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## Section 1: Purposes and Authority

### 1.1 Purpose

This Chapter is created for the purpose of promoting the health, safety, convenience, morals and welfare of the inhabitants of the Town, as provided by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended, by regulating and restricting the height, number of stories and the size of buildings and structures, the size and width of lots, the percentage of lots that may be occupied, the size of yards, the density of population and the location and use of buildings, structures and land for trade, industry, residence and other purposes, thereby:

- a. Encouraging the most appropriate use of land,
- b. Preventing overcrowding of land,
- c. Conserving the value of land and buildings,
- d. Lessening congestion of traffic,
- e. Preventing undue concentration of traffic,
- f. Providing adequate light and air,
- g. Reducing hazards from fire and other danger,
- h. Assisting in the economical provision of transportation, water, sewerage, schools, parks and other public facilities,
- i. Encouraging the provision of housing for persons of all income levels, and
- j. Preserving and increasing the amenities of the Town.

### 1.2 Authority

This bylaw is adopted under the authority provided by and in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended.

## Section 2: Definitions

### 2.1 Definitions

For the purposes of this bylaw certain terms and words are herein defined as follows: Words used in the present tense include the future; words used in the singular number include the plural and words used in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the word "plot;" the word "land" includes the words "marsh" and "water."

**Accessory use of structure:** A use of structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

**Accessory building:** A use or a structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory use or structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

**Accessory dwelling unit:** a self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same lot as a principal dwelling.

**Boarding house:** A building or premise other than a hotel, inn, motel, tourist house or lodging house, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests in contrast to hotels, restaurants, and tourist homes, open to transients.

**Buildings:** A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

Building, attached:

- a. A building having any portion of one or more walls in common with adjoining buildings; or
- b. A building separated from another building by a contiguous wall or walls without any side yards; or
- c. A building having any connecting or separation materials between it and another building.

**Building, detached:** A building having open space on all sides from the ground up and having no direct or indirect physical connection with another building or structure.

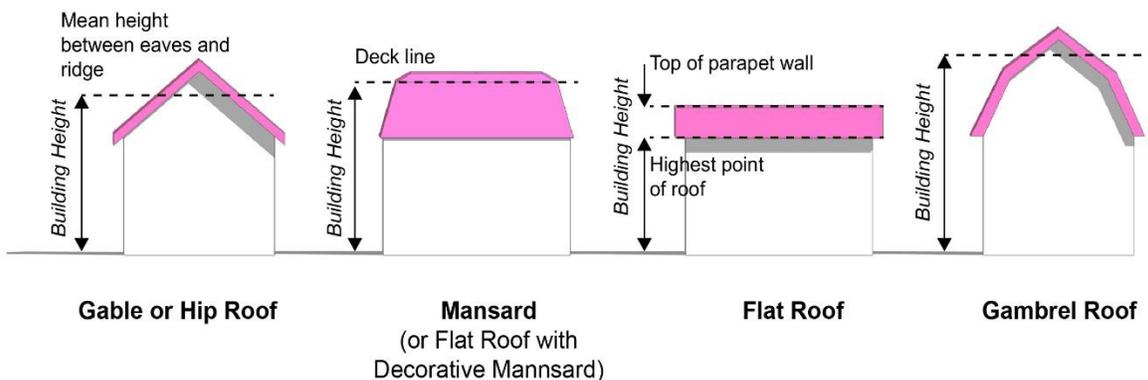
**Building coverage:** The aggregate ground floor area of all buildings on the lot, including accessory buildings but excluding unroofed porches and steps and cornices, eaves,

chimneys, or gutters projecting not more than thirty (30) inches, expressed as a percentage of the lot.

**Building height.** Building height is measured from the average elevation of the finished grade at the front lot line to:

- a. The mean height between eaves and ridge for gable and hip roofs.
- b. The deckline for mansard roofs.
- c. The midpoint of the highest pitched section of a gambrel roof.
- d. The highest point of the roof for flat roofs with parapet walls of 48 inches in height or less. When parapet walls exceed 48 inches in height, the highest point of the parapet wall.

A building appurtenance such as a chimney, a parapet walls up to 48 inches in height, a skylight, a steeple, a flag pole, a smokestack, a cooling tower, an elevator bulkhead, a monument, a stack, an ornamental tower, a spire, a water tank, a standpipe, or a penthouse to house mechanical equipment, and such are exempt from the maximum height limitation



Building Heights for various building types

**Building Inspector:** The Inspector of Buildings appointed by the Town Administrator and charged with the enforcement of this ordinance, or his duly authorized representative.

**Certificate of occupancy and compliance:** A statement signed by the Building Inspector setting forth either that a building or structure complies with the provisions of this Chapter or that a building, structure or parcel of land may lawfully be used for specified uses, or both.

**Church or other place of worship:** A church, temple, synagogue, mosque or other similar place of worship.

**Club:** A building or portion thereof, or an area, which is used to meet the social and recreational needs of a non-profit group or organization to which membership is limited or controlled.

**Condominium:** A system of real estate ownership in which a person or persons, partnership or corporation own one or more units or parcels in a multi-unit structure or parcel of land plus an undivided interest in elements and/or components owned jointly by all of the unit owners, or as defined in Chapter 183A of the General Laws of Massachusetts, as amended.

**Congregate housing / resident care living facilities:** A living arrangement for elderly persons, 55 years of age or older, who cannot easily maintain their own housing, financially or otherwise, who do not need nursing home care.

**Conversion:** A transformation of all or a portion of a building which results in a greater number of units of each use. Also, a transformation which changes the types of use of a building from one to another.

**Convalescent home:** A health station, retreat, or an institution for the recuperation and treatment of persons suffering from physical or mental disorders.

**Crematorium:** A location containing properly installed, certified apparatus intended for use in the act of cremation.

**Design review:** The process wherein a developer's site plan is submitted to the Town for examination and evaluation of the technical elements of the submitted materials as well as determination of how well the plan itself meets officially adopted criteria.

**Distribution:** The movement of products, generally between storage and retail locations.

**Dwelling:** Any building, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

**Dwelling, multifamily:** A dwelling designed to accommodate four or more dwelling units

**Dwelling unit:** One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

**Family:** One (1) or more persons living together in one (1) dwelling unit as a single housekeeping unit as distinguished from a group occupancy, a boarding house, club, hotel or other communal arrangements.

**Floor area, net:** The sum of the interior floor area of the floors of a building exclusive of unoccupied basements, stair wells, halls, bathrooms, corridors, attics, walls, partitions, porches, and attached accessory buildings, as measured between exterior faces of walls.

**Floor area, gross:** The sum of the areas of the several floors of a building as measured by the exterior faces of the walls, not including the area of cellars, atriums, unroofed porches, balconies or terraces, attics not used for human occupancy or any floor space in an accessory building or in the main building intended for or designed for parking of motor vehicles. However, gross floor area shall include the floor space in a principal building devoted to any home occupation.

**Floor area ratio:** Gross floor area of all buildings on the lot divided by total lot area.

**Frontage:** The linear extent of a lot measured along a street right-of-way from the intersection of one side lot line to the intersection of the other of the same lot, which can be used for access to the lot, but not including any portion thereof serving more than one (1) lot or dwelling unit.

**Garage, private:** Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls or for commercial repair or commercial storage.

**Garage, public:** Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, or supplying of gasoline

**Gasoline station:** An establishment which provides for the servicing of motor vehicles and operations incidental thereto, which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**Hazardous materials:** A substance or solid material in a quantity or form that significantly contributes to serious illness or death, or that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed, or listed in the future, as hazardous by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act, or similar authority, the Department of Energy, or by the Commonwealth of Massachusetts pursuant to applicable General Laws.

**Home occupation:** An endeavor involving the production of goods or services conducted from a dwelling which endeavor is secondary to the use of the dwelling for residential purposes and which does not change the residential character thereof.

**Hospital:** An institution licensed by the Commonwealth of Massachusetts as a hospital providing health services for in-patient and out-patient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, out-patient departments, central staff service facilities, and staff offices which are an integral part of the institution.

**Hospital, veterinary:** Commercial facilities for keeping animals to be treated, in treatment or recovering from treatment, in accord with normal veterinary practice as established by the Massachusetts Board of Registration of Veterinary Medicine.

**Hotel:** A building designed or used for paying guests, primarily the temporary abode of persons who have their residence elsewhere, who are lodged with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites; access to individual rooms shall be available only through a common lobby and/or interior corridors.

**Industrial park:** An area planned for occupancy for more than one (1) industrial building with shared common areas and/or parking areas.

**Junkyard:** The use of any lot, whether inside or outside a building, for the storage of junk, rags, or scrap materials, or the storage, dismantling, demolition or abandonment of construction equipment or machinery or parts thereof or of unregistered automobiles or other vehicles not in condition for use on a public highway.

**kennel:** Facilities for keeping three (3) or more dogs or cats three (3) months old or older on a single premise, whether maintained for daytime care, breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs or cats are customarily kept for sale.

**Laboratory:** A facility for scientific laboratory research in technology-intensive fields.

**Landscaped land:** Land fully developed and maintained to present a pleasant appearance and to stabilize the soil, using primarily vegetation and natural features of the site, although these may be supplemented by decorative paving.

**Loading space, off-street:** An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street or other appropriate means of ingress and egress.

**Lodging house, licensed:** A licensed dwelling other than a hotel or motel in which living space is let.

**Lot:** A parcel of land which is or may be occupied by a building and accessory buildings including open spaces required under this Chapter. "Lot" includes the words "plot" or "parcel."

**Lot, building:** Any single parcel of land as shown or defined on a recorded instrument or defined by metes and bounds, which is designated by its owner at the time of filing for a building permit or certificate of occupancy as a tract to be used, developed or built upon, and not including any part of a street. See also, Lot, Corner.

