

### 5.3 *SPECIAL CONDITIONS AND EXCEPTIONS:*

- 5.3.1 *Contiguous Lots under Single Ownership:* If contiguous lots are under one ownership the owner shall be required to add to such lot any land adjoining, in his ownership, in order to permit a lot to be created that can meet requirements as far as possible.
- 5.3.2 *Division of Existing Lots to Create Lot Between Existing Building and Street:* Within the zoning Districts known as One-Family, Residence A and B, no land shall be divided into separate lots so that a new lot line is defined within that portion of land which lies between an existing dwelling and the street which the front of the existing dwelling is facing. For the purposes of defining the area thus excluded, the extreme right and left exterior walls of the dwelling shall be visually extended from the front corners of the dwelling out to the street.
- 5.3.3 *(Reserved)*
- 5.3.4 *Setbacks:* Where, to an extent of fifty percent (50%) of the space between two (2) streets or in a space of four hundred (400) feet on one (1) side of the street, front yards of uniformly greater depth than specified hereunder have been established or provided for by private agreement or by private building restrictions or where through common usage they exist, the depth of the front yards so established, provided for or existing shall be the front yard depth under this Section for such street or portion of street. Where a similar space and to a similar extent front yards of a varying depth, but all of a greater depth than fifteen (15) feet are so established, provided for or existing, the minimum depth so established, provided for or existing, shall be the front yard depth under this Section for such street or portion of a street.
- 5.3.5 *(Reserved)*
- 5.3.5.1 *Setback Averages:* As an exception, if a dwelling is one of a series of three contiguous house lots, the setback required shall be the average of such existing lots.
- 5.3.5.2 *Setback Exceptions Certain Areas on Main Street:* Except as provided for in Section 7.0 where the Board of Appeals may permit a lesser distance under conditions where unfavorable topography makes compliance with this Section impractical, no building or structure may be placed within fifteen (15) feet of the street line in the following areas along Main Street:
- (a) On the easterly side between Marble Street and Maple Street.
  - (b) On the westerly side between Montvale Avenue and North Street.
  - (c) On the easterly side between Summer Street and Hancock Street.

- (d) On the easterly side between Pleasant Street and North Street.
  - (e) On both sides of Main Street, from Collincote Street north to the northerly boundary of Stoneham, no part of any structure except free-standing pole or ground signs shall be moved within fifty (50) feet of the street line.
- 5.3.5.3 *Projections:* Under provisions for setbacks in Residence A and Residence B Districts specified in Section 5.2.1, cornices may be extended two (2) feet and chimneys and one (1) story portions three and one-half (3 ½) feet nearer a lot line, private way or other building. Stairs are subject to a maximum allowable extension of no greater than half the setback. (10-29-98, Art. 16)
- 5.3.6 *Corner Lots:*
- 5.3.6.1 Lot lines of a corner lot which border on adjacent lots shall be considered as side lot lines. The front lot line of a lot having frontage on more than one (1) street shall be the street line having the longer dimension.
- 5.3.6.2 On a corner lot in Residence A and Residence B Districts, no fences, wall or structure, planting or foliage more than three and one-half (3 ½) feet in height above the plane of the established grades of the streets shall be erected in any part of a front yard herein established, that is included within the street lines at points which are twenty (20) feet from their point of intersection measured along such street lines which will obstruct the view of a driver of a vehicle approaching a street intersection.
- 5.3.6.3 On a corner lot in Business, Commercial and Medical Districts, no fence, wall or structure, planting or foliage more than three and one-half (3 ½) feet in height above the plane of the established grade of the streets shall be erected in any part of a front or side yard herein established, that is included within the street lines at points which are seven (7) feet distant from their point of intersection, measured along such street lines, which will obstruct the view of a driver approaching a street intersection. This shall not apply to structures above the first story.
- 5.3.7 *Required Space Between Principal Buildings on the Same Lot:*
- 5.3.7.1 When there is more than one (1) principal building on a lot, there shall be a space equivalent to the maximum height requirement for the District in which it is located between each such principal building. (10-21-85, Art. 15; 5-2-88, Art. 16; 5-8-89, Art. 16)
- 5.3.8 *Exceptions to Intensity Regulations:*
- 5.3.8.1 The Board of Appeals may give permission, in accordance with Section 7.0 for lesser distances in specific cases where unfavorable topography makes it difficult to conform to the provisions of sections therein having to do with One-Family,

Residence A and Residence B Districts where any parcel of land, the boundaries of which have remained unchanged since March 31, 1925, is of such peculiar size or shape that it is not reasonably possible for the owner to make beneficial use of such parcel in conformity with the provisions of this Chapter relating to area and setback lines within Residence A and Residence B Districts.

5.3.9 *(Reserved)*

## **6.0 GENERAL PROVISIONS AFFECTING ALL DISTRICTS:**

### **6.1 APPLICATION:**

6.1.1 No land, building or structure shall be used or occupied in the Town except in conformance with the standards contained herein.

### **6.2 NON-CONFORMING USES AND STRUCTURES:**

#### *6.2.1 Applicability:*

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

#### *6.2.2 Nonconforming Uses:*

6.2.2.1 The Board of Appeals may grant a “Section 6 special permit” to change from one nonconforming use to another, less detrimental, nonconforming use. A “Section 6 special permit” may not be granted for any other change of use, nor for a substantial extension of a use.

#### *6.2.3 Nonconforming Structures Other Than Single or Two Family Residential Structures:*

- (a) The Board of Appeals may award a “Section 6 special permit” to reconstruct, extend or structurally change a nonconforming structure in accordance with this section if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. A Section 6 special permit may not be granted to alter a structure to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent. Provided further, however that:

- (i) The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; and
- (ii) The granting of a Section 6 special permit to reconstruct, extend or structurally change a nonconforming structure in accordance with this section does not eliminate nor diminish any requirement to obtain a special permit otherwise required for the proposed structure.

6.2.4 *Nonconforming Single and Two Family Residential Structures:*

In the following circumstances, alteration, reconstruction, extension or structural change to a single or two-family residential structure shall not be considered an increase in the non-conforming nature of the structure and shall be permitted as of right:

- (a) alteration to a structure located on a lot with insufficient area, but which complies with all current setback, yard, building coverage, and building height requirements (“current requirements”), where the alteration will also comply with all said current requirements. (This clause shall apply regardless of whether the lot complies with the current frontage requirement).
- (b) alteration to a structure located on a lot with insufficient frontage, but which complies with all current setback, yard, building coverage, and building height requirements (“current requirements”), where the alteration will also comply with all of said current requirements. (This clause shall apply regardless of whether the lot complies with the current area requirement).
- (c) alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements (This clause shall apply regardless of whether the lot complies with the current area and frontage requirements).
- (d) alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure, and will comply with all other current setback requirements and all yard, building coverage and building height requirements (This clause shall apply regardless of whether the lot complies with the current area and frontage requirements).

- (e) alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Inspector determines that the proposed alteration does not meet the requirements of subsections (a)-(e) above (“above subsections”) so as not to be permitted as of right, the applicant may:

- (i) Appeal said determination of the Building Inspector to the Board of Appeals pursuant to Section 7.6.1, on the basis that said proposed alteration is permitted as of right pursuant to one of the above subsections (a - e); and/or
- (ii) Apply to the Board of Appeals for a Section 6 special permit based on a finding by the Board that the proposed alteration does not increase the nonconforming nature of said structure, despite the fact that the proposed alteration is not permitted as of right pursuant to one of the above subsections; and/or
- (iii) Apply to the Board of Appeals for a Section 6 special permit based on a finding by the Board that the proposed alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

#### 6.2.5 *Abandonment or Non-Use:*

A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of the Zoning Bylaws, unless the Board of Appeals grants a Special Permit for reestablishment, subject to the provisions of Section 7.4, including, but not limited to the attachment of conditions regarding calendar time period, extent of use, hours of operation, outdoor storage, lighting, parking or similar controls.

#### 6.2.6 *Reconstruction after Catastrophe:*

A nonconforming structure may be reconstructed after a catastrophe in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two (2) years after such catastrophe.
2. Structures as reconstructed shall:
  - (a) be only as great in volume and area as the original nonconforming structure; and

- (b) be located on the same footprint as the non-conforming structure or otherwise meet all applicable requirements for yards, setback, and height;
- (c) a structure of greater volume and/or area may be authorized pursuant to the applicable process(es) set out above for the expansion of a non-conforming use and/or structure.

6.2.7 *Reversion to Nonconformity:*

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use. (10-27-03, Art. 12)

**State law reference**—G.L. c. 40A, Sec. 6.

**6.3 OFF-STREET PARKING REQUIREMENTS:**

6.3.1 *Objectives and Applicability:*

6.3.1.1 *Objectives:* The objectives of this section of the bylaw are as follows:

- (a) Promote traffic safety by assuring adequate places for storing of motor vehicles off the street and for their orderly access and egress to and from the public street;
- (b) Increase the traffic-carrying capacity of street and highways in the town and obtain a more efficient utilization of on-street curbside parking;
- (c) Reduce hazards and nuisances to pedestrians on public sidewalks and ways.

6.3.1.2 *Applicability:* No building permit or certificate of occupancy shall be issued for the construction of a new building, the enlargement of an existing building, the development of a use not located in a building, the redevelopment of an existing building or the change from one type of use to another, unless off-street parking is provided and detailed on a plot plan in accordance with this section of the bylaw.

6.3.2 *Location of Parking Facilities:*

6.3.2.1 Parking shall be on the same lot as the principal use, with the following exceptions for off-site parking:

*Central Business District:*

1. There will be no off-street parking requirement for any existing structure in the Central Business District, provided that any alteration, rehabilitation or addition to any existing structure does not increase the requirements as outlined in Section 6.3.3. (10-17-22, Art.2)

6.3.2.2 *Location on Site:* Such parking facilities may be provided within a structure, above or below ground, or outside at grade level.

6.3.3 *Minimum Number of Spaces by Use:*

Use	Requirement
1. Residential a).Single or two Family b) Greater than two family c) Congregate living d) Assisted living, long-term care e) SRO f) Accessory Dwelling Unit (10-21-24, Art. 1)	a) 2 per dwelling unit b) 1.7 per dwelling unit, any space in excess of the requirement shall not be assigned, conveyed or transferred and shall be clearly marked for visitor or guest parking. c) .75/ bedroom d) .4/ living unit e) 1.7 spaces per dwelling unit, any space in excess of the requirement shall not be assigned, conveyed or transferred and shall be clearly marked for visitor or guest parking. Or to act in any other manner. (10-17-22, Art. 2) f) 1 per dwelling unit (10-21-24, Art. 1)
2. Institutional/ Public assembly a) Elementary, day care, pre-school b) Secondary, college, tech school c) Church, temple, club, lodge, comm. Center, any place of public assembly	a) 2 per each classroom plus 30% for visitors, staff b) 1 for 8 seats c) 1 per 4 seats according to maximum occupancy
3. Commercial/ Business a) Medical/ dental office b) Business, professional, administrative office c) Retail/ personal service establishment	a) 1 per every 200 square feet of gross floor area b) 1 per every 350 square feet of gross floor area c) 1 per every 350 square feet of gross floor area
4. Food Service Establishments a) Restaurants/ diners	a) 1 per 3 seats
5. Hospitals	1 per 400 square feet of gross floor area
6. Hotels	1 for every rental room plus 1 per 3 people at maximum occupancy of assembly room, plus 33%
7. Warehouse, storage, wholesale, or similar use	1 per 750 square feet of gross floor area
8. Any other commercial or business use not listed	1 per 300 square feet of gross floor area

- 6.3.3.1 *Calculations:* Any parking calculations or .5 or greater shall be rounded up to the next space.
- 6.3.3.2 *Unspecified Uses:* Parking for any unspecified use requiring a Special Permit under this bylaw shall be determined by the Planning Board.
- 6.3.4 *Facility Design Standards:*
- 6.3.4.1 *Parking Spaces:*
- 6.3.4.1.1 Parking spaces shall each be a minimum of nine (9) feet by eighteen (18) feet or (9) nine feet by (22) twenty-two feet in length for parallel parking exclusive for drives, walks, and maneuvering space.
- 6.3.4.1.2 Parking spaces for vehicles such as commercial trucks, buses or other vehicles that exceed 7 ½ by 18 feet in size must be specifically identified upon a plan and be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved.
- 6.3.4.2 *Layout:*
1. Access to and egress from all parking areas shall be only via driveways which meet the design standards of Section 6.3.6;
  2. Except for Residence A and B, all portions of all parking spaces, loading areas and maneuvering aisles shall be set back a minimum of five (5) feet from any street or way and meet the side and rear setback requirements for the district. Curbs, wheel stops, screening or similar barriers shall be installed along the setback line for parking and loading to prevent vehicles from being parked or driven within required setback areas or required landscaped areas;
  3. Aisle Widths-Each off-street parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following widths in the case of one-way traffic only.

<b>Angle of Parking</b>	<b>Minimum Aisle Width</b>
Parallel	12 feet
30 degrees	11 feet
45 degrees	13 feet
60 degrees	18 feet

**Angle of Parking****Minimum Aisle Width**

90 degrees

20 feet

4. Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said parking space without requiring the moving of any other vehicle or the passing over of any other parking space.
5. Each parking area shall be designed to provide a circulation system within the lot so that all vehicles may exit from and enter into the adjacent street or way by being driven in a forward direction and no vehicle shall be required to enter or leave by backing.
6. All required parking areas shall be paved and parking spaces marked to provide delineation between parking stalls and aisles. Such markings shall be maintained so as to be plainly visible with color and markings according to acceptable industry standards as per the Town Engineer.
7. *Handicapped Parking:* Specially designated parking spaces for the physically handicapped shall be provided, as described in Code of Massachusetts Regulations, 521 CMR Rules and Regulations of the Architectural Access Board or any successor state law or regulations governing architectural access. Spaces for the handicapped shall be clearly identified by a sign indicating those spaces are reserved for physically handicapped persons. Such spaces shall be located in that portion of the parking lot nearest to the entrances to the use or structure which the parking lot serves. Van accessible stalls are required in accordance with the 521 CMR Rules and Regulations of the Architectural Access Board.
8. *Surfacing and Drainage:* Such parking facilities shall be suitably graded, surfaced and drained so as to dispose of all surface water without detriment to surrounding uses.
9. *Maintenance of parking facility:* Lots shall be kept clean and free from rubbish and debris.
10. *Snow Storage:* The layout of the parking area shall allow sufficient space for the storage of plowed snow so as not to diminish the capacity to meet the minimum parking requirements.

6.3.5 *Lighting and Screening:*

- 6.3.5.1 All illumination on parking lots must be shielded so as not to shine upon abutting properties.

