessory sign intended to provide instructions or directions, as determined by the Inspector of Buildings. Said signage shall not be included in the total permitted wall signage nor shall be counted as a standing sign, provided said sign is not larger than necessary to serve the intended purpose and provided said sign is neither in a location nor contains design characteristics that constitute or serve the purposes of identification of products or services.

MARQUEE: A permanent canopy-like structure attached to a building with no supporting structure except where attached to the building, composed of rigid materials extending along and projecting beyond the wall of a building.

MARQUEE SIGN: A permanent sign painted on, printed on or otherwise attached to the surface of a marquee generally designed to have changeable copy, either manually or electronically, as permitted by this by-law. MENU BOARD SIGN: A permanent sign, not attached to a building, displaying the type and price of goods sold in connection with drive-through services.

MONUMENT SIGN: A permanent, standing sign which is anchored to the ground, but which has a monolithic or columnar line, which maintains essentially the same contour from grade to top and which has a horizontal dimension equal to or greater than its vertical dimensions.

MOVEABLE SIGN: A type of temporary standing sign capable of being readily moved from one location to another and having no permanent or in-ground supporting structures or braces. This includes sidewalk signs and signs attached to wood, plastic, or metal frames and wheeled trailers, whose primary function is to carry a sign that can be loaned, rented or leased. It excludes signs on cars, trucks, buses,

or trailers that identify the owner or products of the owner and whose function includes regular transport operations of the business.

MURAL: A noncommercial picture or decoration, typically painted, which is for artistic, cultural or societal purposes. However, a mural is considered a commercial sign if it is related by language, logo or pictorial depiction to the advertisement of any product or service or the identification of any business.

NON-ACCESSORY SIGN: A sign that advertises, directs attention to, or identifies entities, products or activities conducted, sold or offered at a location other than the premises on which the sign is located. See also BILLBOARD SIGN. NON-CONFORMING SIGN: A sign that while not in conformance with the current zoning bylaw was in compliance with the bylaw in effect at the time the sign was erected; or was granted a variance from the Board of Appeals; or received a waiver during Site Plan Review process. Such a sign is considered to be "grand-fathered."

NON-COMPLIANT SIGN: A sign in violation of the zoning bylaw in effect at the time the sign was erected.

PERMANENT SIGN: A sign attached to a building, structure, or the ground and intended for long term use.

POLE SIGN: A standing sign supported permanently upon the ground by poles or braces, not attached to any building and which provides air space between the ground and the sign face.

POLITICAL SIGN: Any sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, county or local election, excluding handheld signs.

PROJECTING SIGN: A permanent sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. Projecting signs shall also include:

1) banners that are displayed lengthwise, where the longer side of the sign is vertical and attached with two or more permanent brackets, one at the top and one at the bottom of the banner but does not include temporary banner signs; and
2) signs suspended from a building overhang. See also

ROOF SIGN: A permanent or temporary sign which is erected, constructed or maintained above the roof or architectural projection of a building and does not project beyond the wall line of the building.

ROTATING SIGN: A sign or portion of any sign which in any physical part or in total, turns about on an axis, rotates, revolves or is otherwise in motion.

SIDEWALK SIGN: A temporary, portable and self-supporting sign which includes but is not limited to: A-frame or sandwich board signs. Sidewalk signs are located, in whole or in part, on a sidewalk immediately adjacent to the building or lot for which the sign is intended.

SIGN: Any device consisting of any letter, figure, character, mark, point, design, poster, mural, stroke, stripe, line, trademark, banner, insignia, or other reading matter that is used to attract or direct attention of the public to any object, product, place, activity, facility, event, attraction, person, institution, service organization or business displayed out-of doors for recognized advertising or identification purposes excluding supporting structure except where the sign structure itself consists of

advertising. Window signs located inside a building within three (3) feet of the window, but viewable from a street are also considered a sign.

STANDING SIGN, PERMANENT: A permanent accessory or non-accessory sign not attached to a building and supported upon the ground, including but not limited to: pole, monument and menu board signs.

STANDING SIGN, TEMPORARY: A temporary sign, generally made of non-rigid materials, attached to the ground, generally with poles or braces but which is not permanently supported nor is attached to any building. See also **MOVEABLE SIGN.**

SUSPENDED SIGN: A type of projecting sign that is suspended from a building overhang either parallel or perpendicular to the building wall.