**Lot, corner:** A lot abutting on two (2) or more streets at their intersection.

**Lot width:** The shortest distance between the side lot lines of the lot measured at the minimum setback line.

**Manufacturing:** Fabrication with hands or machinery.

**Manufacturing, light:** Assembly of parts or materials fabricated off-site.

## **Marijuana-related definitions**

- a. **Medical marijuana treatment center:** A “Medical Marijuana Treatment Center” shall mean a not-for-profit entity, as defined by Massachusetts law Chapter 369 of the Massachusetts Acts and Resolves of 2012 (St. 2012, Ch. 369) which codifies the Citizens Initiative Petition #11-11, Question #3 on the November, 2012 state ballot] and applicable regulations of the Massachusetts Department of Public Health [105 CMR 725] only, registered under said law and regulations, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. Unless otherwise specified, a Medical Marijuana Treatment Center refers to the site(s) of dispensing, cultivation, and preparation of marijuana. A Medical Marijuana Treatment Center is pursuant to 105 CMR 725 “to be known as a “Registered Marijuana Dispensary”, and as such requirements of this bylaw, or other law or regulations applicable hereto, shall be applicable regardless of whether the term Medical Marijuana Treatment Center or Registered Marijuana Dispensary is used.
- b. **Marijuana for medical use:** Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined in G.L. c. 94G and the applicable regulations of the Massachusetts Department of Public Health, 105 CMR 725.
- c. **Marijuana:** The same substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.; and the substance defined as “marijuana” by 105 CMR 725.

**Mixed use:** A mix of residential and allowable non-residential uses in one building or in separate buildings on a single parcel or development site.

**Mortuary / funeral home:** An establishment providing services such as preparing the human dead for burial and arranging and managing funerals.

**Non-conforming lot:** A non-conforming lot is an existing lawful lot, which does not conform to the regulations of the District in which it is located and which existed at the time of the publication of the notice of the hearing before the Planning Board or Select Board, whichever was first, respecting the regulation to which it does not conform.

**Non-conforming structure:** Any structure which does not conform to dimensional regulations or to the parking and loading requirements of this ordinance for the District in which it is located; provided that such structure was in existence and lawful at the time of

the publication of notice of the hearing before the Planning Board or Select Board, whichever was first, respecting the regulation to which it does not conform.

**Non-conforming use:** An existing lawful use of land or building which does not conform to the regulations for the District in which such use of land or building exists and which existed at the time of the publication of notice of the hearing before the Planning Board or Select Board, whichever was first, respecting the regulation to which it does not conform.

**Office:** An office of recognized professionals, such as physicians, dentists, lawyers, engineers, artists, musicians and teachers, who are qualified to perform services of a professional nature.

**Outdoor auto sales:** Automobile rental, leasing, and/or sales, or the storage of vehicles for rental, leasing and/or sales, but not including the service, repair or dismantling of any automotive vehicle, conducted in whole or in part in an area which is not enclosed within a building or structure.

**Parking space:** An area for temporary or permanent storage of a vehicle.

**Parking structure, open:** A structure for the parking of passenger cars wherein two (2) or more sides of such structure are not less than fifty (50) percent open on each floor or level for fifty (50) percent of the distance from the floor to the ceiling and wherein provisions for the servicing and repairing of such vehicles is not made.

**Person:** The word person shall include a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

**Personal services:** A facility providing personal services, including but not limited to hair salon, barber shop, tanning beds, dry cleaning, massage parlors, tattoo parlors, aesthetician services, print shop, photography studio, and the like.

**Place of amusement or entertainment.** Any indoor or outdoor place that is maintained or operated for the amusement, patronage, or recreation of the public including but not limited to skating rinks, dance halls, establishments with live entertainments, and theaters.

**Public or semi-public building or use:** A building or use owned or operated by a local, county, state or federal governmental agency.

**Repair Shop:** Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive repair use types.

**Resident care living facility:** A facility that provides housing, support, and care for seniors or those needing assistance, including nursing facility, assisted living facility, hospice care facility, and long-term care facility.

**Restaurant:** A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building.

**Retail:** The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

**Setback or line of setback:** The distance from a lot line to part of structure nearest the lot line measured at right angles to the lot line, not including cornices, walls and fences.

**Sexually oriented business:** An Adult theatre, Adult bookstore, Adult video store, Adult dance club, Adult motion picture theatre, Adult paraphernalia store, and Establishment which displays live nudity for its patrons

**Adult theater:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 727, Sec. 31.

**Adult bookstore:** An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matters which are distinguished as characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31.

**Adult video store:** An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in said section thirty-one of said chapter two hundred and seventy-two, G.L. c. 272, Sec. 31.

**Adult dance club:** An establishment having as a substantial or significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in G.L. c. 272, Sec. 31.

**Adult motion picture theatre:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31.

**Adult paraphernalia store:** An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including, sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31.

**Establishment which displays live nudity for its patrons:** Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in G.L. c. 272, Sec. 31.

**Substantial or significant portion:** The term “substantial and significant portion” as used with respect to adult uses shall mean any of the following:

- a. Twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time; or
- b. Twenty percent (20%) or more of the annual number of gross sales, rentals or other business transactions; or
- c. Twenty percent (20%) or more of the annual gross business revenue; or
- d. Twenty percent (20%) or more of the hours during which the establishment is open.

**Short-term rental:** The use of a dwelling unit for residential occupancy for a period of fewer than thirty (30) consecutive calendar days for a fee. A short-term rental may or may not be facilitated through an online booking agent.

**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.

**Special permit:** As defined in Massachusetts General Laws Chapter 40A, Sections 9 and 9A.

**Storage:** The deposit and/or care of materials in a warehouse or otherwise for safekeeping and/or ultimate distribution.

**Story:** That portion of a building included between the surface of any one floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. One-half ( $\frac{1}{2}$ ) story means any story or space situated wholly or partly in the roof, so designed, arranged, or built to be used for storage or habitation.

**Street:** A way legally open and available for safe public travel under at least one of the following classifications:

- a. A public way or way which the Town Clerk or Town Engineer certifies is maintained and used as a public way; or
- b. 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 or having a sufficient performance guarantee to ensure completion of construction in accordance with said plan; or
- c. A way in existence when the Subdivision Control Law became effective in the Town of Stoneham which, in the opinion of the Planning Board has 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 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.

d. A way constructed pursuant to the provisions of Section 9.5.2.A.c.

A public or private way aforesaid shall not be deemed to be a "street" as to any lot of land that does not have rights of access to and passage over said way, except to the extent a way may provide the principal means of access for 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 Section 9.5.2.A.c regardless of the type or nature of the way offering the principal means of access to said building or use.

**Street line:** The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

**Structure:** Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings, or a foundation for attachment to the land to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, fence, platform, swimming pool or the like. (See Temporary Structure.)

**Swimming pool:** An artificial pool of water or a natural pool altered to have a depth of two (2) feet or more at any point or seventy-five (75) or more square feet of surface and used for swimming or bathing, located indoors or outdoors, together with the equipment, and appurtenances used in connection with the pool.

**Temporary structure:** A structure which is erected for use for not more than one (1) year. Such structures shall include tents, portable bandstands, bleachers, reviewing stands, a mobile home used in conjunction with construction activities or other structures of similar character.

**Town house:** A single family dwelling attached to another single family dwelling in such a manner that each dwelling has a floor at ground level and front and rear access to the outside.

**Trailer:** Any vehicle or object which is drawn by a motor vehicle.

**Use:** A manner of utilizing, by design or intent, land or buildings for purposes, including maintaining premises, occupying premises, erecting, altering, restoration, enlargement or moving a building or structure upon land to accomplish such purpose.

**Variance:** As defined in Massachusetts General Laws Chapter 40A, Section 10.

**Warehouse:** The storage and/or distribution of goods and materials from a storehouse or center.

**Wholesale:** The sale of goods in large quantity for the purpose of resale.

**Yard:** An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure, except for fences.

**Yard, front:** A yard extending across the full width of the lot and lying between the street line and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line.

**Yard, rear:** A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.

**Yard, side:** A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.

## Section 3: Establishment of Districts

### 3.1 Districts

For the purposes of this bylaw, the Town of Stoneham is hereby divided into the following districts:

**Residence A.** The purpose of the Residence A District is to provide family suburban residential areas with related public and semi-public uses and accessory uses.

**Residence B.** The purpose of the Residence B District is to provide residential areas of medium intensity with a variety of housing.

**Business.** The purpose of the Business District is to provide an area for retail sales and services and other uses associated with a Central Business District.

**Central Business.** The purpose of the Central Business District is to preserve and improve the character and qualities of Stoneham Square.

**Highway Business.** The purpose of the Highway Business District is to provide areas for shopping centers, businesses and services which are highway oriented and/or serve a transient population.

**Commercial 1.** The purpose of the Commercial District 1 is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses.

**Commercial 2.** The purpose of the Commercial District 2 is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses, large scale retail and other uses.

**Fallon Road Mixed Use.** The purpose of the Fallon Road Mixed Use District is to provide for the development and redevelopment of the Fallon Road area. The district provides for commercial, office, and light industrial use.

**Mixed Use.** The purpose of the Mixed Use District is to provide for the development and redevelopment of area appropriate for a variety of uses. The district provides for commercial, office, housing, and light industrial use.

**Medical/Office/Residential.** The purpose of the Medical/Office/Residential District is to provide an area for medical and related services, and to provide for a development of general office, technological, and research related uses and to provide for mixed use residential uses.

**Recreation/Open Space.** The purpose of the Recreation/Open Space District is to provide areas of low intensity public and semi-public uses which serve to protect and preserve the water supply, ground water quality and natural features and/or features which serve a regional purpose.

### **3.2 Location of Districts**

Said districts are hereby established as shown on a map entitled "Stoneham, Massachusetts, Official Zoning Map," dated **May 1, 2023**. A true copy of which is on file in the office of the Town Clerk. Said map, together with all explanatory information thereon, is hereby incorporated into and made a part of this bylaw.

### **3.3 Interpretation of District Boundaries**

3.3.1. Where a boundary of a district is shown as following a street, railroad, or utility line the boundary shall be the center line thereof unless otherwise indicated.

3.3.2. Where boundaries are indicated as property or lot lines and the exact measurements are not defined, the true location shall be such boundary or lot lines.

3.3.3. Where boundary lines are fixed by distances from street, property, or lot lines, such measurements shall control.

3.3.4. Where a zoning district abuts a waterbody, it shall be considered to extend into said waterbody. Where a single district surrounds a waterbody, said waterbody shall be contained within that district. Where a waterbody is abutted by more than one district, the boundaries thereof shall be determined by the extension of the abutting district boundaries until they intersect within the waterbody.