- 6.3.5.2 Properties other than the use served by the parking lot, which abut the parking lot shall be protected from headlight glare by either:
- (a) A strip at least four (4) feet wide, densely planted with shrubs or trees which are no more than four (4) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen, or
  - (b) A wall, barrier or fence of uniform appearance at least five (5) feet high but not more than six (6) feet above finished grade. Such wall, barrier or fence may be opaque or perforated, provided that not more than fifty percent (50%) of the face is open and must be constructed in accordance with Section 6.5 of this bylaw.
- 6.3.5.2.1 Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances and exits.
- 6.3.6 *Driveway Access Permits:*
- (a) Prior to issuance of a building permit, a driveway/access permit must be obtained from Public Works Department for all new or relocated driveways or parking lots except those which are governed by other state or federal statute. (10-21-85, Art. 5; 5-4-92)
  - (b) No such driveway or access shall exceed a grade slope in excess of thirteen percent (13%)
  - (c) Driveway/access slopes shall be calculated from the street layout line back edge of sidewalk to the termination of the driveway or the garage floor. For purposes of calculating the slope in (b) in areas where curbing and/or sidewalks have yet to be installed, the elevation at the back edge of the sidewalk shall be assumed to be ten (10) inches above the existing or proposed gutter grade. (10-25-90)
  - (d) In all districts the number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
  - (e) No private way or driveway which serves a non-residential use in a non-residential district shall be built through a residential district.
- 6.3.7 *Off-Street Loading:*
- 6.3.7.1 *Applicability:*
- 6.3.7.1.1 The provisions of this Section shall apply to any building or structure, or addition thereto, to be utilized for any use within any zone except those allowed in Residence

A, Residence B and Open Space Districts, containing more than twenty-five thousand (25,000) gross square feet.

6.3.7.2 *Number of Off-Street Loading Areas Required:*

6.3.7.2.1 There shall be one (1) off-street loading area for each twenty five (25,000) square feet, of gross floor area. (10-18-07, Art. 1)

6.3.7.3 *Design:*

6.3.7.3.1 Each off-street loading area shall be not less than ten (10) feet in width, thirty-five (35) feet in length, and twelve (12) feet in height, exclusive of driveways.

6.3.7.3.2 Off-street loading areas shall be located entirely on the lot to be served, and shall be designed with appropriate means of vehicular access to a street or alley.

6.3.7.3.3 Off street loading areas shall be suitably graded, surfaced and drained so as to dispose of all surface water without detriment to surrounding uses.

6.3.8 *Special Permits For Parking:*

6.3.8.1 Special permit for a change in parking space requirements: the number of off-street parking spaces required by Section 6.3.3, of this bylaw for a use or uses in the Commercial I District for Banquet Facilities, Function Halls and Dinner Theaters may be changed by Special permit in accordance with the following provisions: (7-28-03, Art. 4 and 10-17-22, Art.2)

1. Special permit criteria: The Planning Board, by special permit, may allow remote parking lots, or shared parking lots which it deems reasonable, based on the following criteria, and other applicable provisions presented in this subsection:
  - (a) The capacity, location and current level of use of existing parking facilities, both public and private;
  - (b) The efficient and maximum use in terms of parking needs and services provided;
  - (c) The relief of traffic and parking congestion;
  - (d) The safety of pedestrians;
  - (e) The provision of reasonable access either by walking distance or shuttle vehicle arrangements;
  - (f) The maintenance of the character of the area.
2. The following are allowed by Special Permit:

- (a) The substitution of parking spaces within municipal parking lots in lieu of or in reduction to the parking requirements of this section, provided they are located within 1600 feet of the building which is intended to be served.
- (b) A reduction in parking space requirements: The number of off-street parking spaces required by Section 6.3.3 of this bylaw for a use or uses in the non-residential districts may be reduced by special permit in accordance with the following provisions:
  - 1. Shared parking: Shared private parking facilities for different buildings or uses may be allowed by Special Permit, subject to the following provisions:
    - (a) Up to fifty percent (50%) of the parking spaces serving a building may be used jointly for other uses not normally open, used or operated during similar hours. The applicant must show that the peak parking demand and principal operating hours for each use are suitable for a common parking facility.
    - (b) A written agreement defining the joint use acceptable to the Planning Board of the common parking facility shall be executed by all parties concerned and approved by the Planning Board as part of the special permit process. Such agreement shall be recorded at the Middlesex Registry of Deeds.
    - (c) Any subsequent change in land uses for which the shared parking proposal was approved, and which results in the need for additional parking spaces, shall require a new special permit application under this subsection.
  - 2. Remote parking: Remote (satellite) parking areas may be authorized by the Planning Board by special permit, subject to the following provisions:
    - (a) The satellite parking spaces will be used solely by the employees and, where practicable, clientele of the commercial use;
    - (b) The off-site parking spaces shall be located to adequately serve the proposed use and shall be within six hundred (600) feet of the building served for clientele of the commercial use. Off-site parking for employees of the business may be located

within a distance of one thousand two hundred (1,200) feet, unless shuttle vehicle arrangements are provided as a condition of the special permit . The parking distance shall be measured by the shortest route of pedestrian access, entrance to entrance.

3. Pedestrian access: Any proposals submitted, which, in the opinion of the Planning Board, provide direct and vital pedestrian access to other abutting commercial properties and serve to improve pedestrian accessibility may reduce the number of parking spaces required by fifteen percent (15%). Pedestrian access shall be provided enough improved pathways, stairway access or other physical improvements, and such access shall be clearly marked. (Art. 27, 10-25-99)

#### **6.4 (RESERVED)**

#### **6.5 SCREENING AND LANDSCAPING:**

##### *6.5.1 Applicability:*

6.5.1.1 The design provisions and setback requirements of this section shall be applied to lots for those circumstances not addressed by Section 6.3.5.2. (04-03-001, Art. 8)

##### *6.5.2 Design:*

6.5.2.1 Every effort shall be made to retain existing topography, trees, plant materials, and other natural features.

6.5.2.2 The screening required herein, and in Section 6.3.5.2, shall be located so as not to conflict with any corner visibility requirements.

6.5.2.3 All areas not covered by pavement, curbing or structures, shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area. Playing areas used for court games patios, decks, and walkways shall be considered to be landscaped areas for the purposes of this Section.

6.5.2.4 Wherever setbacks are required, there shall be a four (4) foot wide area of landscaping adjacent to the property boundary, for the entire length thereof, except at entranceways. (4-03-01, Art. 8)

##### *6.5.3 Pools:*

- 6.5.3.1 All private pools, both in-ground and above-ground, within the Town of Stoneham shall be enclosed in the following manner:
- (a) In-ground and above-ground pools shall be enclosed within a six (6) foot fence around portion of the area where pool is located and self-locking gate.
  - (b) All pools within the Town shall comply with this bylaw within six (6) months of adoption.

**Cross reference**—Health standards for swimming pools, Board of Health, Sec. 20-2(a).

## **6.6**      ***LIGHTING:***

### 6.6.1      *Applicability:*

- 6.6.1.1 The provisions of this section shall be applied in conjunction with, and shall supplement the provisions of Section 6.3.5.1.

### 6.6.2      *Standards:*

- 6.6.2.1 All Parking areas shall be lighted so as to maintain a minimum intensity of one (1) footcandle on the entire surface thereof.
- 6.6.2.2 All artificial lighting shall be arranged and shielded so as to prevent glare from the light source onto adjacent streets and properties.

## **6.7**      ***SIGNS:***

### 6.7.1      *Purpose:*

The purpose of this bylaw is:

- (a) To maintain and enhance the aesthetic environment.
- (b) To improve pedestrian and traffic safety.
- (c) To minimize the possible adverse effect of signs on public and private property.
- (d) To enable the fair and consistent enforcement of these sign restrictions.

### 6.7.2      *Applicability:*

A sign may be erected, placed, established, painted, created or maintained in the town only in conformance with the standards, procedures, exemptions, and other requirements of this bylaw.

### 6.7.3      *Computations:*

- 6.7.3.1 Area of Individual Signs: The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the total

area of the square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming a part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall (provided that said framework, bracing, fence, or wall does not exceed thirty percent (30%) of the supported sign alone and is not designed or used as an advertising device).

6.7.3.2 Area of Multi-faced Signs: The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

6.7.3.3 Height: The height of a sign shall be compute as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) the existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

6.7.3.4 Maximum permitted signs: The maximum number of signs permitted are listed by district in Section 6.7.3.7.4. The types of signs allowed are listed by district in Section 6.7.6.1- Table 2 of this bylaw.

6.7.4 *Definitions:*

Words and phrases used in this Section shall have meanings set forth in this Section. Words and phrases not defined in this Section but defined in Section 2.0 of this Chapter 15, hereinafter referred to as Section 2.0 shall be given the meaning set forth in Section 2.0. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

6.7.4.1 Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene. This includes any on-premise sign that displays, or is capable of displaying, or has the ability to display, an electronic changeable image or video, which could include text, as well as any sign that uses or is capable of using

lights or similar form of electronic display such as light emitting diodes (LEDs) to form a sign message or messages with text and or images wherein the sequence of messages or the rate of change is electronically programmed or can be modified by electronic processes. This definition includes without limitation any on-premise sign that displays or utilizes, or is capable of displaying or utilizing, or has the ability to display or utilize television screens, plasma screens, digital screens, LED displays, video, video boards, and holographic displays, as well as still images, scrolling images or moving images, utilizing a series or grid of lights that may be changed through electronic means, including cathode ray, plasma screen, liquid crystal (LCD) display or other electronic media. (5-2-16, Art. 1)

- 6.7.4.2 Awning sign: A non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame. Only business names and/ or logos may be attached to, painted, stenciled, or otherwise placed on these devices.
- 6.7.4.3 Banner: Any sign of lightweight fabric or similar material that is mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any religious, educational, not-for-profit institution are exempt.
- 6.7.4.4 Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.
- 6.7.4.5 Billboard: An advertising sign or other commercial sign which directs attention to a business, commodity, service or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. This is also known as an off-premise commercial sign or a non-accessory sign. (5-2-16, Art. 1)
- 6.7.4.6 Building marker: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze and is a permanent attached marker.
- 6.7.4.7 Building sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.
- 6.7.4.8 Business center: A location with retail/service businesses or potential businesses which collectively have an aggregate floor area equal to or greater than fifty thousand (50,000) square feet and which has a name different from the name of any of the individual businesses and which has common private parking and vehicular entrances.

- 6.7.4.9 Business center sign: A sign identifying a business center and individual businesses within the center.
- 6.7.4.10 Canopy sign: A canopy is a multisided structure supported by columns or attached on one end to a building design to protect people directly overhead from the weather. A canopy sign is attached to the vertical surface of a canopy.
- 6.7.4.11 Changeable copy sign: A sign that is designed so that characters, letters or illustrations can be changed or rearranged either manually or automatically without altering the [non-letter] face of the sign. (5-2-16, Art. 1)
- 6.7.4.12 Commercial message: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- 6.7.4.13 Discontinued sign: A legal or non-conforming sign which no longer identifies or advertises a bona fide business, lessee, service, owner, product or activity.
- 6.7.4.14 Electronic message center: A sign on which the copy changes automatically on a lamp bank or through mechanical means, e.g., electrical or electronic time and temperature units.
- 6.7.4.15 Externally illuminated sign: A sign whose illumination is derived entirely from an external artificial source.
- 6.7.4.16 Flashing sign: A sign that contains an intermittent or sequential flashing light source, including a sign which exhibits changes in light or color. (5-2-16, Art. 1)
- 6.7.4.17 Free-standing pole sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or structure.
- 6.7.4.18 Historical marker: Historical markers erected or placed by historical association, governmental agency or owner of property that has been placed on the State or Federal Register of Historic Places, or a property approved as being historic by the Town of Stoneham Historic Commission.
- 6.7.4.19 Identification sign: A sign whose copy is limited to the name and address of the building, institution, or person and/or activity or occupation being identified.
- 6.7.4.20 Informational sign: An on-premise sign identifying a premises or activity conducted upon such premises and providing direction for the safe and/or efficient flow of vehicular or pedestrian traffic. An informational sign has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance," "loading only," telephone," "handicap" and other similar directives. No sign with a commercial

message, including but not limited to logos and trademarks shall be considered informational.

- 6.7.4.21 Internally illuminated sign: A sign whose illumination is derived entirely from an internal artificial source.
- 6.7.4.22 Marquee sign: A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter, which projects from the face of a building.
- 6.7.4.23 Monument sign: An outside sign identifying a development, business(es), service(s), or home(s), the bottom of which is attached directly and permanently to the ground and physically separated from any other structure.
- 6.7.4.24 Non-commercial message: A message that does not direct attention to a business operated for profit, or to a commodity or service for sale.
- 6.7.4.25 Off-premise sign: A sign that pertains to a use which is not located or maintained on the premises (other than non-commercial message signs) including a sign that which identifies goods or services that are not sold on the same premises as the said sign.
- 6.7.4.26 On-premise sign: A sign that pertains to the use of the premises on which it is located and maintained, also known as an accessory sign. This is distinguished from a billboard, i.e., an off-premise commercial sign, also known as a non-accessory sign. (5-2-16, Art. 1)
- 6.7.4.27 Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- 6.7.4.28 Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- 6.7.4.28A Portable Central Business District A-Frame: In accordance with the construction regulation and application process as adopted by the Planning Board and permitted pursuant to Chapter 15 Section 6.7.7, placed on private property or on the public sidewalk directly abutting the property, allowing a minimum of five (5) feet clear path along the public way and a minimum of fifteen (15) feet between A-Frame signs. (5-1-17, Art. 23)

- 6.7.4.29 Real estate sign: A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.
- 6.7.4.30 Roof sign: Any sign erected and constructed wholly on and/or over the roof of a building, supported by the roof structure.
- 6.7.4.31 Secondary Sign: Any sign that serves to complement the main sign by promoting the primary use, building name, parking area, or for significant directional purposes.
- 6.7.4.32 Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- 6.7.4.33 Temporary sign: Any sign that is used only temporarily and is not permanently mounted.
- 6.7.4.34 Wall sign: Any sign attached parallel to, but within 6 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- 6.7.4.35 Window sign: A sign installed on or affixed to a window and intended to be viewed from outside.
- 6.7.5 *Prohibited signs:*
- The following types of signs are prohibited:
- (a) Animated, moving, flashing and revolving signs; beacons; searchlights; pennants, portable signs and balloons, other than as defined in Section 6.7.6, permitted signs..
  - (b) Off-premise signs and billboards, except for non-commercial signs and signs permitted pursuant to Sections 6.7.6 (e) and 6.7.8.
  - (c) Roof signs.
  - (d) Portable signs on wheeled trailers.
  - (e) Signs which are attached in any form, shape or manner to a fire escape.
  - (f) Any sign not specifically permitted in this bylaw is prohibited.
  - (g) A prohibited sign includes an on-premise sign that is operated so as to display an electronic changeable image or video, including text, or uses lights, or any form of electronic display, such as light emitting diodes (LEDs), liquid crystal (LCD) displays, plasma screens, cathode rays or any other electronic media or technology, to form a sign message or messages with text and/or images wherein

the sequence of messages or the rate of change is electronically programmed or can be modified by electronic processes. This includes without limitation any television screen, plasma screen, digital screen, cathode ray, light emitting diode (LED) display, liquid crystal display (LCD), video display, scrolling image, moving image, video board, holographic display, as well as any other type of display by way of any other electronic means or media. This includes an on-premise sign that displays any message through an intermittent or sequential light source, which for purposes of this section means more than once per day. (5-2-16, Art. 1)

6.7.5.1 *Operation of On-Premise Signs – Prohibition:*

An on-premise sign shall not be allowed to be operated so as to display an electronic changeable image or video, including text, or use lights or any similar form of electronic display such as light emitting diodes (LEDs), liquid crystal (LCD) displays, plasma screens, cathode rays or any other electronic media to form a sign message or messages with text and or images wherein the sequence of messages or the rate of change is electronically programmed or can be modified by electronic processes. This prohibition on the operation of an on-premise sign includes without limitation any television screen, plasma screen, digital screen, cathode ray, light emitting diode (LED) display, liquid crystal display (LCD), video display, scrolling image, moving image, video board, holographic display, as well as any other type of display by way of any other electronic means or media. On-premise signs may not be operated so as to display any message through an intermittent or sequential light source; and for purposes of this section, intermittent shall mean more than once per day. (5-2-16, Art. 1)

6.7.6 *Permitted signs:*

- (a) Table 2- Permitted Signs by Zoning District to add to Residence B Wall Signs for recreational use-sign permit required-Max. sign area 18 square feet.(5-5-22, Art.9)
- (b) Non-commercial message signs- Any sign, display or device allowed under this bylaw may contain, in lieu of any other copy, any otherwise lawful noncommercial message which complies with all other requirements of this bylaw.
- (c) Historical markers approved by the Stoneham Historic Commission MA Historic Commission are allowed in all districts.
- (d) Temporary Signs allowed in all districts
  1. New Construction- During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building,

owner, and contractors and shall not exceed 36 square feet in surface area nor 10 ft in any dimension. Such sign shall be promptly removed after completion of the building but in no event after one (1) year from the original date of the building permit.