TEMPORARY SIGN: A non-motion sign that is neither permanently attached nor affixed to a building nor permanently anchored in the ground, intended to be displayed for a seasonal or brief activity, including, but not limited to: sales, specials, promotions, grand openings, political signs and lease or vacancy of rental units. It includes temporary banner signs, temporary standing signs, moveable signs, temporary wall signs, temporary roof signs and temporary window signs.

WALL SIGN: A permanent or temporary sign which is applied, painted on or supported in whole or in part by an exterior wall of a building or structure and does not extend more than fourteen (14) inches from the wall and does not extend beyond the ends of the wall to which it is attached.

WINDOW SIGN: A permanent or temporary sign (but excluding merchandise in a window display) that is posted, painted, placed or affixed to the interior of a window. An interior sign that faces a window viewable from a street and located within three (3) feet of the window is considered a window sign for the purpose of calculating the total area of all window signs. The word "window" shall refer to any transparent surface that comprises part of the surface of the wall, including but not limited to glass doors, regardless of its movability.

H. Severability Clause

If any section, paragraph, or part of this bylaw be for any reason declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

Section 6- Administration

6.1 Enforcement

The Inspector of Buildings shall be charged with the enforcement of the zoning ordinance or by- laws against any person allegedly in violation of the same and if such Building Inspector declines to act, he shall notify in writing the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request. Actions, suits, or proceedings to enforce this by-law shall be in accordance with Sections, 7, 8, and 17 of Chapter 40A and/or Section 2 1D of Chapter 40 of the General laws.

*1- Amended May 4, 1977 – Article 23; and *20- May 22, 1989 – Article 32

6.2 Appeals, Special Permits and Variances *27

A. Board of Appeals

*5 *21 *90

There shall be a Board of Appeals consisting of five members appointed by the Selectmen, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Said board shall elect annually a chair and a clerk from its own number. There shall be three associate members of the Board of Appeals appointed by the Board of Selectmen. Each shall serve a term of five years.

In the case of a vacancy, inability to act, or conflict of interest on the part of a member of the Board of Appeals, his place may be taken by an associate member designated by the chair.

*5- Amended June 15, 1981 - Article 25; *21- May 22, 1989 – Article 33; and *90- May 20, 2008 – Article 43

B. Planning Board

The Planning Board is and shall be the Planning Board elected from time to time pursuant to the Town Bylaws and under the authority of Chapter 40 A, Massachusetts General Laws.

C. Board of Selectmen

The Board of Selectmen is and shall be the Board of Selectmen elected from time to time pursuant to the Town By-laws and under the authority of Chapter 40A, Massachusetts General Laws.

D. Appeals

The Board of Appeals shall hear and decide upon appeals by any person aggrieved by reason of his inability to obtain a permit from any administrative officer and by any person aggrieved by the enforcement action from any administrative officer under the provisions of Chapter 40A of the Massachusetts General Laws.

E. Special Permits

1) The Board of Appeals shall hear and decide only such special permits as are specifically authorized by the terms of this by-law. The Board may grant special permits after a public hearing only where such conditions and safeguards as required by this by-law have been made, and only after a determination that such grant would not be detrimental to the public health, safety, welfare, comfort or convenience of the community, would not be adverse to the Town's economy and environment and is in harmony with the intent and purpose of this by-law.

2) The Planning Board shall hear and decide only such permits as are specifically authorized by the terms of this by-law. The Board may grant special permits after a public hearing only where such conditions and safeguards as required by this by-law have been made, and only after a determination that such grant would not be detrimental to the public health, safety, welfare, comfort or convenience of the community, would not be adverse to the town's economy and environment and is in harmony with the intent and purpose of this by-law.

3) The Board of Selectmen shall hear and decide only such special permits as are specifically authorized by the terms of this by-law. The Board may grant special permits after a public hearing only where such conditions and safeguards as required by this by-law have been made, and only after a determination that such grant would not be detrimental to the public health, welfare, safety, comfort or convenience of the community, would not be adverse to the town's economy and environment and is in harmony with the intent and purpose of this by-law.