## Section 4: Use Regulations

### 4.1 Application of Use Regulations

4.1.1. Unless otherwise stated in this bylaw, all buildings or structures hereafter erected, reconstructed, altered, enlarged or moved, and all uses of land in the Town of Stoneham, shall be in conformity with the provisions of this Section 4.

4.1.2. Any use not specifically listed or otherwise permitted in a district herein established shall be deemed prohibited.

#### 4.1.3. Uses Permitted in All Districts

- A.** Public building or use, but not including a correctional institution or a mental hospital. An area of up to twenty-five percent (25%) of the net floor area of a public building may be used for a non-public office use(s).
- B.** Agricultural uses including the sale of agricultural products raised in or on the subject land, provided, however, that such uses, unless permitted in accordance with Section 4.1.5.A below, shall be limited to parcels containing at least five (5) acres.
- C.** Horticulture, floriculture, and viticulture, provided that such uses shall be limited to parcels of land containing at least five (5) acres.
- D.** Motor vehicle parking serving uses not accessory to the public building or public use in the parking area of the public building or public use except on park land or on open space and recreation.

#### 4.1.4. Uses Permitted with Site Plan Approval by the Select Board:

- A.** Religious institutions, including places of worship, rectories, educational facilities, or convents.

#### 4.1.5. Uses Permitted in all Districts on a Special Permit Granted by the Planning Board and Site Plan Approval by Select Board:

- A.** Agricultural uses including the sale of agricultural products raised in or on the subject land, on parcels containing less than five (5) acres.
- B.** Activities accessory to activities otherwise permitted within the District as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right.

#### 4.1.6. Uses Prohibited in All Districts:

- A.** Race tracks.
- B.** Tourist cabins, trailers and trailer camps.

- C. Carports.
- D. The keeping of poultry, pigeons, dogs, pigs or other animals as a business, except as permitted as a Hospital, Veterinary or Kennel.
- E. The removal of sod, loam, clay, gravel or stone except in conjunction with a development otherwise permitted by this bylaw and in accordance with the provisions of Section 8.6.
- F. Junkyards.
- G. Pawnbrokers.
- H. Retail Marijuana
- I. Short-Term Rentals

## 4.2 Establishment

For the purpose of this Zoning Ordinance, the Town is divided into the base zoning districts set forth below:

### 4.2.1. Residential Districts

Residence A	(RA)
Residence B	(RB)

### 4.2.2. Commercial and Mixed Use Districts

Business	(B)
Central Business	(CB)
Mixed Use	(MU)
Fallon Road Mixed Use	(FMU)
Highway Business	(HB)
Medical/Office/Residential	(MOR)

### 4.2.3. Industrial Districts

Commercial I	(C1)
Commercial II	(C2)

### 4.2.4. Open Space District

Recreation / Open Space	ROS
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### 4.2.5. Abbreviations

P = Permitted By Right

SPA = Uses Permitted with Site Plan Approval

SP = Special Permit Required

SPA/SP = Uses Requiring Site Plan Approval and Special Permit

“or” = See Use standards for conditions where a use is permitted by right, site plan approval, or special permit

[-] = Prohibited

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### 4.3 Table of Uses

USE CATEGORY	RA	RB	B	CB	HB	C1	C2	MOR	FM U	MU	See Additional Use Standards
<b>RESIDENTIAL USES</b>											
Congregate housing / Resident care living facility	-	-	-	-	-	-	-	P	P	P	-
Convalescent home	-	SP	-	-	-	-	-	SP	-	-	-
Dwelling, multifamily (4+ units)	-	SP	-	-	-	-	-	SP	SPA	SPA / SP	4.4.1.A
Dwelling, one-family	P	P	-	-	-	-	-	-	-	-	-
Dwelling, three-family	-	P	-	-	-	-	-	-	-	-	-
Dwelling, two-family	-	P	-	-	-	-	-	-	-	-	-
Lodging house	-	SP	-	-	-	-	-	-	-	-	-
Mixed use	-	-	SP	P or SP	-	-	-	P	SPA	P	4.4.1.B
Residential conversion: existing one-family dwelling to multiple dwellings	SP	-	-	-	-	-	-	-	-	-	4.4.1.C
<b>COMMERCIAL USES</b>											
Automobile Repair Services	-	-	SPA / SP	-	-	-	-	-	-	-	4.4.2.A

USE CATEGORY	RA	RB	B	CB	HB	C1	C2	MOR	FM U	MU	See Additional Use Standards
Banquet facility, Function hall	-	-	-	-	-	SP	SP	-	SPA / SP	SPA / SP	-
Commercial greenhouse or nursery	-	-	-	-	SPA/ SP	-	-	-	-	-	-
Conversion of an existing building to allow not-for-profit recreation uses	-	SP	-	-	-	-	-	-	-	-	-
Gasoline	-	-	-	-	SPA/ SP	SP	SP	-	-	-	-
Hospital, Veterinary	-	-	-	-	-	P	P	-	-	-	-
Hotel	-	-	SPA / SP	SP A/S P	SPA/ SP	-	-	SPA/ SP	SPA / SP	SPA / SP	4.4.2.B
Kennel					SPA/ SP						-
Office	-	-	P	P	P	P	P	P	P	P	-
Personal Services	-	-	P	P	P	P	SPA/ SP	-	-	P	4.4.2.C
Place of entertainment	-	-	SPA / SP	SP A/S P	SPA/ SP	-	-	-	-	-	4.4.2.D
Repair shop	-	-	P	P	-	P	P	-	SPA / SP	SPA / SP	4.4.2.E

USE CATEGORY	RA	RB	B	CB	HB	C1	C2	MOR	FM U	MU	See Additional Use Standards
Restaurant			P	P	P	P	P	SP	P or SPA / SP	P or SPA / SP	4.4.2.F
Retail, unless otherwise defined			P or SPA / SP	P or SPA	P or SPA / SP	P or SPA / SP	P or SPA / SP	-	P	P	4.4.2.G
Sexually oriented business	-	-	-	-	-	-	SPA / SP	-	-	-	4.4.2.H
<b>INSTITUTIONAL AND RECREATIONAL USES</b>											
Conference center	-	-	-	-	-	SP	SP	SPA / SP	-	-	-
Crematorium	-	-	-	-	SPA / SP	-	-	-	-	-	-
Hospital	-	-	-	-	-	-	-	P	-	-	-
Medical marijuana facility	-	-	-	-	-	-	SPA / SP	-	-	-	4.4.3.A
Medical schools, medical training facilities and health professions training facilities	-	-	-	-	-	-	-	SPA / SP	-	-	-
Medical/ Dental clinics and laboratories	-	-	-	-	-	-	-	P	-	SPA	-

USE CATEGORY	RA	RB	B	CB	HB	C1	C2	MOR	FM U	MU	See Additional Use Standards
Medical / Dental office	-	-	-	-	P	P	-	P		P	-
Mortuary, funeral home	-	-	SPA / SP	SP A/S P	SPA/ SP	-	-	-	-	-	-
<b>INDUSTRIAL</b>											
Electric utility substation	-	-	-	-	-	-	-	-	SPA / SP	SPA / SP	-
Industrial park	-	-	-	-	-	SP	SP	-	P	P	-
Laboratory						P	P	P or SPA/ SP	P	P	-
Manufacturing, light	-	-	-	-	-	P	P	P	P	P	-
Passenger depots and terminals	-	-	-	-	-	SP	SP	-	-	-	-
Utility buildings, contractor's storage warehouses and buildings, and wholesale distribution plants	-	-	-	-	-	SP	SP	-	-	-	-
Warehouse	-	-	-	-	-	P	P	-	P	-	-
Wholesale	-	-	-	-	-	-	-	-	-	-	-
<b>ACCESSORY USES</b>											
Accessory dwelling unit	P	P	-	-	-	-	-	-	-	-	-

USE CATEGORY	RA	RB	B	CB	HB	C1	C2	MOR	FM U	MU	See Additional Use Standards
Accessory uses normal and incidental to uses permitted in each District	P	P	P	P	P	P	P	P	P	P	4.4.5.A
Drive-through facility	-	-	-	-	SP	SP	SP	-	-	-	4.4.5.B
Home occupation	P	P	-	-	-	-	-	-	-	-	4.2.1.C

**Note(s):**

For Recreation/Open Space District, see Section 4.5.

## 4.4 Use Standards

### 4.4.1. Residential Uses

- A. Dwelling, Multifamily dwellings.** The following standards are applicable to multifamily dwellings in the Residence B district.
- a. Off-street parking shall be provided as required by Section 6, provided that:
    - i. All parking spaces shall be located to the rear of the front building line.
    - ii. If all the required parking area for a building containing dwelling units is enclosed within the structure of the buildings, the height regulation of Table of Dimensional Requirements may be raised by ten (10) feet for that building.
  - b. Each structure shall be connected to and serviced by municipal water and sewer.
  - c. In cases of public open space dedicated in fee to the Town, such as open space shall be maintained as a public area, accessible to the public.
  - d. All existing or proposed utilities shall be installed underground at the time of initial construction.
  - e. The applicant must provide documentation that the site is satisfactory as to drainage, water supply, and sewage disposal for the number of units to be constructed, such documentation to be prepared by a registered professional engineer.
  - f. As part of the special permit process, the applicant must develop a market analysis that demonstrates that ground floor commercial is not a viable option based on market conditions at the time of the application.
- B. Mixed- Use Development**
- a. Central Business District
    - i. All uses permitted in the Central Business District shall be permitted above the first floor of a mixed-use building, subject to the same review and approval requirements.
    - ii. Fifty percent of the gross floor area of the first floor of the building must be occupied by non-residential uses.
    - iii. The entire first floor area of the building adjacent to the street must be used for non-residential uses with the exception of entrances.
- C. Residential Conversions.** Conversion of an existing one-family dwelling to accommodate more than one (1) dwelling unit.
- a. The building was in existence at the time of adoption of this Section.

- b. In addition to the requirements of Section 5.0, there shall be a lot area equivalent to the minimum lot area required within the District for each dwelling unit.
- c. In addition to the requirements in Section 6.0, there shall be at least one (1) off-street parking space for each bedroom or efficiency unit in the converted portion of the structure.
- d. Each unit shall be a complete and independent dwelling unit.
- e. The exterior appearance of the structure shall not be altered except for:
  - i. Stairways and exits required by law.
  - ii. Restoration consistent with the original architecture of the structure.
  - iii. Additions in the rear or side yards which are not visible from the street and which are not more than ten (10) percent of the original floor area.