2. Alteration/Repair- One sign identifying contractor not to exceed 6 square feet and to be promptly removed upon completion of activity.
  3. Banners-Allowed with building permit for total of 30 calendar days.
- (e) Off -Premise and billboard signs are permitted by Special Permit in the Commercial I Zoning District, subject to the procedures and requirements in Section 6.7.8.

6.7.7 *Procedures:*

6.7.7.1 Applications: Application for a sign permit shall be made in writing upon forms furnished by the Building Inspector. Such application shall contain the location by street and number of the proposed sign(s) as well as the name and address of the owner and the sign contractor or erector. The Building Inspector may require the filing of plans (including elevations) or other pertinent information.

6.7.7.2 Certificate of Insurance:

- (a) When a sign is permitted to be erected on a Town way or in an area adjacent to a Town way, which proximate location could under normal conditions create a hazard to travelers on such a public way, the Building Inspector may, before issuing a permit, require the person, firm, or corporation to file a certificate of insurance issued by a company authorized to do business in the Commonwealth of Massachusetts stating that there is in effect an insurance policy in an amount equal to the sum required if a bond were filed (as decided by the Building Inspector and or the Town Administrator), insuring the Town against any and all claims for personal injury or damage to property that in any way may result from such a sign. The Town Counsel shall approve all such certificate of insurance. The certificate shall also state that the policy shall not be canceled or in any manner amended, changed or altered without giving the Town Clerk fifteen (20) days written notice thereof, return receipt required.
- (b) If a surety bond be required in lieu of a certificate of liability, such bond shall be approved by the Town Counsel and shall be conditioned for the installation and erection of signs in accordance with the provisions of this Section and other bylaws of the Town and laws of the Commonwealth of Massachusetts and shall provide for the indemnification of the Town for any

and all damages or liability which may accrue against it by reasons of faulty installation, erection, demolition, repair, removal or defects in or collapse of any sign for a period of one (1) year after erection and for such a time that such sign is maintained or serviced by or under the direction of the maker of such bond. Such bond shall further provide for the indemnification of any person who shall, while upon public property or in any public place, incur damage for which the principal named in the bond is legally liable.

- 6.7.7.3 Location of sign - inclusion of permit number on sign: All signs shall be erected in the exact location described in the permit. The permit number shall be clearly visible and located at the lower right hand corner of the face of
- 6.7.7.4 Changing lettering on changeable letter signs: No permit shall be required to change the advertising copy or message on a changeable letter sign allowed at the time of adoption of this bylaw.
- 6.7.7.5 Maintenance; inspection: All signs, together with their supports, braces, guys and anchors shall be kept in repair and in a proper state of preservation to the extent that the State Building Code does not govern such. The display surfaces of all signs shall be kept neatly painted or posted at all times.
- 6.7.7.6 Removal upon vacancy: Any sign affixed to a building or advertising a business or office which becomes vacant shall be removed within one-hundred eighty (180) days of said vacancy by the owner of the subject premises.
- 6.7.7.7 Non-Conforming Signs: Any sign legally erected prior to the effective date of this bylaw which was permitted by previous provision contained in the Zoning Bylaw; or other bylaws of the Town but which is not in conformity with the provisions of this Section 6.7, shall be considered a non-conforming sign. Non-Conforming Signs may be maintained, except as hereafter provided:
- (a) A non-conforming sign shall be brought into compliance with this Section 6.7 of the Zoning Bylaw if there is a:
    1. change in the use, or
    2. change in the location of the sign on the premises, or
    3. change in the location of the building, or the property line in a manner that renders the sign to be nonconforming with respect to dimensional requirements.
  - (b) A non-conforming sign shall be brought into compliance with this Section 6.7 if it is rebuilt or relocated. Rewording or re-lettering of a non-conforming

sign is allowed as long as such sign is not required to be brought into compliance for a reason provided in Section 6.7.8.7 (a) above.

- (c) A non-conforming sign shall not be changed or altered to another sign, which does not comply with this Section 6.7 of the Zoning Bylaw.

6.7.7.8 Removal of Discontinued Signs: A discontinued sign shall not be maintained or re-established after the activity, business, or usage to which it relates has been discontinued or ceases to operate for one hundred and eighty (180) days or longer. The permit holder or the owner of the premises upon order of the Building Inspector shall remove such sign. (5-7-03, Art. 20)

6.7.8 *Off-Premise and billboard sign:*

6.7.8 *Off-Premise and billboard sign:*

6.7.8.1 Applications: Off-Premise and billboard signs or non-accessory commercial signs (hereinafter also referred to as “billboards” in this Section 6.7.8) shall be permitted in the Commercial I and Commercial III Zoning Districts only by grant of a Special Permit issued by the Planning Board. Special permits may be limited to a term of years specified by the Planning Board. Any person desiring a Special Permit under this section shall submit a Special Permit application to the Planning Board together with a filing fee of \$2,500.00 and ten (10) copies of the application materials as outlined below:

- (a) Site Plan and area maps identifying the following features:
  - (i) Location of any existing buildings, parking spaces and traffic circulation pattern on the subject parcel;
  - (ii) Proximity of nearest residentially used and residentially zoned property utilizing current area photographs and Stoneham Assessors Maps;
  - (iii) Specific location of proposed billboard;
  - (iv) Details of proposed buffer/landscaping area around billboards including species and caliper of trees and/or shrubbery;
  - (v) Location of an existing billboard(s) on the parcel, including any billboards on a building; and
  - (vi) Photographs or architectural depiction of proposed billboard.
  
- (b) Billboard details shall include the following information:
  - (i) Detailed dimensions and area of any proposed single or multi-faced billboard;
  - (ii) Detail sheet of any proposed support structure specifying dimensions and construction type. Upon request by the Planning Board or the

- Building Inspector, the Applicant shall provide a structural analysis of the support structure stamped by a licensed structural engineer; and,
- (iii) Lighting proposal, including cut sheets of all proposed lighting fixtures to be either attached to the billboard, structure or affixed to the ground.

(c) Additional Requirements:

- (i) Authorization from the property owner (i.e., lease, etc.) granting permission to install the proposed billboard and
- (ii) Any additional information as may be required by the Planning Board to assist the Board in determining whether the application complies with the intent and requirements of this Section 6.7.8. (5-2-16, Art. 1)

6.7.8.2 Dimensional Restrictions and Design Guidelines: All billboards shall be in compliance with the following requirements:

1. Billboards shall be permitted in the Commercial I and Commercial III Zoning Districts, provided, however, that no billboards shall be located further than 100' from any interstate highway layout;
2. Billboards shall not create a material visual impact to any abutting or adjacent residentially zoned and used property in the Town of Stoneham;
3. All billboards must be permanently affixed to a main support structure. No portable billboards shall be permitted.
4. Billboards shall not have excessive lighting. Electronic billboards shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions.
5. Exposed back of billboards, poles and other support structures must be painted in a color and finished so as to present an attractive and finished appearance which will blend with the natural surroundings.
6. The following types of billboards are prohibited:
  - (i) Animated, projected, moving or giving the illusion of movement (including any moving parts), scrolling, flashing (other than as addressed pursuant to Section 6.7.8.2 (6) (ii) and (iii) below), revolving, and blinking, and intermittently (see flashing) illuminated billboards, beacons (or any light directed at any location other than the billboard itself), searchlights, pennants, and inflatable billboards, including balloons;
  - (ii) Billboards with physical movements of any kind;
  - (iii) Changeable copy or message billboards that change at intervals of more than once every eight (8) seconds. Changes of image shall be instantaneous as seen to the human eye and shall not use fading, rolling, window shading, dissolving or similar effects;

- (iv) Tri-vision billboards;
  - (v) Video billboards or billboards that otherwise give the illusion of video or moving images;
  - (vi) Billboards with sound;
  - (vii) Billboards with pyrotechnics;
  - (viii) Billboards which by reason of position, wording, illustration, size, shape or color obstruct, impair, obscure, interfere with the view of, or may be confused with any traffic control signal or device or which may otherwise obstruct or interfere with traffic.
7. (a) There shall be no more than one billboard in the Commercial I Zoning District;  
(b) There shall be no more than one billboard along the interstate highway layout in the Commercial III Zoning District.
  8. A billboard may be double sided. An individual billboard or billboard face shall not exceed six hundred seventy-two (672) square feet in total area on each side and shall not exceed fourteen (14) feet in height by forty-eight (48) feet in width, as calculated pursuant to Section 6.7.3.1 of these Zoning Bylaws;
  9. A billboard shall be mounted on a pedestal or other support structure. The top of the billboard shall not exceed fifty (50) feet in height from the elevation of the Interstate Highway immediately adjacent thereto. The bottom of the billboard shall not exceed seventy (70) feet in height from the normal grade as calculated pursuant to Section 6.7.3.3 of these Zoning Bylaws;
  10. There shall be no billboard, including a roof billboard, on any building, whether erected or otherwise placed or painted on the building;
  11. No billboard shall be on or otherwise attached to a tree, utility pole, fence or rock;
  12. Lighting or other illumination related to the proposed billboard shall not project, glare or negatively impact abutting properties and shall not shine onto abutting roadways;
  13. The Applicant shall provide a 10' wide landscaped buffer around the base of the support structure to minimize its visual impact. (5-2-16, Art. 1)

6.7.8.3 Criteria for Approval: The Planning Board shall not approve any applications for a Special Permit under Section 6.7.8 unless it finds that all of the following conditions are met and/or are incorporated into any Special Permit decision:

1. The specific site is an appropriate location for the proposed billboard and the design and layout complies with the standards and requirements set forth in this Bylaw;
2. The proposed billboard will not adversely affect the abutting neighborhood or have the effect of causing a hazard to motorists;
3. The billboard is in accordance with Section 7.4.3.1 of the Zoning Bylaws. Any Special Permit decision shall require compliance with Section 6.7.7.2 "Certificate of Insurance";
4. Any Special Permit decision shall require compliance with Section 6.7.7.3 "Location of billboard; inclusion of permit number on billboard";
5. Any Special Permit decision shall require compliance with Section 6.7.7.5 "Maintenance; inspection";
6. All permits are subject to any necessary approvals, restrictions and conditions required and/or issued by the Commonwealth of Massachusetts and/or the federal Government; and,

The Planning Board, in granting the special permit, shall attach such additional conditions and safeguards as it deems necessary. (5-2-16, Art. 1)

#### 6.7.8.4 Sign Maintenance/Removal:

- (a) All billboards and supporting structures shall be kept in good repair and free from tear, rust, and other indices of deterioration.
- (b) If a billboard permitted under Section 6.7.8 is abandoned, discontinued, blank, or is in disrepair for a period of ninety (90) days, it shall be cause for its removal. (For purposes of this section, a billboard is "blank" if:
  - (i) there is no advertising copy paid for by a person other than the billboard owner or advertising an interest other than the rental of the for said ninety (90) day period;
  - (ii) it advertises a business or service, enterprise or activity that is no longer operating or being offered or conducted; or
  - (iii) the advertising message it displays becomes illegible in whole or substantial part.) The Building Inspector shall notify the owner and/or manager of the billboard and property owner in writing, specifying a forty-five (45) day period to remove or repair. If the billboard has not been removed or repaired within the time period to the satisfaction of the Building Inspector, the Building Inspector may

revoke the billboard permit and cause the billboard to be removed forthwith. All expenses for the removal shall be borne by the billboard owner and/or property owner as determined by the Building Inspector.

If the Building Inspector determines that a billboard is an immediate threat to public safety irrespective of any stays granted to the billboard and/or property owner, the Building Inspector may cause any billboard, abandoned or not, and any portion of its support structure if deemed part of the public threat, to be immediately removed, and/or the threatened public area cordoned off. All expenses for protecting the public, including the removal of said billboard or stabilization of the public safety threat, shall be borne by the billboard owner and/or property owner as determined by the Building Inspector. A billboard which is not abandoned may be returned to its original position, but only after repairs have been made and the public safety threat abated, to the satisfaction of the Building Inspector. (5-2-16, Art. 1)

6.7.8.5 Surety:

The Applicant shall provide a financial surety to the Town which will cover the full cost of the removal of any billboard which is found to be abandoned, discontinued, blank or is in disrepair, as determined under Section 6.7.8.4. The Applicant shall deposit with the Town Accountant a surety in an amount which shall be determined by the Planning Board. Upon removal of the billboard, any remaining funds shall be returned to the Applicant without interest. (5-2-16, Art. 1)

6.7.8.6 Nothing in this Section 6.7.8 shall be applicable to On-Premise Signs, also known as accessory signs. (5-2-16, Art. 1)

**Table 2- Permitted Signs by Zoning District****Residence A, East School Overlay District and North Elementary School Overlay District**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
<b>Wall</b>							
Real Estate	N	6 SF	NA	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	
<b>Free Standing Pole</b>							
Real Estate	N	6 SF	6	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	
Temporary	N	*	*	NA	NA	*	
	<p>*Temporary Signs</p> <ul style="list-style-type: none"> <li>• Political: Not to exceed 90 days; exempt from maximum number limit</li> <li>• New Construction: Not to exceed one year. During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building, owner, and or contractors; not to exceed 36 SF in surface area or 10 ft. in any dimension. Such sign to be promptly removed upon completion of the subject building,</li> <li>• Alterations/repairs: Not to exceed duration of activity. One sign for purpose of identifying contractor; not to exceed 6 SF.</li> </ul>						

Table 2- Permitted Signs by Zoning District

## Residence B

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
<b>Wall &amp; Free Standing Pole</b>							
Real Estate	N	6 SF	NA	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	Less than 5 units
Accessory Use	N	10 SF	NA	NA	NA	1	5 plus units
Recreational Use (5-5-22, Art. 7)	N	18 SF	NA	NA	NA	1	
Temporary	N	*	*	NA	NA	1	
	<p>*Temporary Signs (See Amendment by Attorney General)</p> <ul style="list-style-type: none"> <li>New Construction: Not to exceed one year. During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building, owner, and or contractors; not to exceed 36 SF in surface area or 10 ft. in any dimension. Such sign to be promptly removed upon completion of the subject building.</li> <li>Alterations/repairs: Not to exceed duration of activity. One sign for purpose of identifying contractor; not to exceed 6 SF.</li> </ul>						
<b>Illuminated</b>		SF	NA	NA	NA	1	Less than 5 units
<b>Externally Lit Only</b>		0 SF	NA	NA	NA	1	5 plus units
	<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						
<b>Directory</b>	Y	12 SF	6	Standard	Standard	1	