4) A special permit shall not be granted by a Special Permit Granting Authority (Board of Appeals, Planning Board or Board of Selectmen) unless and until:

a) A written application for a special permit is submitted indicating the specific section of this by-law under which the special permit is sought and stating the grounds on which it is requested.

b) The SPGA (Special Permit Granting Authority) has made written findings certifying compliance with the specific provisions of this by-law governing the exception and satisfactory provision and arrangement has been made covering the following where applicable:

   i. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience; off-street parking and loading areas where required; traffic flow and control; access in case of fire or catastrophe; and the capability of public roads to support the added traffic safely.

   ii. The proposed use will not create any danger of pollution to public or private water facilities and the methods of drainage of groundwater from the site shall not have an adverse effect on the surrounding environment, any waterways or wetlands.

   iii. Approval of sewage disposal system has been obtained from the Board of Health.

   iv. No excessive noise, vibration, glare, dust, smoke, heat, or odor shall be observable at the lot lines.

   v. Satisfactory arrangement of the refuse disposal and service areas with adequate screening from adjoining lots and public ways.

   vi. Lot shall contain required setbacks, yards and other open spaces.

   vii. The use shall be in general compatibility and harmony with adjacent properties and other properties in the district.

   viii. All other provisions of this by-law shall be complied with where applicable.

c) A special permit shall only be issued following a public hearing within 65 days of the filing of the application with the SPGA and the Town Clerk who certifies the filing date.

   Within ten (10) days after receipt of the application for a special permit under this section, the SPGA shall transmit copies thereof, together with copies of the accompanying plans to the Planning Board (in case of the Board of Appeals), Board of Health and the Conservation Commission.

   All such boards shall investigate the application and report, in writing, their recommendation to the SPGA within thirty-five (35) days.

   Failure to submit their recommendations shall be deemed as approval of the application.

   The SPGA shall not take final action on such application until receiving the above mentioned reports or thirty-five (35) days have passed since the transmittal of the application to the boards.

   Failure of the SPGA to take final action upon the application for a special permit within ninety (90) days of the date of the public hearing shall be deemed a grant or the permit applied for and the Town Clerk shall certify forthwith.

   The time allowed for action by the SPGA may be extended by mutual consent of the applicant and the SPGA.

F Variances

The Board of Appeals may grant, upon appeal or petition with respect to particular land or structure, a variance expressly including a variance for the use, from the provisions of this by-law where said Board specifically finds that owing to the circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structure, but not affecting the general zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, to the 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 the zoning by-law.

G. Time Limits *11

A special permit or variance granted pursuant to this section shall lapse after one (1) year, not including such time required to pursue or await the determination of an appeal from a grant thereof, if substantial use thereof has not sooner commenced, or in the case of a permit for construction, if construction has not begun by such date.

*11- Amended Oct 28, 1985 – Article 13; and *27- May 21, 1990 – Article 10

6.3- Penalties

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

B. In addition to the procedure for enforcement as described above, the provisions of by-law, the conditions of a permit granted under this by-law, or any decision rendered by the Zoning Board of Appeals or Planning Board under this by-law, may be enforced by the Building Inspector by non-criminal complaint pursuant to the provisions of the General Laws, Chapter 40, Section 21

   The fine for any violation disposed of through this procedure shall not be more than one hundred dollars ($100.00) for each offense. Each day such violations continue shall be deemed a separate offense.

   *19- Amended May 22, 1989 – Article 31

6.4- Other Regulations

This by-law shall not interfere with or annul any by-law rule, regulation, or permit, provided that, unless specifically accepted, where this by-law is more stringent it shall control.

6.5- Validity

The validity of any section or provision of this by-law shall not invalidate any other section or provisions thereof.

6.6- Amendment

This by-law may be changed by amendment, addition, or repeal, as provided in General Laws, Section 5 of Chapter 40 A.

A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners stating that notice of hearings to amend this zoning by-law shall be sent by mail, postage pre-paid, to any such owner who files an annual request for such notice with the Town Clerk no later than January 1st and pays a fee of $5.00 at the time of submission of such request.

6.7- Effective Date

The effective date for any amendment to this by-law would be the earliest date permitted under Section 32 of Chapter 40 and Section 5 of Chapter 40A of the General Laws.

*1- Amended April 4, 1977 – Article 23