#### 4.4.2. Commercial Uses

**A. Automobile Repair Services.** The following provisions apply to the Business District.

- a. Repairs shall be limited to minor repairs and adjustments unless conducted within a building.
- b. There shall be no outside storage of motor vehicles on the premises other than those awaiting delivery, or required in the operation of the garage or repair shop.
- c. The lot exclusive of required landscaping areas shall be paved.
- d. Conversion of an existing dwelling to allow not-for-profit recreational uses.
- e. Lot size must be 20,000 SF or greater.

**B. Hotel**

- a. Hotels include all service and extended stay and related accessory uses in support of a hotel such as fitness and dining facilities, business center, restaurant, meeting rooms and retail shops wholly within the premises.

**C. Personal Service**

- a. Business District. Personal services including cleaning pick-up shop, shall be permitted by right as long as the ground floor area does not exceed 2,000 square feet.
- b. Central Business District. Personal services including cleaning pick-up shop, shall be permitted by right as long as the ground floor area does not exceed 2,000 square feet.

**D. Place of Entertainment**

- a. Noise is confined to the building.
- b. Such building is located at least seventy-five (75) feet from structures used or zoned for residential purposes.

**E. Repair Shop.** The following additional standards shall be required of various forms of repair shops as specified under the Districts Below.

a. Business District

- i. All forms of Repair shops are permitted by right, provided the ground floor area does not exceed 2,000 square feet.

b. Central Business District. All forms of Repair shops are permitted by right as long as the ground floor area does not exceed 2,000 square feet.

c. Commercial 1 District. All repair services are permitted by right.

d. Commercial 2 District. All repair services are permitted by right.

e. Fallon Road Mixed Use District. Auto repair services shall be permitted by Special Permit and Site Plan approval provided that:

- i. All service is performed within an enclosed structure.
- ii. Such building shall be located not less than one hundred (100') feet from properties used or zoned for residential purposes, and not less than six hundred (600) feet from a school.
- iii. Such building shall be set back at least fifty (50) feet from the street right-of-way.
- iv. No motor vehicles in an inoperative condition are to remain on such site for more than a two (2) week period unless enclosed in a building or fenced or screened from abutting properties.
- v. All other repair services, including auto repair services that do not meet the conditions specified above, are prohibited.

f. Mixed Use District. Auto repair services shall be permitted by Special Permit and Site Plan approval provided that:

- i. All service is performed within an enclosed structure.
- ii. Such building shall be located not less than one hundred (100') feet from properties used or zoned for residential purposes, and not less than six hundred (600) feet from a school.
- iii. Such building shall be set back at least fifty (50) feet from the street right-of-way.

- iv. No motor vehicle in an inoperative condition is to remain on such site for more than a two (2) week period unless enclosed in a building or fenced or screened from abutting properties.
  - v. All other repair services, including auto repair services that do not meet the conditions specified above, are prohibited.
- F. Restaurant.** The following additional standards shall be required of various forms of restaurants as specified under the Districts Below.
- a. Commercial 1 District
    - i. Restaurants may have a maximum of 3,000 square feet of gross floor area.
  - b. Commercial 2 District
    - i. Restaurants may have a maximum of 3,000 square feet of gross floor area.
  - c. Medical/Office/Residential District
    - i. Restaurants may have a maximum of 5,000 square feet of gross floor area.
  - d. Fallon Road Mixed Use Road
    - i. Restaurants with not more than 5,000 square feet are permitted by right.
    - ii. Restaurants with more than 5,000 square feet shall be permitted only by the issuance of a Special Permit and Site Plan Approval.
  - e. Mixed Use District
    - i. Restaurants with not more than 5,000 square feet are permitted by right.
    - ii. Restaurants with more than 5,000 square feet shall be permitted only by the issuance of a Special Permit and Site Plan Approval.
- G. Retail**
- a. Highway Business District
    - i. Retail establishments with a combined gross floor area less than 50,000 square feet are permitted by right.
    - ii. Retail establishments with a combined gross floor area of 50,000 square feet or more shall be permitted in the Highway Business District only upon issuance of a Special Permit and Site Plan Approval.

- iii. If existing development is already 50,000 square feet or greater, the following standards shall apply for incremental development.
  - 1. Developments that are less than 10,000 square feet is permitted by right.
  - 2. Developments that are more than 10,000 square but less than 50,000 square feet shall be permitted only upon issuance of Site Plan Approval
  - 3. Developments that are more than 50,000 square feet shall be permitted only upon issuance of a Special Permit and Site Plan Approval.
- b. Commercial 1 District
  - i. Retail business and/or service establishment with gross floor area less than 5,000 square feet shall be permitted by right.
  - ii. Retail business and/or service establishment with gross floor area more than 5,000 square feet but not greater than 75,000 square feet shall be permitted only upon issuance of a Site Plan Approval.
  - iii. Retail business and/or service establishment with gross floor area more than 75,000 square feet shall be permitted only upon issuance of a Special Permit.
- c. Commercial 2 District
  - i. Retail business and/or service establishment with gross floor area less than 3,000 square feet is permitted by right.
  - ii. Retail business and/or service establishment with gross floor area more than 3,000 square feet is permitted only upon issuance of a Special Permit.
  - iii. Retail business and/or service establishment with gross floor area more than 5,000 square feet but not greater than 75,000 square feet shall be permitted by right.
  - iv. Retail business and/or service establishment with gross floor area more than 75,000 square feet shall be permitted only upon issuance of a Site Plan Approval.
- d. Fallon Road Mixed Use District
  - i. Retail store, service establishment, and retail business with gross square floor area more than 50,000 square feet is prohibited.
- e. Mixed Use District
  - i. Retail store, service establishment, and retail business with gross square floor area more than 50,000 square feet is prohibited.

## H. Sexually oriented business

An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other matter or material for sale, rental, distribution, or exhibition, which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31, including, but not limited to the following: adult bookstores, adult dance clubs, adult motion picture theatre, adult paraphernalia store, adult theatre, adult video stores and establishments which display live nudity for their patrons, subject to the following:

- a. An adult use may not occur or be located:
    - i. Within 300 feet of a lot line of a church or other place of worship;
    - ii. Within 300 feet of a public park, playground or athletic field;
    - iii. Within 300 feet of public or private elementary or secondary school or licensed day care center.
    - iv. Within 1000 feet of any other adult use within the Town of Stoneham;
  - b. With the exception of an adult motion picture theatre, adult theatre and establishments which display live nudity for their patrons, adult entertainment uses may not exceed three thousand (3,000) square feet gross floor area. In addition, all adult uses are subject to lawful conditions imposed pursuant to Section 7.4.3 of these bylaws and the site plan process, regardless of whether or not more restrictive than a provision of this Section.
  - c. No advertisement, display or other promotional material which contains nudity, sexually explicit graphics or sexually explicit text shall be visible to the public from outside of the building.
  - d. No special permit shall be issued to any person convicted of violating the provisions of section sixty-three of chapter one hundred and nineteen (G.L. c. 119, Sec. 63) or section twenty-eight of chapter two hundred and seventy-two (G.L. c.272, Sec. 28).
  - e. A special permit granted under this section shall lapse within two years, and including such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for if construction has not begun by such date except for good a cause.
- I. In addition to the requirements of this Section, the special permit granting authority shall adopt and from time to time amend rules relative to the issuance of special permits hereunder, and shall file a copy of said rules in the office of the town clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

It is the purpose and intent of this bylaw to address and mitigate the secondary effects of sexually oriented businesses referenced herein, since such secondary effects have been found by the Select Board and Planning Board of Stoneham and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the quality of life in the town, all of which secondary impacts are adverse to the health, safety and general welfare of the Town of Stoneham and its present and future inhabitants. The provisions of this bylaw have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose, intent nor effect of this bylaw to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of United States or of the Commonwealth of Massachusetts, nor restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute or exhibit such matter or materials. Neither is it the intent nor effect of this bylaw to legalize the distribution of obscene matter or materials.

#### 4.4.3. Institutional Uses

##### A. Medical Marijuana Treatment

a. Purpose. The purpose of this bylaw is to:

- i. Limit the establishment of Medical Marijuana Treatment Centers to appropriate locations under strict conditions in accordance with St. 2012, ch. 369 and 105 CMR 725.
- ii. Minimize the adverse impacts of Medical Marijuana Treatment Centers on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- iii. Regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Treatment Centers.

b. Applicability

- i. No Medical Marijuana Treatment Center shall be established except in compliance with the provisions of this Section 4.4.2.H.
- ii. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a Medical Marijuana Treatment Center under this bylaw.
- iii. Nothing in this Bylaw shall be construed to supersede any state or federal laws or regulations governing the sale and distribution of narcotic drugs. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Treatment Center under this bylaw.