**Table 2- Permitted Signs by Zoning District****Open Space & Recreation  
Education Districts**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall & Informational	Y	10 SF	NA	Standard	Standard	NA	
Free Standing Pole	Y	25 SF	15	Standard	Standard	NA	
Informational	Y	15 SF	15	Standard	Standard	NA	
Accessory	Y	4 SF	15	Standard	Standard	NA	

**Neighborhood Business**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	10 SF	NA	NA	NA	1	If lit sign, external lit only and shall not be lit from 10 PM to 6 AM
Individual Letter	Y	NA	10	NA	NA	1	
Illuminated	Y	10 SF	NA	NA	NA	1	

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Externally Lit Only	Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						

**Table 2- Permitted Signs by Zoning District**

**Medical**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	25 SF	4	NA	NA	1	1 sign per business; not to exceed 25% of total façade.
Secondary	Y	12.5 SF	4	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed.
Individual Letter	Y	NA	1	NA	NA	1	
Awning	Y	75% length of awning	1	NA	NA	NA	
Monument	Y	25 SF	6	15	15	1	
Informational	Y	6 SF	6	NA	NA		

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Illuminated	Y	25 SF	NA	NA	NA	1	1 per business; not to exceed 25% of total façade
Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>							

**Table 2- Permitted Signs by Zoning District Business**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor only
Secondary	Y	50% of primary wall sign	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Free Standing Pole	Y	24 SF	15'	15	10		
Individual Letter	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor only
Identification	Y	½ wall sign					Must be below roof line

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Awning	Y	¼ length of awning	1	NA	NA	1	
Window	N	30% of window area	NA	NA	NA	NA	
Monument	Y	30 SF	6	15	10	1	
Informational	Y	6 SF	6	NA	NA		
Illuminated	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	15	10	1	1 per business 1 <sup>st</sup> floor only
Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>							

**Table 2- Permitted Signs by Zoning District**

**Central Business**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall & Illuminated Externally Lit Only	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1 <sup>st</sup> floor only
Secondary	Y	50% of primary wall sign	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
	Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						
Individual Letter	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor only
Marquee	Y	NA	Shall have minimum clearance of 10'	NA	NA	1	
Awning	Y	75% length of awning	1	NA	NA	NA	
Window	N	30% of window area	NA	NA	NA	NA	
Informational	Y	6 SF	6	NA	NA		
A-Frame	Y (renewed annually)	20" x 36"	36"	See Ch 15 Section 6.7.4.28A	NA	1 per business  A minimum of 15' between A-Frame signs	Allowed during business hours but in no case before 6:00 AM or after 11:00 PM and shall not be displayed during snow emergencies, inclement weather or overnight.

Table 2- Permitted Signs by Zoning District

## Highway Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	100 SF 75% length of store front maximum	Building Setback: 0-100'=2' 101'-200'=3' >201'=4'	NA	NA	1	1 per business 1 <sup>st</sup> floor only (10-21-13, Art. 1)
Secondary	Y	50% of primary wall sign	NA	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Free Standing Pole	Y	24 SF per face max. of 48 SF	15	20	5	1	
Business Center	Y	24 SF for main, 10 SF per individual business max of 64 SF	15	20	5	1	Must be the only free standing sign on premises
Individual Letter	Y	NA	1	NA	NA	1	
Projecting	Y	4 SF	NA	NA	NA	1	Maximum number per doorway
Marquee	Y	NA	10' minimum clearance	20	5	1	
Awning	Y	75% length of awning	1	NA	NA	NA	

**Table 2- Permitted Signs by Zoning District****Highway Business**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Window	N	30% of window area	NA	NA	NA	NA	
Canopy	Y	18 SF	1	15	NA	NA	Max. SF applies to total for all canopies
Informational	Y	6 SF	6	NA	NA		
	Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						

**Medical Office**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	1.5 SF for each linear foot of frontage, max of 40' width	6	NA	NA	1	Per business
Informational	Y	6 SF	6	NA	NA	1	

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Monument	Y	½ area allowed for wall sign	15	15	15	1	

**Table 2- Permitted Signs by Zoning District**

**Commercial I, III & Fallon Road Mixed Use District (5-5-22, Art. 7)**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	1 SF per 2 linear feet of building frontage, max. of 100 SF	4	NA	NA	1	Not to exceed 25% of total façade
Secondary	Y	Max of 50 SF	4	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Identification	Y	25 SF	4	NA	NA	1	
Free Standing Pole	Y	24 SF	15	15	10	1	
Business Center	Y	24 SF for main, 10 SF per individual business max of 64 SF	15	15	10	1	Must be the only free standing sign on premises
Awning	Y	75% length of awning	1	NA	NA	NA	
Illuminated	Y	25 SF	NA	NA	NA	1	1 per business; not to exceed 25% of total

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
							facade
	Illuminated Signs <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						

**Table 2- Permitted Signs by Zoning District**

**Commercial I, III & Fallon Road Mixed Use District (5-5-22, Art. 7)**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Projecting	Y	24 SF	NA	NA	NA	1	Projection not to exceed 6' from building
Monument	Y	100 SF	15	15	15	1	
Marquee	Y	NA	10' minimum clearance	NA	NA	1	
Informational	Y	6 SF	6	NA	NA		

Note 1.

Changeable letter signs are allowed as part of the signage for petroleum product distribution facilities (i.e. gas stations). The area is considered to be part of the total allowed signage. No additional sign area will be permitted for changeable letter signs.

Note 2.

Signs and postings required by Federal, State, or local agencies or authorities pursuant to applicable law and or regulations made there under shall be exempt from this bylaw to the extent required by Federal, State and or local agencies or authorities.

**Table 2- Permitted Signs by Zoning District**

**Commercial I and Commercial III**

Sign Type Allowed	* Special Permit Required	Max Sign Area	* Max Height in Feet	* Front and Rear Setback	* Side Setback	Max Number	Comment
Off-premise & billboard signage - Permitted in Commercial I and Commercial III Districts only	Y	672 SF per sign face- Not to exceed 14'x48' per sign face	The top of the sign shall be no greater than 50' above the elevation of the interstate Highway immediately adjacent thereto  The bottom of the sign shall be no greater than 70' in height from the normal grade as calculated pursuant to Section 6.7.3.3 of these Zoning Bylaws	40' other than a sign facing an Interstate Highway for which there is no setback requirement  *no more than 100' from Interstate Highway Layout •	40' other than a sign facing an Interstate Highway for which there is no setback requirement  *no more than 100' from Interstate Highway Layout •	See Section 6.7.8	See Section 6.7.8 for additional restrictions and guidelines

**6.8 PERFORMANCE STANDARDS:**6.8.1 *Applicability:*

6.8.1.1 No land, building or structure shall be used or occupied in any District in the Town of Stoneham except in conformance with the standards contained herein.

6.8.2 *Air Pollutants:*

6.8.2.1 Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the Regulations 310 CMR 6.00-8.00 of the Department of Environmental Quality Engineering, Commonwealth of Massachusetts, December 31, 1981, and amendments thereto.

6.8.3 *Noise and Odor:*

6.8.3.1 No noise and/or odors shall be generated which create a public nuisance.

6.8.4 *Heat, Glare, Vibration and Radiation:*

6.8.4.1 No heat, glare or vibration shall be discernible without instruments from the outside of any structure, and no nuclear radiation shall be discernible from the outside of the structure with or without instruments.

6.8.4.2 Wind energy conversion systems, machinery and equipment shall not cause interference with radio and/or television broadcasting or reception and shall comply with the provisions of 47 CFR Part 15 (Federal Communications Commission) as it exists, or as it may be amended.

6.8.5 *Waste Disposal, Water Supply and Water Quality:*

6.8.5.1 Regulations of the State Department of Public Health shall be met and when required, approval shall be indicated on the approved site plan. In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control, as published and entitled "Water Quality Standards," filed with the Secretary of State on September 21, 1978, and amendments thereto, for streams and water bodies within the Town.

6.8.6 *Storage:*

6.8.6.1 All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.

6.8.7 *Exterior Lighting:*

- 6.8.7.1 No exterior lighting, other than street lighting approved by the Department of Public Works, shall shine on adjacent properties or towards any street.
- 6.8.8 *Building Construction:*
- 6.8.8.1 All buildings shall be of construction prescribed in the State Building Code. No building permit shall be granted unless the application for such permit is filed in accord with the Building Code.
- 6.8.9 *Hazardous Materials and Wastes:*
- 6.8.9.1 All hazardous materials and wastes used, created, stored, processed, disposed of by processing, diluting, burying or containment, leaching or any other manner, or transported including piping in the Town of Stoneham shall be used, stored or transported in accord with all applicable Federal, State and Local regulations.
- 6.8.10 *Regulating Alteration of Land:*
- 6.8.10.1 Whenever the existing contours of the land are altered, the land shall be left in a useable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped. During alteration public safety must at all times be protected by the owner to the satisfaction of the Inspector of Buildings, including, if necessary, the erection of a fence or barrier around the area of alteration. (10-21-85, Art. 15; 5-2-88, Art. 14)

**6.9 FLOOD PLAIN (OVERLAY) DISTRICT REGULATIONS:**

6.9 Purpose:

The purpose of the Floodplain Overlay District is 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

## Definitions:

*DEVELOPMENT* means any man-made 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 or storage of equipment or materials.

*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.) (if applicable)

*FLOOD HAZARD BOUNDARY MAP (FHBM)* An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. (if applicable)

*FLOODWAY*. The channel of the river, creek 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 more than a designated height.

*FUNCTIONALLY DEPENDENT USE* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*HIGHEST ADJACENT GRADE* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*HISTORIC STRUCTURE* means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.  
[US Code of Federal Regulations, Title 44, Part 59]

*NEW CONSTRUCTION.* Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.  
[Referenced Standard ASCE 24-14]

*RECREATIONAL VEHICLE* means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

*SPECIAL FLOOD HAZARD AREA.* The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

*START OF CONSTRUCTION.* The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of building. [Base Code, Chapter 2, Section 202]

*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. [US Code of Federal Regulations, Title 44, Part 59]

*SUBSTANTIAL REPAIR OF A FOUNDATION.* When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

*VARIANCE* means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

*VIOLATION* means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

6.9.1 *Flood Plain (Overlay) District:*

6.9.1.1 The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Stoneham designated as Zone A, AE, on the Middlesex County Flood Insurance Rate Map (FIRM) dated July 8, 2025 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report date July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with Town Clerk and Department of Public Works.

6.9.1.2 Designation of Community Floodplain Administrator

The Town of Stoneham hereby designates the position of Director of Public Works to be the official floodplain administrator for the Town.

6.9.1.3 Permits are required for all proposed development in the Floodplain Overlay District. The Town of Stoneham requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other

development that might increase flooding or adversely impact flood risks to other properties.

6.9.1.4 Assure that all necessary permits are obtained

The Town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

6.9.1.5 Floodway encroachment

In Zones A, A1-30, 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.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM and/or Flood Boundary & Floodway Map encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

6.9.1.6 Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

6.9.1.7. AO and AH zones drainage requirements (if applicable)

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

6.9.1.8 Subdivision proposals

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

6.9.1.9 Base flood elevation data for subdivision proposals

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

6.9.1.10 Recreational vehicles

In A, A1-30, AH, AO, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

6.9.1.11 Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, 8th floor, Boston, MA 02114
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor, Boston, MA 02110

6.9.1.12 Variances to building code floodplain standards

If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that

- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
- (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

6.9.1.13 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

6.9.1.14 Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

6.9.1.15 Disclaimer of liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

6.9.1.16 Severability Section

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

6.9.1.17 Local Enforcement  
See Section 7.5

6.9.2 *Development Regulations:*

6.9.2.1 *The following requirements in addition to all other requirements in the underlying district, apply in the Flood Plain Overlay District:*

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Inspector of Buildings for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- (b) In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions in addition to all other requirements in the underlying district shall apply:
  1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
  2. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code. (10-21-85, Art. 15; 5-12-86, Art. 12, 10-23-23, Art. 1)

**6.10 *LAND FILL REGULATION:***

6.10.1 *Permit Requirement:*

6.10.1.1 The placement on a lot or movement within a lot of soil, loam, sand, gravel, minerals or other earth material for fill is prohibited without a permit issued by the Building Inspector, when

- (a) The placement or movement of said fill is in excess of two hundred (200) cubic yards per lot during a twelve-month period, other than that incidental to the landscaping of buildings or structures, or for commercial resale; or

- (b) The placement or movement of said fill shall change the drainage characteristics of the land or lot so as to detrimentally affect abutting land. (1-19-89, Art. 2; 10-30-89, Art. 5)
- 6.10.1.2 The permit requirement set out in Section 6.10.1.1 above, shall not be applicable to the placement or movement of fill on public land by the Town of Stoneham. Sections 6.10.3, 6.10.4, 6.10.5, and 6.10.6 shall be applicable to such fill operations, however. (1-19-89, Art. 2; 10-30-89, Art. 5)
- 6.10.2 *Permit Process:*
- 6.10.2.1 The application for a permit shall include the name of the property owner, the contractor placing the fill, the transportation company, and the origin, destination, composition and quantity of the material being placed or moved on the property. (1-19-89, Art. 2; 10-30-89, Art. 5)
- 6.10.2.2 The applicant shall provide the Building Inspector with plans prepared and stamped by a registered civil engineer showing the existing topography, proposed finished grade, required retaining walls, proposed footings (if any), as well as plans for drainage and control of run-off and erosion. Plans shall be reviewed by the Town Engineer, however, responsibility for the plan and design, and all consequences resulting therefrom, remain with the applicant, his engineer and contractor(s). (1-19-89, Art. 2)
- 6.10.2.3 The Building Inspector may deny any application for a permit if the proposed placement of fill changes the drainage characteristics of the land or lot so as to detrimentally affect abutting land, or would endanger or threaten property or the safety of the public. (1-19-89, Art. 2)
- 6.10.2.4 The cost of obtaining a permit under this Section shall be Twenty Dollars (\$20.00). A copy of the permit shall be displayed in a conspicuous location at the site of filling. (1-19-89, Art. 2)
- 6.10.2.5 The permit and appeal process shall be governed by Chapter 40A of the Massachusetts General Laws and Section 7.6 of these bylaws. (1-19-89, Art. 2)
- 6.10.3 *Prohibited Material:*
- 6.10.3.1 Placement or movement of any fill containing concrete, metal or steel, brick, block, plaster, wood lathe, bituminous, or other building materials, trees, stumps, heavy metals, hazardous material or other waste products, is prohibited, except for the following if mixed with clean material and compacted in accordance with the Massachusetts State Building Code:

- (a) Non-reinforced concrete slabs if they are broken into pieces with the greatest surface area no greater than six (6) square feet in area.
- (a) Non-reinforced concrete blocks, curbing or other configurations with the longest side dimension no greater than three (3) feet or
- (c) Brick, either in pieces or in cemented aggregations, of three (3) feet or less in every dimension. (1-19-89, Art. 2)

6.10.4 *Fill Analysis:*

- 6.10.4.1 The Building Inspector may request that the Board of Health determine whether a chemical analysis or other appropriate test of the fill shall be required. (1-19-89, Art. 2)

6.10.5 *Fill Operations:*

- 6.10.5.1 All fill operations shall be carried out in a safe manner. The Building Inspector, may, if deemed necessary, require security fencing of suitable material, dimension and construction, surrounding the site. (1-19-89, Art. 2)

6.10.6 *Violations:*

- 6.10.6.1 Any person found to be in violation of any part of Section 6.10 shall be subject to a fine of One Hundred Dollars (\$100.00) for each day such violation continues. (1-19-89, Art. 2; 10-30-89, Art. 5)
- 6.10.6.2 The Building Inspector shall have authority to require the removal of any fill placed or moved in violation of this section. All costs of removal shall be borne by the violator(s). (1-19-89, Art. 2; 10-30-89, Art. 5)

**6.11 *WIRELESS SERVICE FACILITY REQUIREMENTS AND RESTRICTIONS:***

6.11.1 *General Applicability and Purpose:*

- 6.11.1.1 The same general applicability and purpose as stated in Sections 4.11.1 and 4.11.2 apply.