- c. General Requirements and Conditions for all Medical Marijuana Treatment Centers. The following requirements and conditions shall apply to all Medical Marijuana Treatment Centers:
- i. All Medical Marijuana Treatment Centers not otherwise specifically exempted by State law shall be contained within a building or structure.
  - ii. No Medical Marijuana Treatment Center shall have a gross floor area of less than 1,000 square feet or in excess of 20,000 square feet.
  - iii. Medical Marijuana Treatment Center shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
  - iv. The hours of operation of Medical Marijuana Treatment Center shall be set by the Special Permit Granting Authority and the Select Board as Site Plan Granting Authority, but in no event shall a Medical Treatment Center be open and/or operating between the hours of 8:00 PM and 8:00 A.M.
  - v. No Medical Marijuana Treatment Center shall be located on the same lot or a lot which abuts any of the following within the Town of Stoneham: a public or Private school, licensed child care facility or any public playground, recreation facility, athletic field or other park where children congregate within the Town of Stoneham.
  - vi. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Treatment Center.
  - vii. Medical Marijuana Treatment Centers shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a trailer, recreational vehicle, movable or stationary mobile vehicle.
  - viii. No products shall be displayed in the facilities windows or be visible from any street or parking lot.
  - ix. Notwithstanding any provisions of Section 7 of this Chapter, signage for all Medical Marijuana Treatment Centers shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height. The sign shall be located in a visible location near the main entrance to the facility. Exterior signs shall identify the name of the establishment but shall not contain any other advertising information.
  - x. Medical Marijuana Treatment Centers shall provide the Stoneham Board of Health, the Stoneham Police Department, and the

Stoneham Fire Department with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the center and update that list whenever there is any change in management staff or keyholders.

d. Special Permit Requirements

A Medical Marijuana Treatment Center shall only be allowed by special permit in accordance with G.L. c. 40A, §9 and Section 9.4 of the Zoning Bylaws, subject to the regulations, requirements, conditions and limitations of contained in this Section 4.4.2.H.

i. A Special Permit for a Medical Marijuana Treatment Center shall be limited to one or more of the following uses that shall be determined by the Planning Board:

1. Cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter 40A Section 3 shall not require a Special Permit;
2. Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; or
3. Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;

ii. In addition to the application requirements set forth in this Section, the Zoning Bylaws and the Rules and Regulations of the Planning Board, a Special Permit application for a Medical Marijuana Treatment Center shall include the following:

1. The name and address of each owner of the establishment and property owner;
2. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
3. Evidence of the applicant's right to use the site for the establishment, such as a deed, or lease;
4. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the names and addresses of all individuals associated with that entity;

5. Proposed security measures for the Medical Marijuana Treatment Center, including lighting, fencing, surveillance cameras, gates and alarms, to help to best ensure the safety of persons and to protect the premises from theft. The security measures shall be reviewed and approved by the Police Department.

e. Mandatory Findings

In addition to the findings required under Section 9.4, the Planning Board shall not issue a Special Permit for a Medical Marijuana Treatment Center unless it finds that:

- i. The establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- ii. The applicant clearly demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable State laws and regulations; and
- iii. The applicant has satisfied all of the conditions and requirements of this Section 4.14.4.E.

f. Annual Reporting

Any Medical Marijuana Treatment Centers permitted under this Bylaw shall as a condition of its Special Permit file an annual report with the Planning Board, Select Board, Building Inspector and Town Clerk no later than January 31st of each year. The Annual Report shall include a copy of all current applicable state licenses for the establishment and/or its owners and demonstrate continued compliance with the conditions of the Special Permit. In the event that the Annual Report is not received by January 31st or if the report is incomplete, the owner(s) of the Medical Marijuana Treatment Center may be required to appear before the Select Board or its designee to provide the required information.

g. Term of Special Permit

- i. A special permit issued pursuant to this Section 4.4.2.H shall be valid for a period of five (5) years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this Section 4.4.2.H and the rules and regulations of the Planning Board. A special permit shall remain in effect until the conclusion of the public hearing and filing of the decision on the renewal. In granting the renewal, the Planning Board may impose additional conditions. Nothing in this Section shall prevent or restrict the Planning Board from placing a shorter time limitation on the length of a special permit granted pursuant to this Section 4.4.2.H.g if specific circumstances warrant.

- ii. A Special Permit granted under this Section 4.4.2.H shall have a term limited to the duration of the Special Permit applicant's ownership or lease of the premises as a Medical Marijuana Treatment Center. A Special Permit may be transferred to another party only with the approval of the Planning Board in the form of an amendment to the special permit with all information required in this Section 4.4.2.H. This term limitation shall be independent of the five (5) year special permit time limit above, and shall neither affect nor negate said five (5) year limitation.

h. Bond

The Planning Board shall require the applicant that obtains the special permit to post a bond prior to the issuance of a building permit to cover costs for the removal of the Medical Marijuana Treatment Center in the event contrary to the requirements of Section 4.4.2.H.i below and applicable law and regulations, the Town must remove said Center and to properly transfer or dispose of all equipment, materials and other items. The value of the bond shall be based upon the ability to completely said removal, transfer and disposal, and properly clean the facility at prevailing wages. The value of the bond shall be based upon the applicant providing the Planning Board with three (3) written bids to meet these requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure adequate funds for the Town to remove the improvement in compliance with applicable law.

i. Abandonment or Discontinuance of Use

A Medical Marijuana Treatment Center shall be required to remove all materials, plants equipment and other paraphernalia: (a) prior to surrendering its state issued licenses or permits; or (b) within six (6) months of ceasing operations; whichever comes first.

j. Site Plan - Additional Submission Requirements

In addition to the application requirements for Site Plan contained in the Zoning Bylaws and the Select Board's Site Plan Regulations, an applicant for Site Plan approval for a Medical Marijuana Treatment Center shall submit with the Site Plan application and each copy of the application submitted to the Select Board, copies of the application submitted to the Planning Board for its special permit, and any subsequent amendments to said application, and shall update any information that has changed since the time of that application or the grant of the special permit.

4.4.4. Industrial Uses

- A. Reserved

4.4.5. Accessory Uses

- A. Accessory uses normal and incidental to uses permitted in each District

- a. 1-, 2-, 3- Dwelling Units. Allowed accessory uses must be proper and usual with residences and are not injurious to a neighborhood as a place for such residences, including:
  - i. Private garage for not more than three (3) cars.
  - ii. Private swimming pool.
  - iii. One accessory building subject to the following restrictions:
    1. Located in the rear yard or to rear of required front setback and behind actual setback line or structure;
    2. The total combined footprint of all accessory buildings and structures on a lot, including but not limited to garages, sheds, gazebos, and similar structures, shall not exceed fifty percent (50%) of the footprint of the principal building.
    3. No more than one of each type of accessory building or structure shall be permitted per lot. Multiple accessory buildings of the same type (e.g., more than one shed or more than one detached garage) are prohibited; however, a lot may contain different types of accessory structures (e.g., one shed and one gazebo), provided all other dimensional and coverage requirements are met.
    4. Maximum height of fifteen (15) feet.
  - iv. One (1) unregistered motor vehicle per lot
    1. The unregistered vehicle must not be stored within the front setback. On corner lots both frontages must abide by the front setback line for purposes of this provision.
    2. The unregistered vehicle shall be permitted to be stored on the property for a maximum of sixty-days if it is not deemed road-worthy, as determined by the Building Inspector
    3. It must not a commercial vehicle with a gross vehicle weight greater than seventeen thousand five hundred (17,500) pounds.
    4. This provision shall not be applicable to any unregistered motor vehicle housed exclusively in a garage on the premises.
  - v. Provided, however, that an accessory building or other building, if located in the rear of the principal building with no direct frontage on a public or private way, shall not be used for residence purposes.
  - vi. Parking of a commercial vehicle with a registered gross vehicle weight of no greater than seventeen thousand five hundred (17,500) pounds.

b. Accessory Uses in the Medical/Office/Residential District

- i. A clubhouse for the residents of Garden and Town house design dwelling units is a permitted accessory use not to exceed 5,000 square feet without a special permit.
- ii. Other accessory uses greater than 2,500 square feet of the gross floor area shall be allowed only with the grant of a Special Permit.
- iii. Exterior advertising of accessory uses is prohibited.

c. Accessory Uses in the Business District

- i. Accessory uses must not include repair, servicing, sale or storage of motor vehicles and vehicle parts.
- ii. Off street loading and storage. Customary business accessory uses, excluding trailers, but including outside storage not to exceed 10% of the total lot for lots one (1) acre or less or 5% for lots greater than one (1) acre, provided that said storage shall be a minimum of ten (10) feet from any property line.

**B. Drive-In / Drive-Throughs**

- a. Vehicles awaiting service must not park or stand on a public way.

**C. Home Occupations or Professional Offices, provided that:**

- a. Not more than one (1) non-resident shall be employed therein.
- b. The use is carried on strictly within the principal building.
- c. Not more than forty (40) percent of the existing gross floor area, but not to exceed five hundred (500) square feet, is devoted to such use.
- d. That there shall be no display of goods, wares, or equipment visible from the street.
- e. There shall be no advertising on the premises other than a small non-electrical sign not to exceed one (1) square foot in area and carrying only the name and occupation of any occupant of the premises such as artisan, tutor, day nurse, lawyer, architect, engineer, clergyman, accountant and similar occupations or professions.
- f. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way.
- g. The building shall include no features of design not customary in buildings for residential use.
- h. Such use as physicians, osteopaths, dentists, clinics, barber shops, beauty parlors, tea rooms, real estate offices, tourist homes, animal hospitals,

kennels, animal services and others of a similar nature offering services to the public shall not be considered home occupations.

## **4.5 Recreation/Open Space District**

### **4.5.1. Purpose**

The purpose of the Recreation/Open Space District is to provide areas of low intensity public and semi-public uses which serve to protect and preserve the water supply, ground water quality and natural features, schools and educational uses, and/or features which serve a regional purpose.

### **4.5.2. Uses Permitted**

- A.** For properties owned by the Town of Stoneham any use is permitted.
- B.** Conservation areas for water, water supply, plants, and wildlife, flood protection and dams necessary for achieving these purposes.
- C.** Agriculture, floriculture, horticulture, viticulture, forests, and tree farms, provided that any equipment necessary for these uses is normally stored in an enclosure, and is not visible from District or property boundaries.
- D.** Cemeteries.
- E.** Recreational, cultural, civic and not for profit uses when the land/structures are not owned by the Town of Stoneham.
- F.** Zoos, public gardens, day camps, picnic areas and nature study areas.
- G.** Accessory uses, including snack bars, pro shops and retail sales in connection with and incidental to a permitted use.

## **4.6 North Main Mixed Use Residential Overlay District**

### **4.6.1. Purpose**

The purpose of the North Main Mixed Use Residential Overlay District (NMMURO) is to encourage the development of mixed residential and non-residential uses within the Highway Business District on Main Street. This bylaw is adopted as an overlay district for all properties within Highway Business District that directly abuts the east side of Main Street from Elm Street north to Collincote Street, and sets forth the design and dimensional standards that apply to all developments in the NMMURO.

### **4.6.2. Uses in the North Main Mixed Use Residential Overlay District**

Uses within the District are permitted by Site Plan Review granted by the Stoneham Select Board as follows:

- A.** Mixed Use Residential Development

**B. Two-family dwellings or greater**

4.6.3. The construction of eight or more dwelling units in the NMMURO will require compliance with Section 8.7 “Inclusionary Housing”.

**4.7 Mixed Use District**

4.7.1. Purpose

The purpose of the Mixed Use District is to provide for the development and redevelopment of areas appropriate for a mix of uses. The district provides for commercial, office, and light industrial use.

4.7.2. Uses in the Mixed Use District

See Use Table.

4.7.3. Off-Street Parking, Layout, and Loading Requirements for Mixed Use District

See Section 6.

**4.8 Fallon Road Mixed Use District**

4.8.1. Purpose

The purpose of the Fallon Road Mixed Use District is to provide for the development and redevelopment of the Fallon Road Area. The district provides for commercial, office, and light industrial use.

4.8.2. Uses in the Fallon Road Mixed Use District

See Use Table.

4.8.3. Off-Street Parking, Layout, and Loading Requirements for Fallon Road Mixed Use District

See Section 6.

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## **Section 5: Intensity Regulations**

### **5.1 Application**

No lot on which a building exists or is erected shall be altered, and no structure shall be constructed, reconstructed, relocated or altered so as to create or increase a non-conformance with this Section, except in accordance with the provisions of Sections 8.2.

### **5.2 Dimensional Regulations by District**

The accompanying table, entitled "Dimensional Regulations," is hereby incorporated into and made a part of this bylaw.

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### 5.2.1. Dimensional Requirements

District	Minimum Lot Size (Square Feet)	Frontage & Lot Width (Feet)	Building Coverage (%)	Minimum Setback (Feet)			Height (Feet, Stories if applicable)
				Front	Side	Rear	
Residence A	10,000	90	30	20	10	15	30, 2.5 stories
Residence B	7,000	75	40	15	10	15	30, 2.5 stories
Business	None Required	None Required	75	15	10	15	45
Central Business	None Required	None Required	100	None	None	None	45
Highway Business	10,000	100	75	20	5	5	45
Commercial 1	20,000	100	75	15	10	10	65
Commercial 2	20,000	100	75	15	10	10	65
Mixed Use District	20,000	100	75	20	20	10	65
Medical/ Office/ Residential	20,000	100	75	15	10	10	65
North Main Mixed Use Residential Overlay District	10,000	100	75	20	5	5	45
Recreation/ Open Space	None Required	None Required	100	15	10	15	30

## 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. 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.

- A. *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.
- B. *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.

### 5.3.4. Corner Lots

- A.** 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.
- B.** 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.

- C.** On a corner lot in Business and Commercial , 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.

#### 5.3.5. Required Space Between Principal Buildings on the Same Lot

- A.** 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.

#### 5.3.6. Exceptions to Intensity Regulations

- A.** The Board of Appeals may give permission, in accordance with Section 9.1 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.

## Section 6: Off Street Parking Requirements

### 6.1 Objectives and Applicability

#### 6.1.1. 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.

#### 6.1.2. 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.

### 6.2 Location of Parking Facilities

6.2.1. Parking shall be on the same lot as the principal use.

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

### 6.3 Minimum Number of Spaces by Use

Use	Requirement
<b>Note. All non-residential uses in the CB are exempt from minimum parking requirements</b>	
1. Residential a) Single or two Family b) Greater than two family  c) Congregate living d) Assisted living, long-term care e) Accessory dwelling unit	a) 2 per dwelling unit b) 1.5 per dwelling unit / 1.0 in CB. 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) 0.75/ bedroom d) 0.4/ living unit e) 1 per dwelling unit, or none if located within 0.5 miles of public transit
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) 2 spaces per practitioner b) 1 per every 500 square feet of gross floor area c) 1 per every 400 square feet of gross floor area

Use	Requirement
4. Food Service Establishments a) Restaurants	a) 1 per 4 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

#### 6.3.1. Calculations

Any parking calculations of 0.5 or greater shall be rounded up to the next space.

#### 6.3.2. Unspecified Uses

Parking for any unspecified use requiring a Special Permit under this bylaw shall be determined by the Planning Board.

## 6.4 Facility Design Standards

### 6.4.1. Parking Spaces

- A. 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.
- B. 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.

- a. Layout

- i. Access to and egress from all parking areas shall be only via driveways which meet the standards of this Section.
- ii. 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.
- iii. 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
90 degrees	20 feet

- iv. 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.
- v. 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.

- vi. 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.
- vii. Accessible Parking: Specially designated parking spaces for the physically disabled 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 people with disabilities shall be clearly identified by a sign indicating those spaces are reserved for persons with physical disabilities. 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.
- viii. 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.
- ix. Maintenance of parking facility: Lots shall be kept clean and free from rubbish and debris.
- x. 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.

## 6.5 Lighting and Screening

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

6.5.2. 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.
- C.** Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances and exits.

## 6.6 Driveway Access Permits

6.6.1. Prior to issuance of a building permit, a driveway/access permit must be obtained from the Public Works Department for all new or relocated driveways or parking lots except those which are governed by other state or federal statute.

6.6.2. No such driveway or access shall exceed a grade slope in excess of thirteen percent (13%).

6.6.3. 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.

6.6.4. 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.

6.6.5. No private way or driveway which serves a non-residential use in a non-residential district shall be built through a residential district.

## 6.7 Off-Street Loading

### 6.7.1. Applicability

- A.** 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.

### 6.7.2. Number of Off-Street Loading Areas Required

- A.** There shall be one (1) off-street loading area for each twenty five (25,000) square feet, of gross floor area.

### 6.7.3. Design

- A.** 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.
- B.** 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.

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

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## Section 7: Signs

### 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.

### 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. All permits and permissions must be obtained prior to the installation of any signage. Fees, surety bonds and/or certificate of insurance may be required as part of this process.

### 7.3 Sign Maintenance

7.3.1. All commercial signs, including existing nonconforming signs, together with any supports, braces, anchors, and other supporting hardware, must be maintained in good condition.

7.3.2. Damage to or deterioration of a commercial sign must be repaired within 30 days of receipt of notice from the Building Official.

7.3.3. When an existing commercial sign is removed, replaced, or repaired, all supports, braces, anchors, and other supporting hardware that is no longer necessary must be removed and any surfaces baring evidence of prior attachment must be repaired.

### 7.4 Removal

Commercial signage must be removed within thirty (30) days of a commercial use vacating a property.

## 7.5 Exempt Signage

7.5.1. The following signage are not commercial signs and not regulated by this Section:

- A.** A public notice or informational sign required by federal, state, or local law, regulation, or ordinance and any special event, directional, or other sign erected by a government agency or public utility in the performance of public duty.
- B.** Names of buildings, dates of erection, commemorative tablets and the like when carved into stone, made of cast metal, or other permanent type of material.
- C.** Credit card, trading stamp, or trade association signs not exceeding one-half (0.5) square feet each and not exceeding ten (10) per establishment.
- D.** Directory.
- E.** Changeable letter and number signs as part of the signage for petroleum product distribution facilities.
- F.** A clock, thermometer, barbershop pole or similar device not part of a permanent sign.
- G.** Historic building identification.
- H.** 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.
- I.** Holiday signs or decorations, yard sale & garage sale signs.
- J.** Political yard signs.
- K.** Any sculpture, statue, relief, mosaic, or mural that is a work of art or otherwise decorative and does not include a commercial message or symbol.
- L.** 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, or local agencies or authorities.

7.5.2. Prohibited signage features

- A.** Commercial signage that contains animation, flashing, blinking, rotating, simulates motion or has illumination that changes intensity over time.
- B.** Commercial signs that emit audible sounds or odors.
- C.** Commercial signs attached to nature or landscape elements including trees, rocks and/or fences.
- D.** Commercial signs that interfere with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or to provide light or air.

- E. Any commercial sign or sign structure that obstructs the view of, is confusing with, or imitates official traffic signs, signals or devices.
- F. Inflatable signs, such as balloons and other gas inflated objects.
- G. Any sign not specifically permitted in this bylaw is prohibited.

## 7.6 On-Site Signage

7.6.1. Definition: A sign that pertains to the use of the premises on which it is located and maintained, also known as an accessory sign.

7.6.2. **Awning signage:** A non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame.

Standards	
Maximum area:	75 % of awning
Maximum height:	1 foot
Number of signs allowed:	1 per tenant

**A. Other standards:**

- a. Allowable in Business District, Central Business District, Highway Business District, Medical Office Residential District, and Mixed Use District.
- b. Awning signs are prohibited on upper story awnings and on the side of awnings with closed ends.

7.6.3. **Blade sign:** A small, two-sided sign that is attached to and projecting perpendicularly from the façade of a building that identifies a commercial establishment. Blade signs are intended to be viewed by pedestrians on the same side of the street.

Standards	
Maximum area:	6 square feet per side
Maximum width:	4 feet
Maximum height:	3 feet
Maximum thickness:	6 inches
Location:	
Minimum clear height over sidewalk:	8 feet
Number of signs allowed:	1 per tenant

**A. Other standards:**

- a. Allowable in Business District, Central Business District, Medical/Office/Residential District, and Mixed Use District.
- b. Blade signs are prohibited for upper story businesses.
- c. A blade sign must be located within ten (10) feet of the principal entrance for the commercial use that it identifies.
- d. Any supports, braces, anchors, and other supporting hardware must be integral to the design of the sign.

7.6.4. **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.

**A. Highway Business District**

Standards:	
Maximum area:	18 square feet
Maximum height:	N/A
Note:	Maximum square footage applies to total for all canopy sides

7.6.5. **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.

**A. Residence B District**

Less than 5 units:	
Maximum area:	5 square feet
Number of signs allowed:	1

More than 5 units:	
Maximum area:	10 square feet
Number of signs allowed:	1
Recreational Use	
Maximum area:	18 square feet
Number of signs allowed:	1

**B. Business District**

Maximum sign area:	24 square feet
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	10 feet

**C. Highway Business District**

Maximum sign area:	24 square feet per side
Maximum height:	15 feet
Front setback:	20 feet
Side setback:	5 feet
Number of signs allowed:	1

**D. Medical/Residential/Office District**

Less than 5 residential units:	
Maximum area:	5 square feet
Number of signs allowed:	1
More than 5 residential units:	

Maximum area:	10 square feet
Number of signs allowed:	1
<b>Non-residential use</b>	
Maximum area:	24 square feet
Number of signs allowed:	1

**E. Mixed Use District**

<b>Less than 5 residential units:</b>	
Maximum area:	5 square feet
Number of signs allowed:	1
<b>More than 5 residential units:</b>	
Maximum area:	10 square feet
Number of signs allowed:	1
<b>Non-residential use:</b>	
Maximum sign area:	24 square feet per side
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	10 feet
Maximum number:	1

**F. Fallon Road Mixed Use District**

<b>Less than 5 residential units:</b>	
Maximum area:	5 square feet
Number of signs allowed:	1
<b>More than 5 residential units:</b>	
Maximum area:	10 square feet

Number of signs allowed:	1
Non-residential use:	
Maximum sign area:	24 square feet per side
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	10 feet
Maximum number:	1

**G. Commercial 1 District**

Maximum sign area:	24 square feet per side
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	10 feet
Maximum number:	1

**H. Commercial 2 District**

Maximum area:	50 square feet per side
Number of signs allowed:	1 per tenant

**I. Open Space & Recreation District**

Maximum area:	25 square feet
Maximum height:	15 square feet
Maximum number:	1

7.6.6. **Logistical 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.