6.11.1.2 1. Special Permits

In the districts where Wireless Service Facilities are allowed by Special Permit, the Planning Board may issue a Special Permit under Section 7.4 of this bylaw, and the Special Permit Granting Authority Rules and Regulations which shall apply except to the extent a submission requirement is superseded herein, for:

- (a) A Wireless Service Facility (including its supports) of the type allowed in Section 4.11.3, installed on a building or structure, if such Wireless

Service Facility exceeds any one or more of the dimensional requirements of Section 4.11.3 (a)(2) or (a)(3); or

- (b) A monopole in accordance with provisions of this bylaw below.

Provided that the Planning Board finds:

1. That the requested installation is essential to the proper functioning of the telecommunications services to be provided by the Wireless Service Facility at that location and that an alternative installation meeting the by-right limitations of Section 4.11.3 is not feasible; and
2. That the requested installation will not materially adversely affect adjacent properties; and
3. That there are no existing, approved or proposed Wireless Service Facilities which are reasonably available to accommodate the Wireless Service Facility equipment proposed in order to provide the proposed Wireless Communications Services; and
4. That the overall height of a proposed monopole does not exceed the height permitted in the underlying zoning district, unless the applicant demonstrates that a greater height, but in no event higher than fifteen feet (15') above the height permitted in the underlying zoning district or higher than ten feet (10') above the tallest building, average tree canopy height (measured from ground level) or topographical feature of the land within five hundred feet (500') of the Wireless Service Facility, is essential to the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location and that an alternative installation meeting the height restrictions and the requirements of this bylaw cannot be met. The height and size, including any appurtenant equipment and devices, shall be the minimum height and size essential to the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location; and
5. That with respect to a monopole, the applicant has agreed to permit other Wireless Communications Service providers to co-locate on the monopole if technologically practical at commercially reasonable rates. (10-29-98, Art.20;10-25-99, Art. 25)

6.11.2 *Prohibitions:*

The following are prohibited:

- (a) All free standing (ground mounted) Wireless Service Facilities other than monopoles. Prohibited free standing Wireless Service Facilities include Lattice towers or Lattice style towers and any Wireless Service Facility requiring two or more legs.
- (b) Guy wires. (10-29-98, Art. 20)

6.11.3 *Design Provisions:*

6.11.3.1 *Setbacks:*

- (a) All Wireless Service Facilities, including equipment shelters, shall comply with the setback provisions of the zoning district in which the facility is located.
- (b) The center point of the base of a monopole (or any other freestanding ground mounted Wireless Service Facility if for any reason allowed under applicable law despite the prohibition herein) shall be set back from the property line of the lot in which such device is located by distance equal to the overall vertical height of the monopole and any antennas or other appurtenances plus five feet (5'), unless the applicant demonstrates that: (1) due to topography and/or other characteristics of the site or the structure a lesser setback shall not pose any public safety danger to any adjacent property and that the requested installation is essential to the proper functioning of the telecommunications services to be provided by the Wireless Service Facility, or (2) the Planning Board finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use. (10-29-98, Art. 20).

6.11.3.2 *Screening:*

Whenever possible, Wireless Service Facilities shall be sited so as to minimize visibility from adjacent property and shall be suitably screened from abutters and residential neighborhoods and from public viewing areas. (10-29-98, Art. 20)

6.11.3.3 *Landscaping and Preservation of Existing Vegetation:*

Freestanding Wireless Service Facilities not otherwise camouflaged from public viewing in accordance with this bylaw shall, unless otherwise directed by the Planning Board based on site conditions, be surrounded by buffers of dense tree growth and undestroy vegetation in all directions to create an effective year-round visual buffer of sufficient height and depth to effectively screen the facility while not effectively impairing the operation of the Wireless Service Facility or shall otherwise be disguised to the satisfaction of the Planning Board. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant

materials and depth of the needed buffer based on site conditions. To the extent feasible and consistent with this bylaw, existing on-site trees and vegetation shall be preserved and/or be replaced or restored after construction and installation of the Wireless Service Facilities. (10-29-98, Art. 20)

6.11.3.4 *Color:*

Wireless Service Facilities, including but not limited to monopoles and mounted Wireless Service Facilities and supports, shall be painted or otherwise colored or finished in the manner which minimizes the visibility of the Wireless Service Facilities in the surrounding landscape and on the building or structure to which they are attached and, if applicable, with the sky. (10-29-98, Art. 20)

6.11.3.5 *Antennas:*

Whenever technologically feasible, antennas and other wireless communication equipment shall be mounted flush against the monopole. (10-29-98, Art. 20)

6.11.3.6 *Fencing:*

Any fencing necessary to control access to the Wireless Service Facilities shall be compatible with the character of the area. Fences utilizing razor wire, barbed wire or a similar wire type shall not be allowed. (10-29-98, Art. 20)

6.11.3.7 *Signs:*

There shall be no advertising permitted on or in the vicinity of a Wireless Service Facilities. There shall be a sign not exceeding four square feet in area at each installation which shall display a phone number where the person responsible for the maintenance of the installation may be reached on a 24-hour basis. (10-29-98, Art. 20)

6.11.3.8 *Lighting:*

Lighting of Wireless Service Facilities shall be prohibited except for such lighting as may be required by federal or state law or regulation or by order of the Federal Aviation Administration in pre-emption of this prohibition. Lighting of Wireless Service Facilities and any other facilities on site shall be shielded from abutting properties. Temporary lighting as necessary for emergency repair purposes shall be allowed for a reasonable period of repair. (10-29-98, Art. 20)

6.11.3.9 *Equipment Shelters and Network Interconnections:*

Equipment shelters and network interconnections for Wireless Service Facilities shall be located in underground vaults or shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden

fence. The style of fencing and/or landscape buffer shall be compatible with the neighborhood. (10-29-98, Art. 20)

6.11.3.10 *Historic Buildings and Districts:*

Any Personal Wireless Service Facilities located on or within an historic structure shall not alter the character-defining features or distinctive construction methods of the building. Any alteration made to an historic structure to accommodate a device shall be fully reversible. (10-29-98, Art. 20)

6.11.3.11 *Parking:*

There shall be a maximum of one parking space for each monopole to be used in connection with the maintenance of the site and not to be used for the permanent storage of vehicles or other equipment. (10-29-98, Art. 20)

6.11.4 *Environmental Standards:*

6.11.4.1 Wireless Service Facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized. (10-29-98, Art. 20)

6.11.4.2 No hazardous waste shall be discharged on the site of any Wireless Service Facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site. (10-29-98, Art. 20)

6.11.4.3 Stormwater run-off shall be contained on-site. (10-29-98, Art. 20)

6.11.4.4 Ground-mounted equipment for Wireless Service Facilities shall not generate noise in excess of 50 db at the property line.

Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna. (10-29-98, Art. 20)

6.11.5 *Safety Standards:* (10-29-98, Art. 20)

6.11.5.1 Wireless Service Facilities and equipment shall be authorized, constructed and operated in accordance with applicable federal and state law, regulations, orders and guidelines. (10-29-98, Art. 20)

- 6.11.5.2 Wireless Service Facilities shall be designed to withstand winds and gusts of a category 5 hurricane. (10-29-98, Art. 20)
- 6.11.5.3 When a Wireless Service Facility is located above or in the vicinity of pedestrian areas or other areas open to the public, such installation shall be constructed and maintained in a manner that does not impede or restrict the movement of pedestrians nor pose a hazard to any person. (10-29-98, Art. 20)
- 6.11.6 *Application Procedures - Special Permit:* (10-29-98, Art. 20)
- 6.11.6.1 *Pre-application Wireless Service Facilities Conference:*
- Prior to the submission of an application for a Special Permit pursuant to this bylaw, the applicant is strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed wireless service facility in general terms and to clarify the filing requirements. The purpose of the conference is to inform the Planning Board as to the preliminary nature of the proposed Wireless Service Facility. No formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the location of the proposed facility, as well as its scale and overall design and to discuss alternative sites, including but not limited to existing sites of Wireless Service Facilities. (10-29-98, Art. 20)
- 6.11.6.2 *Application Filing Requirements:*
- The following shall be included with an application for a Special Permit for a Wireless Service Facility.
- (a) General Filing Requirements
1. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants. A licensed carrier shall either be an applicant or a co-applicant and shall provide a certified copy of its FCC license to operate the proposed system.
  2. If the property owner is not an applicant or co-applicants said property owner must provide written documentation of the applicant's right to use the property for the proposed Wireless Service Facility.
  3. A detailed statement and description of the Wireless Communication Services to be provided or supported by the Wireless Service Facility, including how the proposed Wireless Service Facility will eliminate or alleviate any existing deficiencies or limitations in the Wireless Communication Services of the applicant.

4. A certification by the applicant that said applicant and the Wireless Service Facility comply with all federal and state laws, regulations and requirements to provide the proposed Wireless Service Facility. (10-29-98, Art. 20)

6.11.6.3 *Location Filing Requirements:*

Include the following information with an application:

- (a) Address of the subject property and the names of the nearest public and private ways.
- (b) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- (c) A map showing the Wireless Service Facilities with which the proposed facility would interact and the other existing Wireless Service Facilities in the Town and within two (2) miles of its municipal boundaries.
- (d) To the best of the applicant's knowledge, information and belief, a forecast of when maximum capability would be reached for the proposed Wireless Service Facilities and the proposed locations of all the applicant's existing and future Wireless Service Facilities in the Town and within two (2) miles of the Town boundaries depicted on a map.

6.11.6.4 *Siting Filing Requirements:*

- (a) File with the application, as site filing information, a one-inch-equals-40 feet vicinity plan showing the following:
  1. Property lines for the subject property and all properties adjacent to the subject property within 300 feet (300').
  2. Tree cover on the subject property and adjacent properties within 300 feet, (300') by dominant species and average height, as measured by or available from a verifiable source.
  3. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet (300').
  4. Proposed location of antenna, mount and equipment shelter(s).
  5. Proposed security barrier, indicating type and extent, as well as point of controlled entry.

6. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet (300') including driveways proposed to serve the Wireless Service Facility.
  7. Distances, at grade, from the proposed Wireless Service Facility to each building on the vicinity plan.
  8. Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet (300').
  9. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
  10. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the Wireless Service Facility
  11. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.
- (b) Sight lines and photographs as described below:
1. A sight line representation shall be drawn from any public or private way within three hundred feet (300') and the closest facade of each residential building (viewpoint) within three hundred feet (300') to the highest point (visible point) of the Wireless Service Facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within three hundred feet (300') there shall be at least two sight lines from the closest habitable structures or public roads, if any.
  2. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public or private way within 300 feet.
  3. Each of the existing condition photographs shall have the proposed personal Wireless Service Facility superimposed on it to show what will be seen from public roads if the proposed Wireless Service Facility is built.
- (c) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed Wireless Service Facility plus from all existing public and private ways that serve the subject property. Elevations

shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

1. Antennas, mounts and equipment shelter(s), with total elevation dimensions and at ground level of the highest point.
2. If the security barrier will block views of the Wireless Service Facility, the barrier drawing shall be cut away to show the view behind the barrier.
3. Any and all structures on the subject property.
4. Existing trees and shrubs at current height and proposed trees and shrubs.
5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

6.11.6.5 *Design Filing Requirements:*

- (a) Equipment brochures for the proposed Wireless Service Facility such as manufacture's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (b) Materials of the proposed Wireless Service Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (c) For monopoles a description of the capacity of the monopole, including the number and type of antenna, transmitters and/or receivers that it can accommodate and the basis for these calculation.
- (d) Colors of the proposed Wireless Service Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (e) Dimensions of the Wireless Service Facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (f) Appearance shown by at least two photographic superimpositions of the Wireless Service Facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.

- (g) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (h) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a crane test or alternate temporary structure or balloon if approved by the Planning Board, at the proposed site that replicates to illustrate the height of the proposed Wireless Service Facility. The crane or structure shall remain in position for no less than three (3) days for at least eight (8) hours per day, with one day being a weekend day. The date, time and location of such test shall be advertised, at the applicant's cost in a Stoneham newspaper of general circulation twice in consecutive weeks, not more than twenty-one (21) days prior to the test. In addition, written notice shall be sent, at the applicant's cost, to abutters who would receive notice for special permit applications pursuant to G.L.c.40A, sec.11.
- (i) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed. (10-29-98, Art. 20)

#### 6.11.6.6 *Noise Filing Requirements:*

1. The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Wireless Service Facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:
2. Existing, or ambient: the measurements of existing noise.
3. Existing plus proposed Wireless Service Facilities: maximum estimate of noise from the proposed Wireless Service Facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Bylaw. (10-29-98, Art. 20)

6.11.6.7 *Radiofrequency Radiation (RFR) Filing Requirements:*

- (a) The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:
  1. Existing, or ambient: the measurements of existing RFR.
  2. Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless facility plus the existing RFR environment.
  3. Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines and any applicable requirements of the Commonwealth of Massachusetts. (10-29-98, Art. 20)

6.11.6.8 *Federal Environmental Filing Requirements:*

- (a) The National Environmental Policy Act (NEPA) applies to all applications for Wireless Service Facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR ch.I.) The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for certain Wireless Service Facility, including, but not limited to all those proposed in or involving any of the following areas: endangered species habitat, historical site, flood plains, wetlands, high intensity white lights in residential neighborhoods, and excessive radio frequency radiation exposure.
- (b) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each Wireless Service Facility site that requires such an EA to be submitted to the FCC.
- (c) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the Wireless Service Facility that are considered hazardous by the federal, state or local government. (10-29-98, Art. 20)

6.11.6.9 *Waiver:*

The Planning Board may waive one or more of the application filing requirements of this bylaw if it finds that such information is not needed for a thorough review of the proposed Wireless Service Facility.

6.11.7 *Term of Special Permit:*

A Special Permit issued for any Wireless Service Facility may, in accordance with the G.L.c.40 A, Sec. 9, have a time limitation. At the end of that time period, the

Wireless Service Facility shall be removed by the carrier or a new Special Permit shall be required.