- A. Location, size, number of signage is determined by the Building Department; and
- B. Allowable in Residence A, Residence B, Business District, Central Business District, Highway Business District, Medical Office Residential District, and Mixed Use District.

7.6.7. **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.

**A. Central Business District**

Minimum clear height over sidewalk:	10 feet
Number of signs allowed:	1

**B. Highway Business District**

Minimum clearance:	10 feet
Front setback:	20 feet
Side setback:	5 feet
Number of signs allowed:	1

**C. Mixed Use District**

Minimum clearance:	10 feet
Number of signs allowed:	1

**D. Fallon Road Mixed Use District**

Minimum clearance:	10 feet
Number of signs allowed:	1

**E. Commercial 1 District**

Minimum clearance:	10 feet
Number of signs allowed:	1

**F. Commercial 2 District**

Minimum clearance:	10 feet
Number of signs allowed:	1

7.6.8. **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.

**A. Business District**

Maximum sign area:	30 square feet
Maximum height:	6 feet
Front setback:	15 feet
Side setback:	10 feet
Maximum number:	1

**B. Medical/Office/Residential District**

Maximum sign area:	12 square feet
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	10 feet
Maximum number:	1

**C. Mixed Use District**

Maximum sign area:	100 square feet
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	15 feet
Maximum number:	1

**D. Fallon Road Mixed Use District**

Maximum sign area:	100 square feet
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Maximum height:	15 feet
Front setback:	15 feet
Side setback:	15 feet
Maximum number:	1

**E. Commercial 1 District**

Maximum sign area:	100 square feet
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	15 feet
Maximum number:	1

**F. Commercial 2 District**

Maximum sign area:	100 square feet
Maximum height:	15 feet
Front setback:	15 feet
Side setback:	15 feet
Maximum number:	1

**7.6.9. 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.

**A. Central Business District**

Signage allowed:	A-Frame
Minimum distance between signs:	15 feet
Number of signs per business:	1

Note:	First floor business only
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7.6.10. **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.

**A. Business District**

Maximum sign area:	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**B. Central Business District**

Maximum sign area:	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**C. Highway Business District**

Maximum sign area:	1/2 size of primary wall sign
Note:	Second sign allowed if second building entrance available

**D. Medical/Office/Residential District**

Non-residential use:	
Maximum sign area:	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**E. Mixed Use District**

Non-residential use:	
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Maximum sign area	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**F. Fallon Mixed Use District**

Non-residential use:	
Maximum sign area	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**G. Commercial 1 District**

Maximum sign area:	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

**H. Commercial 2 District**

Maximum sign area:	1/2 size of primary wall sign
Maximum height:	4 feet
Note:	Second sign allowed if second building entrance available

7.6.11. **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.

**A. Standards**

District	Max Sign Area	Max Height	Comment
Residence A	1 square foot	N/A	1 per parcel
Residence B	10 square feet	N/A	1 per parcel
Business	75% length of linear storefront frontage	4 feet	1 per business;
			1 <sup>st</sup> floor businesses only
Central Business	75% length of linear storefront frontage	4 feet	1 per business;
			1 <sup>st</sup> floor businesses only
Commercial 1	100 square feet, not to exceed 75% length of linear storefront frontage	4 feet	-
Commercial 2	100 square feet, not to exceed 75% length of linear storefront frontage	4 feet	-
Highway Business	100 square feet;	4 feet	1 per business;
	75% length of store front max		1 <sup>st</sup> floor businesses only
Medical/ Office/ Residential	25 square feet	4 feet	1 sign per business, not to exceed 25% of total façade
Mixed Use	25 square feet	4 feet	1 sign per business, not to exceed 25% of total façade
Fallon Road Mixed Use	25 square feet	4 feet	1 sign per business, not to exceed 25% of total façade
Recreation/ Open Space	10 square feet	N/A	

7.6.12. **Window sign:** A sign installed on or affixed to a window and intended to be viewed from outside.

- A. Allowable in Business District, Central Business District, and Highway Business District;
- B. No window sign or signs shall cover or fill more than 50% of the total storefront window area.

## 7.7 Temporary Signs

Unless otherwise specified, temporary signs are permitted for up to thirty (30) total days unless otherwise specified, subject to the following standards:

7.7.1. **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.

- A. One (1) banner sign up to forty (40) square feet is permitted per lot frontage.
- B. Banners must be secured to a building facade along all four sides at all times.

7.7.2. **Construction Sign:** A temporary sign intended to provide information about current construction on a site and the parties involved in the project.

- A. A free standing pole or ground sign may be erected on the premises identifying the building, owner, and contractor.
- B. One (1) construction sign up to thirty six (36) square feet per side is permitted per development site.
- C. A construction sign may be erected only after issuance of a Building Permit, and must be removed within two (2) days of issuance of a permanent certificate of occupancy.

7.7.3. **Real Estate Sign:**

- A. One (1) real estate sign up to twenty-five (25) square feet is permitted per lot frontage.
- B. A real estate sign that advertises property for lease or sale may be posted only for the duration the property is offered for lease or sale, and must be removed within seven days of lease or closing.

## 7.8 Off-Site Signage

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 identifies goods or services that are not sold on the same premises as the said sign.

## 7.9 Types of Off-Site Signage

7.9.1. **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.

7.9.2. **Applicability:** Off-Premise and billboard signs or non-accessory commercial signs 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 an application and required material per the Planning Board regulations.

7.9.3. **Billboard Dimensional Restrictions and Design Guidelines:** All billboards shall be in compliance with the following requirements:

- A. Billboards shall be permitted in the Commercial I and Commercial 2 Zoning Districts, provided, however, that no billboards shall be located further than 100' from any interstate highway layout;
- B. Billboards 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;
- C. Billboards shall not create a material visual impact to any abutting or adjacent residentially zoned and used property in the Town of Stoneham;
- D. All billboards must be permanently affixed to a main support structure. No portable billboards shall be permitted.
- E. 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.
- F. 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.
- G. The Applicant shall provide a 10' wide landscaped buffer around the base of the support structure to minimize its visual impact.

### 7.9.4. Billboard prohibitions

- A. 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.

- B.** Billboards with physical movements of any kind.
- C.** 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.
- D.** There shall be no billboard, including a roof billboard, on any building, whether erected or otherwise placed or painted on a building.
- E.** No billboard shall be on or otherwise attached to a tree, utility pole, fence or rock.
- F.** 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.
- G.** Tri-vision billboards.
- H.** Video billboards or billboards that otherwise give the illusion of video or moving images.
- I.** Billboards with sound.
- J.** Billboards with pyrotechnics.
- K.** 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.

**7.9.5. Criteria for Approval:** The Planning Board shall not approve any applications for a Special Permit under Section 9.4 unless it finds that all of the following conditions are met and/or are incorporated into any Special Permit decision:

- A.** 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;
- B.** The proposed billboard will not adversely affect the abutting neighborhood or have the effect of causing a hazard to motorists;
- C.** The billboard is in accordance with Section 9.4.3 of the Zoning Bylaws.
- D.** Any Special Permit decision shall require compliance with Section 7.9.6;
- E.** 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,
- F.** The Planning Board, in granting the special permit, shall require surety and attach such additional conditions and safeguards as it deems necessary.

#### **7.9.6. Billboard 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 is abandoned, discontinued, blank, or is in disrepair for a period of ninety (90) days, it shall be cause for its removal.

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.

## Section 8: General Provisions Affecting All Districts

### 8.1 Application

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

### 8.2 Non-Conforming Uses and Structures

#### 8.2.1. Applicability

- A. 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.

#### 8.2.2. Nonconforming Uses

- A. 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.

#### 8.2.3. 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:
  - a. 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
  - b. 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.

#### 8.2.4. 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.
  - a. 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 permitted as of right, the applicant may:
  - b. Appeal said determination of the Building Inspector to the Board of Appeals pursuant to Section 9.1, on the basis that said proposed alteration is permitted as of right pursuant to one of the above subsections (a - e); and/or
  - c. 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
  - d. 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.

#### 8.2.5. 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 9.4, 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.

#### 8.2.6. Reconstruction after Catastrophe

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

- A.** Reconstruction of said premises shall commence within two (2) years after such catastrophe.
- B.** 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.

#### 8.2.7. Reversion to Nonconformity

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

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

### 8.3 Screening and Landscaping

#### 8.3.1. Applicability

- A.** The design provisions and setback requirements of this section shall be applied to lots for those circumstances not addressed by Section 6.5.2.

#### 8.3.2. Design

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

- B.** The screening required herein, and in Section 6.5.2, shall be located so as not to conflict with any corner visibility requirements.
- C.** 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.
- D.** 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.

### 8.3.3. Pools

- A.** 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).)

## 8.4 Lighting

### 8.4.1. Applicability

- A.** The provisions of this section shall be applied in conjunction with, and shall supplement the provisions of Section 6.5.

### 8.4.2. Standards

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

## 8.5 Performance Standards

### 8.5.1. Applicability

- A.** 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.

#### 8.5.2. Air Pollutants

- A.** 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.

#### 8.5.3. Noise and Odor

- A.** No noise and/or odors shall be generated which create a public nuisance.

#### 8.5.4. Heat, Glare, Vibration and Radiation

- A.** 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.
- B.** 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.

#### 8.5.5. Waste Disposal, Water Supply and Water Quality

- A.** 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.

#### 8.5.6. Storage

- A.** 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.

#### 8.5.7. Exterior Lighting

- A.** No exterior lighting, other than street lighting approved by the Department of Public Works, shall shine on adjacent properties or towards any street.