6.11.8 *Modifications:*

A modification of a Wireless Service Facility may be considered equivalent to an application for a new Wireless Service Facility and will require a Special Permit when the following events apply:

- (a) The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the personal wireless service facility in one or more of the following ways:
  - 1. Change in the number of facilities permitted on the site; or
  - 2. Change in technology used for the personal wireless service facility.
- (b) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing. (10-29-98, Art. 20)

6.11.9 *Co-location:*

6.11.9.1 Monopoles shall share Wireless Service Facilities equipment where feasible and appropriate, thereby reducing the number of Wireless Service Facilities that are stand-alone facilities. All applicants for a Special Permit for a Wireless Service Facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- (a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
- (b) Attempted contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
- (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location. (10-29-98, Art. 20)

6.11.9.2 In the event that co-location is found not be feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for collocation. (10-29-98, Art. 20)

6.11.9.3 If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the Wireless Service Facility at full build-out. (10-29-98, Art. 20)

6.11.9.4 If the Planning Board approves co-location for a Wireless Service Facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on

that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit. (10-29-98, Art. 20)

6.11.9.5 Estimates of RFR emissions will be required for all facilities, including proposed and future facilities. (10-29-98, Art. 20)

6.11.10 *Abandonment or Discontinuation of Use:*

6.11.10.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation for operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the Wireless Service Facility shall be considered abandoned upon such discontinuation of operations. If there are two or more users of a single Wireless Service Facility, then this provision shall not become effective until all users cease using the Wireless Service Facility. (10-29-98, Art. 20)

(a) Upon abandonment or discontinuation of use, the licensed carrier shall physically remove the Wireless Service Facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(b) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

(c) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

(d) Restoring the location of the Wireless Service Facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

6.11.10.2 If a licensed carrier fails to remove a Wireless Service Facility in accordance with this section of this bylaw, the town shall have all the authority allowed under law to cause and/or enforce the removal of the Wireless Service Facility and the restoration of the property. The Planning Board may require the applicant to post a bond at the time of construction to cover costs for the removal of the Wireless Service Facility and the restoration of the property in the event the Town must remove the facility and/or restore the property. 10-29-98, Art. 20)

6.11.11 *Reserved*

6.11.12 *Monitoring and Maintenance:*

- 6.11.12.1 After the wireless service facility is operational, the licensed carrier shall submit, within ninety (90) days of beginning operations, and at annual intervals from the date of issuance of the Certificate of Occupancy, existing measurements of RFR from the Wireless Service Facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Standards section of this Bylaw. (10-29-98, Art. 20)
- 6.11.12.2 After the Wireless Service Facility is operational, the licensed carrier shall submit, within 90 days of the issuance of the Certificate of Occupancy, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Bylaw. (10-29-98, Art. 20)
- 6.11.12.3 The licensed carrier shall maintain the Wireless Service Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. (10-29-98, Art. 20)
- 6.11.13 *Severability:*  
If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw. (10-29-98, Art. 20)

**6.12 INCLUSIONARY HOUSING: (5-3-21, Art.8, 10-17-22, Art.3)**

6.12.1 Purpose and Intent

The purpose of this bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with G.L. c. 40B §20-23 and ongoing programs within the Town of Stoneham to promote a reasonable percentage of housing that is affordable to moderate income buyers (“affordable housing units”). It is intended that the affordable housing units that result from this Bylaw meet the programmatic requirements for the same as specified by the Department of Housing and Community Development (DHCD) and, that said units count toward and are placed on, the Town’s Subsidized Housing Inventory as maintained by DHCD.

6.12.2 Definitions

1. Affordable housing unit. A dwelling unit available at a cost generally of no more than 30% of gross household income of households at or below

80% of the Middlesex County median income as reported by the U.S. Department of Housing and Urban Development, such that the dwelling unit is included in the Town of Stoneham's Subsidized Housing Inventory.

2. Qualified affordable housing unit purchaser or tenant. An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and DHCD or as otherwise established by DHCD such that the housing unit is included in the Town of Stoneham's Subsidized Housing Inventory.

#### 6.12.3 Applicability

1. Division of Land. This Bylaw shall apply to the division of land into eight (8) or more lots. (5-5-22, Art.8, 10-17-22, Art.3)
2. Multiple Units. This Bylaw shall apply to the construction of eight (8) or more dwelling units, whether on one or more contiguous parcels. (5-5-22, Art.8, 10-17-22, Art.3)

#### 6.12.4 Methods of Providing Affordable Units (10-17-22, Art.3)

1. Construction of affordable units on the locus of the development shall be permitted as of right in any development and is the preferred method of providing affordable units under this article and more fully described in Section 6.12.5.
2. The Planning Board may grant a special permit for one or more of the following alternative methods, including any combination thereof. In granting a special permit hereunder, the Planning Board may impose any conditions it deems necessary to assure compliance with this article:
  - a. Payment of a fee in lieu of affordable units to the Town of Stoneham Affordable Housing Trust Fund. This provision shall apply only to developments of homeownership units. The fee per affordable unit shall be determined by the Section 6.12.11.
  - b. Donation of developable land in the Town of Stoneham to the Stoneham Housing Authority, Stoneham Affordable Housing Trust or a comparable

entity determined at the discretion of the Planning Board provided the receiving organization agrees in writing to accept the land and the application demonstrates to the Planning Board's satisfaction that said land is developable for an equivalent number of affordable units in conformance with this chapter. Donated land does not need to be located in the same zoning district as the development and shall be subject to a deed restriction limiting its use to mixed-income or affordable housing. (10-17-22, Art.3)

#### 6.12.5 Requirements for Affordable Units

1. The Planning Board shall deny any application for a special permit for development under Sections 7.0 of the Zoning Bylaw if the applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:
  - (a) At least twelve (12) percent of the housing units in a division of land or multiple unit development subject to this Bylaw for developments up to thirty (30) dwelling units, and at least fifteen (15) percent of the housing units in a division of land or multiple unit development subject to this Bylaw for developments greater than thirty (30) dwelling units, shall be established as affordable housing units either through new construction or rehabilitation of an existing structure(s) on the locus subject to the special permit.
  - (b) If the percentages applied to the required number of affordable units results in a fraction, the required number of affordable units shall be rounded up to the next whole number. Example: A twenty dwelling unit development requires 2.4 affordable housing units (20 multiplied by 12%). Rounding up to the next whole number is 3. Three (3) affordable dwelling units are required.
  - (c) The Planning Board may, as part of any Special Permit decision, modify the number of affordable units as required by Section 6.12.5. (1)(a) upon a finding that due to unique conditions effecting the property, project location, or other beneficial site designs, that the affordable unit requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development of the area or would create a better project. In

granting such modifications, the Board may impose conditions it deems necessary to protect the purpose of this section.

#### 6.12.6 Provisions Applicable to Affordable Housing Units On- and Off-Site

1. Siting of affordable units. All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
2. Minimum design and construction standards for affordable units. The exterior of the affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.
3. Timing of construction or provision of affordable units or lots. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<u>MARKET-RATE UNIT %</u>	<u>AFFORDABLE HOUSING UNIT %</u>
Up to 30%	None required
30% plus 1 unit	At least 12%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

Fractions of units shall be rounded to the higher numerical value in counting the number of affordable units.

4. For a development that provides affordable units through a fee in lieu of units, no building permit shall be issued until the applicant pays at least 10% of the total required fee to the Stoneham Affordable Housing Trust. Additionally, no more than 50% of the certificates of occupancy shall be issued until the applicant pays at least 50% of the total required fee to the Stoneham Affordable Housing Trust. Ten

percent of the total number of certificates of occupancy shall be withheld until the applicant submits evidence that is acceptable to the Planning Director that the remaining balance has been paid to the Stoneham Affordable Housing Trust Fund. The Planning Board may modify the schedule for fee payment for projects covered by a single occupancy permit.

5. For a development that provides affordable units through a land donation, no building permits shall be issued until the applicant submits evidence acceptable to the Planning Director that the land has been conveyed to the receiving organization identified in the Planning Board's special permit and an affordable housing deed restriction has been recorded at the Middlesex County Registry of Deeds. (10-17-2022, Art.3)

#### 6.12.7 Local Preference

The Planning Board shall require the applicant to comply with local preference requirements, if any, as established by the Select Board or Stoneham Housing Authority pursuant to applicable law.

#### 6.12.8 Marketing Plan for Affordable Units

Applicants under this bylaw shall submit a marketing plan or other method approved by the Planning Board, to the Planning Board for approval, which describes how the affordable units will be marketed to potential homebuyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

#### 6.12.9 Maximum Incomes, Sale and Rental Prices

1. The maximum sale or rental price for an affordable housing unit shall be as established by DHCD for the type, size and tenancy of the housing unit.

#### 6.12.10 Preservation of Affordability; Restrictions on Resale and Rental

1. Each affordable unit created in accordance with this bylaw and made available for sale, shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit

and to ensure its continued availability for affordable income households. The resale controls shall be established through the execution of an affordable housing restriction pursuant to G.L. c.184, §31-32 and shall be in force in perpetuity or for the longest period permitted by law.

- (a) Resale price. The resale price of any affordable housing units created pursuant to this Bylaw shall be determined based upon then current formulas set by the Department of Housing and Community Development such that the resold unit will remain on the Town's Subsidized Housing Inventory.
- (b) The applicant shall comply with the affordable housing unit requirements and accompanying restrictions on affordability, including the execution and recording of an affordable housing restriction pursuant to G.L. c.184, §31-32. The Building Commissioner shall not issue an occupancy permit for any affordable unit until an affordable housing restriction for each relevant dwelling unit has been recorded at the Middlesex County Registry of Deeds. (10-17-22, Art.3)
- (c) For developments subject to this Bylaw where the affordable housing units are made available for rental purposes, the Building Commissioner shall not issue an occupancy permit for any affordable unit until an affordable housing restriction pursuant to G.L. c.184, §31-32 has been recorded against the affordable unit at the Middlesex County Registry of Deeds. (5-3-21, Art.8)

#### 6.12.11 Fee In Lieu of Units

1. Applicants may apply for a special permit to pay a fee in lieu of creating affordable units. This provision applies to homeownership developments only. For each affordable unit provided through a fee in lieu of units, the cash payment shall be equal to 35% of the median of single-family home or condominium sale prices in Stoneham for the three fiscal years immediately prior to the current fiscal year in which the application is made. The Town of Stoneham Assessors' Office will verify the numbers provided by the applicant prior to any special permit approval.

2. If there were no sales during any of the three prior fiscal years, the applicant shall rely on appropriate, comparable sales, as determined by the Town of Stoneham's Assessors' Office.
3. Fees in lieu of units shall be paid to the Town's Affordable Housing Trust Fund. Fee in lieu of unit payments shall be made in accordance with Section 6.12.6. (10-17-2022, Art.3)

## **7.0 ADMINISTRATION:**

### **7.1 BOARD OF APPEALS:**

#### **7.1.1 Establishment:**

7.1.1.1 The Board of Appeals referred to herein shall be the Board of Appeals of the Town of Stoneham as constituted on the date of the acceptance of this recodification.

7.1.1.2 The Board of Appeals shall also act as the Board of Appeals required under the provisions of Section 81Z of Chapter 41 of the Massachusetts General Laws, as amended, relating to subdivision control.

7.1.1.3 *Appointment of regular members:* The Select Board shall nominate and appoint members to the Board of Appeals annually during the month of April to fill such vacancies as may exist due to the expiration of members' terms.

7.1.1.4 *Appointment of associate members:* The Select Board shall also annually during the month of April nominate and appoint two (2) associate members of the Board of Appeals who shall act as members thereof in the absence of any member or members of the Board when requested by the Board of Appeals. Said associate members shall have the power of regular members in the performance of their duties and shall be subject to the provisions of this Section relative to members of the Board of Appeals. The Select Board may at any time appoint an associate member to fill an existing vacancy on the Board.

7.1.1.5 *Terms:* The terms of regular members shall be three (3) years. All terms of associate members shall be one (1) year.

7.1.1.6 *Residency and removal of members:* Members of the Board of Appeals shall be residents of the Town of Stoneham, and shall hold office during such residence until their successors are duly qualified and may be removed for just cause after hearing by the Select Board.

- 7.1.1.7 *Vacancies:* The Select Board shall nominate and appoint members to fill the unexpired terms of regular and associate members should a vacancy exist.
- 7.1.1.8 *Concurrent membership:* No regular member of the Board of Appeals or the Planning Board shall serve on both Boards concurrently. However, any person holding a position upon acceptance of this revised Zoning bylaw as a member of the Board of Appeals and member of the Planning Board shall continue his duties on both Boards until the normal expiration of either term.
- 7.1.2 *Powers:* The Board of Appeals shall have the following powers:
- 7.1.2.1 To hear and decide appeals in accordance with Section 8 of Chapter 40A of the General Laws, as amended.
- 7.1.2.2 To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A of the General Laws, as amended.
- 7.1.2.3 To hear and decide petitions for exceptions as provided in this bylaw.

**State law reference**—Variances, G.L. c. 40A, Sec. 12.

7.1.3 *Variance Procedure:*

- 7.1.3.1 Deleted (4-03-01, Art. 6)

**Editors note**— See Chapter 18, Board of Appeals Rules & Regulations

**7.2** ***SELECT BOARD:***

7.2 *SITE PLAN:*

7.2.1 *Authority/Statement of Purpose*

- 7.2.1.1 The Select Board (also referred to in this Section 7.2 as the “Board”) shall have authority for Site Plan approval required pursuant to the Zoning Bylaws, and the Board is hereby empowered and authorized to hear and decide petitions for Site Plan approval as set out in this Section 7.2. The Board is hereby authorized to adopt rules, regulations and standards (“Site Plan Rules, Regulations and Guidelines”) to implement the provision of this Bylaw, including submission and procedural requirements, development standards, design criteria and other general requirements consistent with this Bylaw. In case of a conflict between this Bylaw and a rule or regulation promulgated pursuant hereto, this Bylaw shall prevail.
- 7.2.1.2 The purpose of the Site Plan process and approval is to protect and further the public health, safety and general well-being of the inhabitants of the Town and to

preserve and enhance economic, cultural, and aesthetic resources and values by providing a comprehensive review of proposals and plans for uses, including buildings and structures related thereto, that require Site Plan approval pursuant to the Zoning Bylaws, and in doing so reasonably ensure that the design, layout and development of the site, such uses and/or buildings or structures will constitute development appropriate to the site and will not result in a detriment to the surrounding neighborhood(s) and area, including the visual and environment qualities of the area and the Town at large. The Site Plan process is intended to preserve and promote the viability of the Town both economically and as a desirable community, by preserving and enhancing property values and promoting the attractiveness of the Town as a place to live, work and visit.

The Bylaw is also intended to assist those seeking to move forward with a use, building and/or structure requiring Site Plan approval by providing them with information about Town zoning requirements affecting their project prior to the start of any such use or building/structure construction or the issuance of any permits.