#### 8.5.8. Building Construction

- A.** 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.

8.5.9. Hazardous Materials and Wastes

- A. 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.

8.5.10. Regulating Alteration of Land

- A. 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.

**8.6 Land Fill Regulation**

8.6.1. Permit Requirement

- A. 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.
- B. The permit requirement set out in Section 8.6.1.A above, shall not be applicable to the placement or movement of fill on public land by the Town of Stoneham. Other provisions of this Section 8.6 shall be applicable to such fill operations, however.

8.6.2. Permit Process

- A. 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.
- B. 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).

- C.** 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.
- D.** The permit and appeal process shall be governed by Chapter 40A of the Massachusetts General Laws and Section 9.6 of these bylaws.

#### 8.6.3. Prohibited Material

- A.** 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.
  - b. 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.

#### 8.6.4. Fill Analysis

- A.** 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

#### 8.6.5. Fill Operations

- A.** 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.

#### 8.6.6. Violations

- A.** Any person found to be in violation of any part of this Section 8.6 shall be subject to a fine as determined at an amount set by Town policy and in accordance with any local and state regulations.
- B.** 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).

## 8.7 Inclusionary Housing

### 8.7.1. 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 Executive Office of Housing and Livable Communities (EOHLC) and, that said units count toward and are placed on, the Town’s Subsidized Housing Inventory as maintained by EOHLC.

#### 8.7.2. Definitions

- A. 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 (HUD), such that the dwelling unit is included in the Town of Stoneham’s Subsidized Housing Inventory.
- B. 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 HUD and EOHLC or as otherwise established by EOHLC such that the housing unit is included in the Town of Stoneham’s Subsidized Housing Inventory.

#### 8.7.3. Applicability

- A. Division of Land.** This Bylaw shall apply to the division of land into eight (8) or more lots.
- B. Multiple Units.** This Bylaw shall apply to the construction of eight (8) or more dwelling units, whether on one or more contiguous parcels.

#### 8.7.4. Methods of Providing Affordable Units

- A.** 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 8.7.5.
- B.** 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 8.7.11.
  - 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 should preferably be in the same neighborhood as the on-site development and shall be subject to a deed restriction limiting its use to affordable housing as defined in this section. Such land shall have a fair market value comparable to the difference between the value of the required affordable units if provided on-site and the fair market value of such units.

#### 8.7.5. Requirements for Affordable Units

- A.** The Planning Board shall deny any application for a special permit for development under Section 9.0 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 would require that three (3) affordable dwelling units be provided.
  - c. The Planning Board may, as part of any Special Permit decision, modify the number of affordable units as required by this Section upon a finding that due to unique conditions affecting 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.

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

- A.** 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.
- B.** 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.

- C. 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:

<b>Market Rate Unit %</b>	<b>Affordable Housing Unit %</b>
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.

- D. 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.
- E. 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.

#### 8.7.7. 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.

#### 8.7.8. 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.

#### 8.7.9. Maximum Incomes, Sale and Rental Prices

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

#### 8.7.10. Preservation of Affordability; Restrictions on Resale and Rental

- A.** 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.
  - 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.

#### 8.7.11. Fee In Lieu of Units

- A.** Applicants may apply for a special permit to pay a fee in lieu of creating affordable units. This provision applies to homeownership developments only. The applicant may make a cash payment to the Stoneham Affordable Housing Trust Fund with a value comparable to the difference between the constructed value of the affordable units required under this section if provided on-site, and the fair market value of such units. Applicants electing to make a cash contribution in lieu of providing affordable units shall provide a statement of the number of project dwelling units and the calculation for the proposed cash payment for approval.

- B.** Fees in lieu of units shall be paid to the Stoneham Affordable Housing Trust Fund.  
Fee in lieu of unit payments shall be made in accordance with Section 8.7.6.

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## Section 9: Administration

### 9.1 Board of Appeals

#### 9.1.1. Establishment

- A.** 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.
- B.** 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.
- C.** 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.
- D.** 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.
- E.** Terms: The terms of regular members shall be three (3) years. All terms of associate members shall be one (1) year.
- F.** 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.
- G.** Vacancies: The Select Board shall nominate and appoint members to fill the unexpired terms of regular and associate members should a vacancy exist.
- H.** 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.

#### 9.1.2. Powers

- A.** The Board of Appeals shall have the following powers:
- B.** To hear and decide appeals in accordance with Section 8 of Chapter 40A of the General Laws, as amended.

- C. To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A of the General Laws, as amended.
- D. To hear and decide petitions for exceptions as provided in this bylaw.

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

### 9.1.3. Variance Procedure

- A. See Chapter 18, Board of Appeals Rules & Regulations

## 9.2 Select Board: Site Plan

### 9.2.1. Authority/Statement of Purpose

- A. The Select Board (also referred to in this Section 9.2 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 9.2. 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.
- B. 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.

### 9.2.2. Applicability

- A.** 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 9.2.2.B 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 9.2.2.B 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 two hundred (200) cubic yards for purposes of commercial or business (non-residential) development. Nothing in this Section 9.2.2.A shall relieve a party subject to Section 6.10 from also having to obtain a permit thereunder from the Building Inspector.
  - g. Any use covered by the Dover Amendment with proposed occupancy of greater than ten (10) people.
- B.** 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 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 9.2 and the Regulation and Guidelines established by the Select Board pursuant to this Section 9.2. No Site Plan shall be subject or amended pursuant to the Development Review process set out in this Section 9.2.2.B more than once.

- C.** Any person or entity whose land or proposal is subject to Development Review pursuant to Section 9.2.2.B 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 9.2.
- D.** Any new structure or alteration of an existing structure or change of use in any structure for an entity claiming exception under M.G.L. c.40A.

#### 9.2.3. General Standards/Criteria for Site Plan Review and Approval:

- A.** 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.

#### 9.2.4. Site Plan Guidelines

- A.** The Board shall review Site Plan Review applications in accordance with the General Standards described in Section 9.2.3 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.
- B.** 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.
- C.** 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 through 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 9.2.3.A, 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.

#### 9.2.5. Site Plan Application - Contents

- A.** 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 9.2.

- B.** 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 and 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.

#### 9.2.6. Submission Procedures

- A.** Filing - In accordance with Section 9.2.3.A 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.
  - a. Filing fees shall be established by the Select Board.
  - b. 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.
  - c. 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.

#### 9.2.7. 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.

#### 9.2.8. Public Hearing

- A.** 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.
- B.** 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 9.2.6.A above.

#### 9.2.9. Site Plan Approval and Conditions

- A.** 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.

- B.** 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 be the same time period(s) as applicable to the special permit.
- C.** 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.
- D.** 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.
- E.** 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.
  - a.** 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.
- F.** 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 9.2.14, 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.
- G.** Site Plan approval shall require an affirmative vote of four (4) members of the Select Board.

#### 9.2.10. Bonding

- A.** 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 9.2.3, 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.

- B.** 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).

#### 9.2.11. Appeals

- A.** 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.

#### 9.2.12. Compliance

- 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.
- D.** 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.

#### 9.2.13. Maintenance

- A.** 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 9.2.3 above, shall be adequately maintained and repaired or replaced when necessary to insure continued compliance with the approved Site Plan.

#### 9.2.14. Modification to Approved Site Plans

- A. To request a modification to an approved Site Plan or a Development Review determination pursuant to Section 9.2.2.B, 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.
- B. 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 9.2. 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 9.2.2.B above.

### 9.3 Planning Board

#### 9.3.1. Establishment

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

#### 9.3.2. Powers

- A. 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.
- B. 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.

### 9.4 Special Permit

#### 9.4.1. Planning Board Associate Member

- A. 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.

#### 9.4.2. Procedure

Additional procedural requirements in the special permit process are located in Chapter 17 of the Stoneham Town Code.

#### 9.4.3. Conditions for Approval of a Special Permit

- A.** 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.
- B.** 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.

#### 9.4.4. Exercise of a Special Permit

- A.** 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 9.6, or shall lapse.

#### 9.4.5. Special Approval for Temporary Structure or Use Permit

- A.** In undeveloped sections of the Town and in built-up sections where some good reason exists, the Building Inspector may grant temporary and conditional permit 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 approval 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 9.4.
- B.** Upon the expiration of such permit, the structure shall be removed and the use cease and the land shall be restored to useable condition.

## 9.5 Enforcement

### 9.5.1. Enforcing Officer

- A. *Designated:*** The Building Inspector appointed under provisions of the Building bylaw shall enforce the provisions of this Section.
- B. *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.
- C. *Violations - Notice:*** If the Building Inspector shall find any such violation as specified in Subsection 9.5.1.B 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.
- D. *Violations - Revocation of Occupancy Permits:*** If after such notice as specified in Subsection 9.5.1.C 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.

- E. *Violations - Injunctions and other methods of enforcing Section:* Upon such failure to obey, 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.
- F. *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.

#### 9.5.2. Building Permits:

- A. 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.
- B. The Building Inspector shall not issue a building permit for any building or use requiring Site Plan Approval unless such approval has been obtained.
- C. 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 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 the definition contained in Section 2.

#### 9.5.3. Violations

- A.** 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.
- B.** 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.

#### 9.5.4. Occupancy Permits

- A.** 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.
- B.** 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.
- C.** 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.
- D.** Buildings accessory to dwellings when completed at the same time shall not require a separate Certificate of Occupancy.
- E.** 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.
- F.** Such certificate shall not be issued, except under such restrictions and provisions as will adequately insure the safety of occupants.
- G.** 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.

#### 9.5.5. Penalty

- A. 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.

## 9.6 Right to Appeal

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

- B. Any person aggrieved by an order, act or refusal of the Building Inspector to grant a permit.
- C. Any person aggrieved by the issuance of a permit by the Building Inspector.
- D. 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.

## Section 10: Applicability

### 10.1 Effective Date

10.1.1. 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.

10.1.2. 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.

### 10.2 Other Regulations

10.2.1. 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 10.1.1, but shall be in addition thereto. 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.

### 10.3 Limitations

10.3.1. 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.

### 10.4 Validity

10.4.1. 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.

### 10.5 Severability

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

## Section 11: Adoption and Amendment

## 11.1 Adoption and Amendment

11.1.1. 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.

DRAFT