## 7.2.2 *Applicability*

7.2.2.1 The following types of uses, buildings or structures used therefore, or changes thereto as set out below, require Site Plan Approval when Site Plan is required for the subject use in a zoning district under these Zoning Bylaws:

- (a) Any new use requiring Site Plan Approval under these Zoning Bylaws;
- (b) Any new construction of a building or structure for a use requiring Site Plan Approval under these Bylaws;
- (c) Any increase in size of an existing building or structure for a use which requires site plan approval in the zoning district under these Zoning Bylaws, unless exempted pursuant to Section 7.2.2.2 below;
- (d) Any increase in the area, regardless of whether in the gross floor area of a building or structure or the land area for a use which requires site plan approval in the zoning district under these Zoning Bylaws, unless exempted pursuant to Section 7.2.2.2 below;
- (e) Any change or intensification of a use which increases the parking requirement under the Zoning Bylaws by more than two (2) parking spaces,

unless such additional parking spaces already exist pursuant to a previously approved site plan; and

- (f) Grading or clearing of land or the placement, removal or movement of soil, loam, sand, gravel, minerals or other earth material on land in an amount in excess of of two hundred (200) cubic yards for purposes of commercial or business (non-residential) development. Nothing in this Section 7.2.2.1 shall relieve a party subject to Section 6.10 from also having to obtain a permit thereunder from the Building Inspector.

7.2.2.2. Any: (i) increase in the size of an existing building or structure which has previously obtained Site Plan approval which increase is equal to or less than 750 square feet or thirty percent (30%) of the existing gross floor area, or (ii) increase in the gross floor area of a building or structure or in the area of land which has previously obtained Site Plan approval which increase in area is equal to or less than 750 square feet or thirty percent (30%) of the existing area, shall require an administrative review (“Development Review”), instead of a site plan review and hearing by the Select Board. Said development review shall be by a development review team which shall assist the Building Inspector. The Development Review team shall, to the extent available, consist of the Director of Public Works, the Fire Chief, the Police Chief, the Health Inspector, a Town planning or community/economic development employee, the Historical Commission, and any other Town department head or enforcing official designated in writing by the Select Board, or any of the their individual designee(s). Submission requirements for Development Review shall be promulgated by the Board as regulations after input from relevant Town officials and departments. The Development Review team shall have authority to impose requirements and conditions consistent with this Section 7.2 and the Regulation and Guidelines established by the Select Board pursuant to this Section 7.2. No Site Plan shall be subject or amended pursuant to the Development Review process set out in this Section 7.2.2.2 more than once.

7.2.2.3 Any person or entity whose land or proposal is subject to Development Review pursuant to Section 7.2.2.2 above who completes said Development Review process, and as a result thereof is aggrieved by the said Development Review requirements, may within thirty (30) days of receiving a written copy of said Development Review requirements, apply for and obtain the right to a Site Plan hearing and approval process before the Select Board, pursuant to the provisions of this Section 7.2.

7.2.3 *General Standards/Criteria for Site Plan Review and Approval:*

- 7.2.3.1 In reviewing any Site Plan application, the Select Board shall determine that reasonably adequate provisions have been made for the following and, as applicable, in a manner consistent with the requirements of the Zoning Bylaws and the Site Plan Rules, Regulations and Guidelines promulgated by the Select Board:
- (a) Traffic access and circulation;
  - (b) Pedestrian safety and access;
  - (c) Off-street parking and loading;
  - (d) Emergency vehicle access;
  - (e) Storm water drainage, utilizing on-site absorption and low impact development integrated stormwater management practices;
  - (f) Erosion control;
  - (g) Protection and preservation of existing natural features;
  - (h) Screening, including the use of natural land features and plantings;
  - (i) Exterior lighting appropriate to the use and the neighborhood/area;
  - (j) Signage appropriate to the neighborhood/area;
  - (k) Site and building/structure (architectural) design which preserves and/or enhances property values and promotes the attractiveness of the Town as a place to live, work and visit, taking into account compatibility with the surrounding area, landscape, natural features, and the character and scale of surrounding buildings and structures both on site and in the surrounding area. Review of design and any Guidelines promulgated shall not impose inflexible requirements or discourage creativity, invention or innovation.
  - (l) Protect and preserve buildings, structures and areas of historical and/or aesthetic significance.
  - (m) Visual impact of parking, storage and other outdoor service areas;
  - (n) Water pressure and sewerage adequate to support the intended use;
  - (o) Electric and gas (where available) utilities; and fiber-based telecommunications facilities;
  - (p) Energy and other resource efficient design, through appropriate building orientation, landscaping, use of resource efficient materials, and use of energy and resource efficient systems.

7.2.4 *Site Plan Guidelines*

- 7.2.4.1 The Board shall review Site Plan Review applications in accordance with the General Standards described in Section 7.2.3 above. In doing so, the Board shall consider any Guidelines it adopts. Site Plan Guidelines, as adopted, are intended to provide guidance to the Applicant in the preparation of plans, as well as guidance to the Board during its review. They are not intended to be exhaustive, and specific additional guidelines may be applied to a project, as the Board determines they are

necessary. The Guidelines are intended to encourage good projects and good design, without discouraging creative and/or innovative solutions to problems of a site. The issues and concerns represented by the Guidelines should be addressed to the reasonable satisfaction of the Board in the final site plan.

- 7.2.4.2 In developing Site Plan Guidelines, the Board shall seek input and recommendations from Town boards and departments, including, to the extent such Town boards or positions are available, the Planning Board, a Town planning or community/economic development employee, the Building Inspector, the Department of Public Works, the Fire Department, the Police Department, the Board of Health and the Historical Commission.
- 7.2.4.3 In addition to the purposes of the Zoning Bylaws set out in Section 1.1, the following general criteria shall serve to assist the Select Board in its adoption of Guidelines:
- (a) Promote vehicular and pedestrian safety both on-site and off-site;
  - (b) Promote access for emergency vehicle and enhance and further the protection of public safety;
  - (c) Site buildings and structures so that they relate harmoniously to the terrain and to the use, scale, and siting of existing buildings and structures in the vicinity that have functional or visual relationship to the proposed building(s) or structure(s), and so that they minimize disruption of topography. Attention shall be paid to the proper functional, visual and spatial relationship of all buildings, structures, paved areas and landscape elements on the site;
  - (d) Minimize visual intrusions by screening and reasonably laying out parking, loading areas, storage, dumpsters/recycling containers, generators; other outdoor service areas viewed from public ways or residentially zoned premises, and by establishing landscaped areas to prevent large areas of unbroken pavement;
  - (e) Maximize property enhancement through the use of landscaping and other site amenities;
  - (f) Minimize obstructions of scenic views from publicly accessible locations;
  - (g) Minimize glare from lighting intrusions, including motor vehicle headlights;
  - (h) Provide safe parking areas, consistent with the reasonable minimization of visual intrusions, which should, as appropriate, include rails, bumper guards, bollards, islands, crosswalks and sidewalks;
  - (i) Reasonably balance, control and/or minimize impacts on adjacent properties though reasonable limitation of hours of operation, deliveries, and noise, consistent with the nature and purpose of the particular area as zoned and used, such as areas zoned and/or used for commercial purposes. Egress to dumpsters

and recycling containers shall provide, to the extent feasible, for efficient removal with a minimum of backing required by service vehicles;

- (j) Minimize the volume of cut and fill, soil erosion, area of impervious surface, the number of trees six inches (6”) in caliper or larger removed, and the area of wetland vegetation displaced;
- (k) Conform stormwater drainage to the Town’s Stormwater Bylaw and, as appropriate, to other standards as set out in the Guidelines;
- (l) Reasonable measures shall be taken to minimize and eliminate contamination of groundwater and soil;
- (m) Promote buildings and structures (and components, features and elements thereof), signs, and site development with architectural scale, design and elements that further the standard set out in Section 7.2.3.1, including subparagraph (k) thereof, and address issues relating to compatibility of buildings and structures, and site design, with buildings, structures and land both on the subject property and in the surrounding area;
- (n) Protect and preserve buildings, structures and areas of historical and/or aesthetic significance; and
- (o) Buildings and structures should be sited, to the extent reasonably feasible, to take advantage of renewable energy and conservation sources and resources.

#### 7.2.5 *Site Plan Application - Contents:*

7.2.5.1 Applications for site plan approval shall contain a fully executed and signed application for Site Plan review, including all documents, plans and information as set out in the Site Plan Regulations promulgated by the Select Board pursuant to this Section 7.2.

7.2.5.2 Waiver – The Board or its designee may waive any of the preceding application requirements if the Board (or its designee) concludes that: (i) compliance therewith will, because of the nature of the proposal, including its relative size or special nature, create an undue hardship on the applicant, and (ii) the waiver of said requirement(s) not be harmful to the public interest. Waiver of application requirements by the Board shall require a vote of three (3) members.

#### 7.2.6 *Submission Procedures*

7.2.6.1 Filing - In accordance with Section 7.2.3.1 above, the Applicant shall submit the Site Plan application, plan and fee with the Board, and also provide copy of the application and plan to the Town Clerk.

7.2.6.1.1 Filing fees shall be established by the Select Board.

- 7.2.6.1.2 The Site Plan shall not be deemed to have been filed with the Board until a complete application, including all plans and filing fee, has been received by the Board. The Board may deny a Site Plan application for being incomplete.
- 7.2.6.1.3 The Select Board shall distribute copies of the Site Plan application and plan(s) to all appropriate Town boards and departments for their comments and recommendations.

7.2.7 *Review Fees for Outside Consultants:*

- (a) When reviewing an application for site plan approval or modification. (hereinafter also referred to as a "proposal"), the Select Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed development or because of its potential impact. The Board may require that applicants pay a review fee to the reasonable costs incurred for the employment of outside consultants engaged by the Board to assist in the review of an application.
- (b) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants and/or other appropriate professionals who can assist the Board in analyzing a proposal to ensure compliance with all relevant laws, bylaws and regulations. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue ~~or~~ and three or more years of practice in the field at issue or a related field.
- (c) Funds received by the Board pursuant to this section may be deposited with the town treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been collected from the applicant. In the alternative, the funds received may, upon a determination by the Board, be deposited in the general fund subject to the requirement of providing a refund in the amount proscribed below. Failure of an applicant to pay a review fee shall be grounds for denial of the site plan approval or modification.
- (d) Review fees may only be spent for services rendered in connection with the specific proposal for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person

or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession.

- (e) Any applicant may take an administrative appeal from the selection of an outside consultant to the Select Board sitting outside of its site plan hearing process. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum; required qualifications. (5-5-97, Art. 1)

## 7.2.8 *Public Hearing*

7.2.8.1 The Select Board shall commence a public hearing on the application within forty-five (45) days of the receipt of a completed application, plan(s) and filing fee, or such later date as may be agreed to by the applicant and the Board or its designee. Notice of the hearing shall be given by: (i) mailing notice to all abutters, owner of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line of the applicant, as they appear on the most recent applicable tax list (it shall be the responsibility of the applicant to mail such notices) preferably at least fourteen (14) days prior to the date of the hearing, but in no event seven (7) days prior the hearing date; (ii) publication once in a newspaper of general circulation in the Town; (iii) posting on the Town's web-site no later than seven (7) days prior to the hearing date; and (iv) posting a notice in a conspicuous place in Town Hall no later than seven (7) days prior to the hearing date.

7.2.8.2 If the Site Plan hearing is at the determination of the Select Board and Planning Board held concurrently with a hearing by the Planning Board on a Special Permit application, the Site Plan hearing and the Special Permit hearing shall be held at the same time, notwithstanding the 45-day time limitation contained in Section 7.2.6.1 above.

## 7.2.9 *Site Plan Approval and Conditions:*

7.2.9.1 The Select Board shall act on the Site Plan application within forty-five (45) days of the close of the public hearing or such later date as may be agreed to by the applicant and the Board or its designee. If the Board does not act within said forty-five (45) days or said extended period of time, the Site Plan shall be deemed approved upon a written notice of the passing of said deadline being filed by the Applicant with the Select Board and Town Clerk prior to a decision being filed by the Board with the Town Clerk.

- 7.2.9.2 If the Site Plan and Special Permit hearings are held concurrently, the time period for a Site Plan hearing and determination by the Select Board shall the same time period(s) as applicable to the special permit.
- 7.2.9.3 The Select Board shall not approve an application for Site Plan Approval unless it finds that said Site Plan complies in all respects with the applicable requirements of these Zoning Bylaws.
- 7.2.9.4 In approving a Site Plan, the Select Board may attach such conditions, limitations, and safeguards as are deemed necessary to protect the inhabitants of Stoneham and the Town pursuant to the authority set out in herein. The Site Plan shall be modified by the Applicant to reflect said conditions, limitations and safeguards.
- 7.2.9.5 The Select Board may establish dates for the lapse of site plan approval without substantial use thereof or commencement of construction, as applicable, and/or completion dates for construction, said deadlines not to be less than one (1) year or greater than two (2) years, unless otherwise agreed to by the parties, and subject to exceptions, as determined by the Board for good cause, including time awaited with respect to an appeal of the Site Plan decision.
- 7.2.9.5.1 If requested by the Board, an applicant shall submit a written statement indicating the estimated time needed for, commencement of construction and/or completion of construction.
- 7.2.9.6 Site Plan approval may be denied by the Board only upon a failure of an applicant to modify its plan, as required pursuant to Section 7.2.8.4, or for compelling reasons having to do with the public health, safety and general well-being or for being so intrusive of the needs of the public in a matter which is a subject of Site Plan approval pursuant hereto, and for which no reasonable solution or condition would remedy the problem with said application/plan.
- 7.2.9.7 Site Plan approval shall require an affirmative vote of four (4) members of the Select Board.
- 7.2.10 *Bonding:*
- 7.2.10.1 The Select Board may require the posting of a bond, deposit of funds or other security in such form as may be further set out in the Site Plan Regulations or reasonably required by the Board, and in such amount as deemed reasonably necessary by the Select Board to: (a) ensure the completion of infrastructure,

improvements or related work required as a condition of Site Plan approval that directly or indirectly impact: (i) Town infrastructure or services; (ii) public safety; (iii) vehicular and pedestrian ways and related infrastructure, including the conditions related thereto imposed pursuant to the general standards set out in Section 7.2.3, above; and/or (b) provide for the elimination of safety or health hazards which may result from preparation of the site for construction or construction on the site.

7.2.10.2 Provision for inspection, control and notice of satisfactory performance sufficient to guarantee the release of the bond required by the Select Board shall be made by the Board or its designee(s).

7.2.11 *Appeals:*

7.2.11.1 Absent a Massachusetts General Law or a Special Act of the Legislature allowing for an appeal by a person aggrieved by a Site Plan decision to a court of competent jurisdiction, there is no judicial appeal of a Site Plan decision. Instead, an appeal may be taken by an aggrieved party to the permit granting authority (the Zoning Board of Appeals) after the issuance or denial of a building permit, pursuant to Section 8 of Chapter 40A.

7.2.12 *Compliance:*

- 7.2.12.1 (a) No building permit shall be issued by the Building Inspector for a use or building or structure related thereto which requires Site Plan approval pursuant to the Zoning Bylaws.
- (b) No final occupancy permit shall, other than as provided pursuant to paragraph (c) below, be issued for any building or structure, or portion(s) thereof, until the Building Inspector certifies that all conditions of the approved site plan have been met. If requested by the Building Inspector to assist in the Inspector's determination of such compliance, the person seeking the occupancy permit shall submit to the Building Inspector a certification from an professional engineer, land surveyor or registered architect that the conditions of the approved site plan have been met, other than those conditions which are specifically listed on said certification as being outside of said consultant's expertise and/or knowledge.
- (c) Occupancy permits may be issued for a portion of a building or structure, if the only incomplete work shown on the site plan is landscaping and/or roadway top course work, and the Board may require surety in an amount to ensure that the incomplete landscaping and/or roadway top course is completed within a reasonable period of time thereafter, weather conditions permitting.

7.2.13 *Maintenance:*

7.2.13.1 All improvements required as a condition of Site Plan approval that impact infrastructure or services, including the conditions imposed pursuant to the general standards set forth in Section 7.2.3 above, shall be adequately maintained and repaired or replaced when necessary to insure continued compliance with the approved Site Plan.

7.2.14 *Modification To Approved Site Plans*

7.2.14.1 To request a modification to an approved Site Plan or a Development Review determination pursuant to Section 7.2.2.2, an applicant shall submit a written description of the proposed modification(s) to the Board. Applications for modifications of Site Plans or Development Review determinations shall be subject to the same submittal, review and hearing procedures as applicable to an original filing for Site Plan approval or a Development Review determination Unless the Select Board determine otherwise, based upon the facts and totality of circumstances, a request for an extension of time to commence or complete work pursuant to an approved Site Plan, shall not require a public hearing.

7.2.14.2 The Select Board shall, to the maximum extent allowable under applicable law, have the right to amend and modify a Site Plan approval at any time for reasons consistent with the authority of the Select Board pursuant to this Section 7.2. Site Plan modifications by the Select Board shall be subject to the same submittal, review and hearing procedures as was applies to original filing, unless: (i) the Board determines that a particular modification is consistent with the previously approved Site Plan; (ii) the applicant that received the earlier Site Plan approval or their successor agrees to waive the hearing requirement; and (iii) a Development Review is held pursuant to the process set out in Section 7.2.2.2 above.

(5-8-14, Special Town Meeting, Art. 4)

**7.3 *PLANNING BOARD:***

7.3.1 *Establishment:*

7.3.1.1 The Planning Board referred to herein shall be the Planning Board of the Town of Stoneham.

7.3.2 *Powers:*

7.3.2.1 The Planning Board herein referred to shall have all the powers referred to under the provisions of Sections 81A through 81GG, Chapter 41, Massachusetts General Laws, as amended, relating to Planning Boards and to subdivision control.

7.3.2.2 To hear and decide petitions for Special Permits upon which the Board is empowered to act under this bylaw.

**State law references**—Municipal planning and planning boards, G.L. c. 41, secs. 81A-81J. Subdivision control law, G.L. c. 41, secs. 81K-81GG.

**Cross reference**—Planning Board, Regulations, Ch. 17.

**7.4** ***SPECIAL PERMIT:***

7.4.1 *Planning Board Associate Member: (5-01-23, Art. 5)*

7.4.1.1 Pursuant to Section 9, Chapter 40A, Massachusetts General Laws, the Stoneham Planning Board, acting as the Special Permit granting authority, shall have up to one associate member, who shall sit on the Board when there are less than five members sitting, for the purposes of acting on a Special Permit application. This position of associate member will be filled by joint appointment of the Select Board and the Planning Board and the term shall be fixed for three years. If provision for the associate member has been made, the Chair of the Planning Board shall designate the associate member to sit on the board for the purpose of acting on a Special Permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board.

7.4.2 *Procedure:*

7.4.2.1 Additional procedural requirements in the special permit process are located in Chapter 17 of the Stoneham Town Code. (4-03-01, Art. 5)

7.4.3 *Conditions for Approval of a Special Permit:*

7.4.3.1 The Planning Board shall not approve any such application for a Special Permit unless it finds that in its judgment use of the site is in harmony with the general purpose and intent of this bylaw and is subject to and consistent with the conditions, safeguards and limitation herein set forth, and is subject to all the following conditions (except that uses accessory to activities permitted as a matter of right and which activities are necessary in connection with scientific research or scientific development or related production may be permitted provided the applicable Board

finds that the proposed accessory use does not substantially derogate from the public good):

- (a) The specific site is an appropriate location for such use, structure, or condition.
- (b) The use as developed and operated will not adversely affect the neighborhood.
- (c) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (e) Access to the site over streets is appropriate for the type of vehicles involved.

7.4.3.2 In approving a Special Permit, the Planning Board may attach such conditions, limitations and safeguards as are deemed necessary to protect the District and the Town. Such conditions may include, but are not limited to, the following:

- (a) Requirement of front, side or rear yards greater than the minimum required by this bylaw.
- (b) Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
- (c) Modification of the exterior features or appearances of the structure.
- (d) Limitation of size, number of occupants, method or time of operation, or extent of facilities.
- (e) Regulation of the number, design and location of access drives or other traffic features.
- (f) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaws.

7.4.4 *Exercise of a Special Permit:*

7.4.4.1 A Special Permit shall be exercised within two (2) years after issuance, including the time required to pursue or await the determination of an appeal referred to in Section 7.6, or shall lapse.

7.4.5 *Special Permit for Temporary Structure or Use:*

7.4.5.1 In undeveloped sections of the Town and in built-up sections where some good reason exists, the Building Inspector may grant temporary and conditional permits for a period of not more than one (1) year at a time, subject to a single renewal for buildings and uses which do not conform to the use regulations of the District; provided that such permits are made subject to such conditions as shall safeguard the

character of the District and are granted in accordance with the procedure provided in Section 7.4.

- 7.4.5.2 Upon the expiration of such permit, the structure shall be removed and the use cease and the land shall be restored to useable condition.

**State law reference**—Special permit, G.L. c. 40A, Sec. 9.

**Editor's note**—Secs. 7.4.6 - 7.4.6.2 have been renumbered as Sec. 7.2.3 - 7.2.3.2.

## **7.5 ENFORCEMENT:**

### *7.5.1 Enforcing Officer:*

- 7.5.1.1 *Designated:* The Building Inspector appointed under provisions of the Building bylaw shall enforce the provisions of this Section.

- 7.5.1.2 *Violation - Inspection of Property:* If the Building Inspector shall be informed or knows that any provision of this Section has been or is being violated, he shall inspect the property where the violation exists.

- 7.5.1.3 *Violations - Notice:* If the Building Inspector shall find any such violation as specified in Subsection 7.5.1.2 of this Section, he shall give notice in writing to the owner or his authorized agent and to the occupant of the premises that any use of the building or structure contrary to this Section shall immediately cease.

- 7.5.1.4 *Violations - Revocation of Occupancy Permits:* If after such notice as specified in Subsection 7.5.1.3 of this Section, the building or structure is used contrary to the provisions of this Section or if any owner or occupant fails to obey a lawful order of the Building Inspector in respect to any violation of this Section, he may revoke the permit for occupation of the premises.

- 7.5.1.5 *Violations - Injunctions and other methods of enforcing Section:* Upon such failure to obey as is specified in Subsection 7.5.1.4 of this Section, the Building Inspector shall make complaint to the court having jurisdiction thereof or apply to the Superior Court for an injunction or order restraining the further use of the premises and shall take any and all such action as may be necessary to enforce this Section.

- 7.5.1.6 *Authority Generally:* In all other matters the Building Inspector shall have all authority granted him under the provisions of the Statutes of the Commonwealth, the provisions of this bylaw, and the provisions of any other Bylaws of the Town of Stoneham.

**State law references**—Inspection of Buildings, G.L. c. 143, secs. 3-61. Massachusetts State Building Code, 780 CMR 100, et seq.

7.5.2 *Building Permits:*

7.5.2.1 The Building Inspector shall act as follows:

- (a) *Issuance in violation of this Section:* The Building Inspector shall issue no permit for the construction, erection, removal or alteration of any building or structure which is designed or intended to be used for a purpose in violation of this Section.
- (b) *Posting:* The Building Inspector shall, upon granting a permit, not later than twelve (12) hours thereafter, cause a copy to be posted on the property to which it relates in a conspicuous location thereon.
- (c) *Date of Issuance:* The Building Inspector shall issue no permit for the construction, erection, alteration or removal of any building until after three (3) days from the time of the filing of the application therefor.

7.5.2.2 The Building Inspector shall not issue a building permit for any building or use requiring Site Plan Approval unless such approval has been obtained.

7.5.2.3 Building permits, excluding permits for accessory structures, additions and alterations and renovations, for buildings not having frontage on: (1) a public way or a way certified which the Town Clerk or Town Engineer certifies is maintained and used as a public way, or (2) a way shown on a definitive subdivision plan approved and endorsed in accordance with the Subdivision Control Law and recorded at the Registry of Deeds and constructed in accordance with said plan shall comply with the following provisions:

- (a) A building permit, excluding permits for accessory structures, additions and alterations and renovations, for a building having frontage on a way in existence when the Subdivision Control Law became effective in the Town of Stoneham may be issued only if the way has, in the opinion of the Planning Board, sufficient width, suitable grades, adequate site distance and turning radius, complies with the engineering requirements for safe entry and egress to or from another way, has adequate construction to provide for the need of vehicular and pedestrian traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon all in accordance with the requirements of the Department of Public Works. The Planning Board may grant a waiver from the department of Public Works requirements in any particular case where such waiver is in the public interest and not inconsistent with the intent and purpose of the zoning Bylaws.

- (b) A building permit, excluding permits for accessory structures, additions and alterations and renovations, for a building which abuts a private way offering the principal means of access to abutting properties but which way does not qualify as a street pursuant to Section 2.1.74 (b) or (c) or which does not have public water and sewer available for connection may be issued only if the following requirements have been met:
- i. A determination has been made by the Planning Board, based upon a plan submitted by the applicant in accordance with the rules and regulations of the Planning Board as to plan form that a way having sufficient width, suitable grade, adequate site distance and turning radius, complies with the engineering requirements for safe entry and egress to or from another way and has adequate construction to provide for the needs of vehicular and pedestrian traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation and provision of municipal services to serve such land and the buildings thereon or to be erected thereon can be constructed all in accordance with the engineering requirement of the Department of Public Works. The Planning Board may grant a waiver from the Department of Public Works requirements in any particular case where such waiver is in the public interest and not inconsistent with the intent and purpose of the zoning Bylaws; and
  - ii A determination by the Planning Board or its agent that the way and municipal services referenced in subparagraph (i) above have been constructed in accordance with the plan submitted and approved by the Planning Board or in the opinion of the Planning Board or its agent have been sufficiently constructed for the granting of a building permit with a bond, deposit or passbook or tri-party agreement or other form of security acceptable pursuant to the requirements of the Planning Board securing completion thereof, and
  - iii The lot upon which the building is located existed and was duly recorded at the Registry of Deeds prior to the enactment of this Bylaw, and
- (c) All other requirements concerning the issuance of a building permit must be complied with prior to the issuance of a building permit.

Nothing herein or pursuant to the definition of "street" in Section 2.1.76 shall prohibit the granting of a building permit, otherwise permitted pursuant to the zoning bylaws, for an accessory structure or for an addition, alteration or renovation of a building lawfully constructed prior to the adoption of this Bylaw regardless of

whether said way qualifies as a street pursuant to Section 2.1.74 (a), (b), or (c). (5-5-97, Art. 3)

7.5.3 *Violations:*

7.5.3.1 If the Building Inspector shall be informed, in accordance with Section 7 of Chapter 40A of the General Laws, or otherwise have reason to believe that any provision of this bylaw has been, is being, or may be violated, he or his agent shall investigate the facts and inspect the property in question.

7.5.3.2 If the Building Inspector shall find such violation, he shall give notice thereof in writing to the owner or the duly authorized representative thereof and to the occupant of the premises, and order that the use of any building or premises contrary to the provisions of this bylaw shall cease immediately.

7.5.4 *Occupancy Permits:*

7.5.4.1 No building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever, and no change of use shall hereafter be made of any land or in any building or part thereof, until a certificate of occupancy and compliance shall have been issued by the Building Inspector stating that the building or use or both complies with the provisions of this Section, other provisions of the bylaws of the Town, and the provisions of the laws of the Commonwealth. (4-03-01, Art. 11)

7.5.4.2 Applications for certificates of occupancy and compliance shall be filed coincident with application for building permits and shall be issued or refused in writing for cause within five (5) days after the Building Inspector has been notified in writing that the erection or alteration of such building or buildings has been completed.

7.5.4.3 A record of all certificates of occupancy and compliance shall be kept on file in the office of the Building Inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property.

7.5.4.4 Buildings accessory to dwellings when completed at the same time shall not require a separate Certificate of Occupancy.

7.5.4.5 Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion.

7.5.4.6 Such certificate shall not be issued, except under such restrictions and provisions as will adequately insure the safety of occupants.

7.5.4.7 No temporary certificates shall be issued prior to its completion, if the building fails to conform to the provisions of the building laws and the laws of the Commonwealth or of this Section to such a degree as to render it unsafe for the occupancy proposed.

7.5.5 *Penalty:*

7.5.5.1 The penalty for the violation of any provision of this bylaw shall be Three Hundred Dollars (\$300) for each day such violation continues after receipt of notice thereof. (5-2-88, Art. 9)

**7.6 *RIGHT TO APPEAL:***

7.6.1 Actions of the Building Inspector may be appealed to the Board of Appeals by:

7.6.1.1 Any person aggrieved by an order, act or refusal of the Building Inspector to grant a permit.

7.6.1.2 Any person aggrieved by the issuance of a permit by the Building Inspector.

7.6.1.3 Any person aggrieved by inability to obtain enforcement action from the Building Inspector in accordance with the provisions of Section 7 of Chapter 40A of the Massachusetts General Laws, as amended.

**Editor's note**—Section 7 of Chapter 40A referenced above is now Section 8 of Chapter 40A.

**8.0 *APPLICABILITY:***

**8.1 *EFFECTIVE DATE:***

8.1.1 The adoption of this bylaw shall have the force and effect of repealing all presently existing Zoning bylaws and amendments thereto, heretofore adopted by the Town of Stoneham, except those relating to establishment and powers of the boards referred to herein.

8.1.2 The effective date of this bylaw, and the establishment of the respective Districts shall be deemed to be October 21, 1985. The effective date of each subsequent amendment or change of this bylaw shall be shown by an appendix to this bylaw which shall be kept on file in the office of the Town Clerk.

**8.2 *OTHER REGULATIONS:***

8.2.1 Nothing contained in this bylaw shall be construed so as to repeal or nullify any existing bylaw or regulation of the Town, other than those referred to in Section 8.1.1, but shall be in addition thereto. Where the subject matter herein contained is elsewhere regulated, the more stringent provision shall prevail.

**8.3      *LIMITATIONS:***

- 8.3.1      This bylaw shall not be deemed to effect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided that where this bylaw imposes a greater restriction upon the use of buildings or land or upon the erection, construction, enlargement of buildings than is imposed by other provisions of the Bylaws of the Town, rules, regulations, certificates or other authorizations or by easements, covenants or agreements, the provisions of this bylaw shall prevail.

**8.4      *VALIDITY:***

- 8.4.1      Nothing in this bylaw shall be construed as establishing regulations or restrictions which are not uniform for each class or kind of buildings, structures, or land, and for each class or kind of use in each district.

**8.5      *SEVERABILITY:***

- 8.5.1      The invalidity of any portion or provision of this bylaw shall not affect the validity of any other Section or provision thereof.

**9.0      *ADOPTION AND AMENDMENT:***

- 9.1      This bylaw shall be adopted, and may from time to time be amended, in accordance with the provisions of Section 5 of Chapter 40A of the Massachusetts General Laws, as amended.

**State law reference**—Adoption or change of zoning bylaws, procedures, G.L. c. 40A, Sec. 5.