

Chapter 15

Zoning

State law reference - G.L. c. 40A (“The Zoning Act”)

Cross references - Buildings, Ch. 4, Electricity, Ch. 5. Personnel, Inspection Department, Secs. 10-102, et seq. Planning Board regulations, Ch. 17. Board of Appeals regulations, Ch. 18.

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Section**1.0 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.

2.0 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."

- 2.1.1 *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.
- 2.1.2 *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. (5-2-94, Art, 5)
- 2.1.2.1 *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. (5-3-94, Art. 5)
- 2.1.2.2 *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. (5-2-94, Art. 5; 12-2-96, Art. 4)
- 2.1.2.3 *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. (5-2-94, Art. 5)
- 2.1.2.4 *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. (12-2-96, Art. 4)
- 2.1.2.5 *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. (12-2-96, Art. 4)
- 2.1.2.6 *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. (12-2-96, Art. 4)
- 2.1.2.7 *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. (12-2-96, Art. 4)
- 2.1.3 *Animal or Veterinary Hospital:* 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.
- 2.1.4 *Apartment building:* A dwelling designed to accommodate three or more dwelling units; multi-family.
- 2.1.5 *Automobile repair, sales, filling station, storage:* See Filling Station, Garage, Private, Garage Public and Gasoline Station.
- 2.1.6 *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.
- 2.1.7 *Body Art:* The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, braiding and scarification. The definition does not include practices that are considered medical procedures by the Board of Registration in Medicine. (4-03-011, Art. 9)
- 2.1.8 *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.
- 2.1.8.1 *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. (10-26-87, Art. 6)
- 2.1.8.2 *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. (10-26-87, Art. 6)
- 2.1.9 *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.

- 2.1.10 *Building height:* The vertical distance from the average elevation of the finished lot grade at the front (containing the primary entranceway) of the building, to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof; except that in instances where the topography is extremely irregular or there is frontage on two streets, the following will apply:

No structure shall exceed the specified height in feet listed in Table One Dimensional Requirements (Section 5.2.1) except for lots with a slope variance greater than seven (7) feet at the structure. In no case shall the height of any exposed portion of a structure be greater than the allowable height in Table I plus seven (7) feet for all sloped lots with a slope variance greater than seven (7) feet, or the average variance, whichever is less, as determined by the Building Inspector. (10-21-85, Art.-15; 10-30-89)

- 2.1.11 *Building Inspector:* The Inspector of Buildings appointed by the Town Administrator and charged with the enforcement of this ordinance, or his duly authorized representative.
- 2.1.12 *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.
- 2.1.13 *Church or other place of worship:* A church, temple, synagogue, mosque or other similar place of worship.
- 2.1.14 *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.
- 2.1.15 *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.
- 2.1.16 *Congregate housing:* A non-profit group living arrangement for elderly persons, 59 years of age or older, who cannot easily maintain their own housing,

financially or otherwise, who do not need nursing home care. The persons living together may care for themselves or may have some support services.

- 2.1.17 *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.
- 2.1.18 *Cooperative*: A system of ownership in which shares in a corporation are owned, entitling an owner or owners to occupancy of a portion of real estate owned by the corporation.
- 2.1.19 *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.
- 2.1.20 *Distribution*: The movement of products, generally between storage and retail locations.
- 2.1.21 *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.
- 2.1.22 *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.
- 2.1.23 *Education Facility*: An institution for educational instruction, including buildings, accessory structures and outdoor play areas. (5-7-98; Art. 13)
- 2.1.24 *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, rooming house, club, hotel or other communal arrangements.
- 2.1.25 *Filling station*: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles. (See also Gasoline Station.)
- 2.1.26 *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.
- 2.1.27 *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.

- 2.1.28 *Floor area ratio:* Gross floor area of all buildings on the lot divided by total lot area.
- 2.1.29 *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.
- 2.1.30 *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.
- 2.1.31 *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 or oil to motor vehicles.
- 2.1.32 *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. (See also Filling station.)
- 2.1.33 *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.
- 2.1.34 *Health Care Facility:* See Hospital and Long Term Care Facility:
- 2.1.35 *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.
- 2.1.36 *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.

- 2.1.36.1 *Hospital, veterinary:* A building providing for the diagnosis of ailments of animals other than human, including facilities for overnight care.
- 2.1.37 *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.
- 2.1.38 *Industrial park:* An area planned for occupancy for more than one (1) industrial building with shared common areas and/or parking areas.
- 2.1.39 *Inn:* See Hotel.
- 2.1.40 *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.
- 2.1.41 *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. (10-15-18, Art. 2)
- 2.1.42 *Kindergarten:* A school or class of young children, usually from four (4) to six (6) years of age.
- 2.1.43 *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.
- 2.1.44 *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.
- 2.1.45 *Lodging house, licensed:* A licensed dwelling other than a hotel or motel in which living space is let.
- 2.1.46 *Long-Term Care Facility:* Any institution whether conducted for charity or profit which is advertised, announced and maintained for the express or implied purpose of providing three (3) or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care

incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries maintained in towns and charitable homes for the aged (Massachusetts Department of Public Health Regulations 105 CMR 151.000, effective February 6, 1980).

- 2.1.47 *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."
- 2.1.48 *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.
- 2.1.49 *Lot, corner:* A lot abutting on two (2) or more streets at their intersection.
- 2.1.50 *Lot width:* The shortest distance between the side lot lines of the lot measured at the minimum setback line.
- 2.1.51 *Manufacturing:* Fabrication with hands or machinery.
- 2.1.52 *Manufacturing, heavy:* Fabrication of raw materials.
- 2.1.53 *Manufacturing, light:* Assembly of parts or materials fabricated off-site.
- 2.1.54 *Medical office:* The office of a physician, dentist, or other licensed medical professional.
- 2.1.55 *Mobile home:* Any vehicle or object, which is drawn by or used in connection with a motor vehicle, and which is so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundations. It shall include the type of vehicle or modular construction commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.
- 2.1.56 *Monopole:* The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top. The provisions of this bylaw applicable to any other free-standing device if, despite the explicit prohibition contained in this bylaw on any free-standing device other than a monopole, a court of competent jurisdiction, after the exhaustion of all appeals, requires such free-standing device be allowed. (10-27-97, Art. 10)

- 2.1.57 *Motel:* See Hotel; provided, however, that access to individual rooms may be available directly from the exterior of the building.
- 2.1.58 *Multi-family:* See Apartment Building.
- 2.1.59 *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.
- 2.1.60 *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.
- 2.1.61 *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.
- 2.1.62 *Nursery school:* A place for group pre-school training of children.
- 2.1.63 *Office park:* An area planned for occupancy of more than one (1) office building with shared common areas and/or parking area.
- 2.1.64 *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.
- 2.1.65 *Parish house:* A building used for non-religious, non-residential, non-profit functions of a congregation or church.
- 2.1.66 *Parking space:* An area for temporary or permanent storage of a vehicle.
- 2.1.66.1 *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. (5-2-88, Art. 19)
- 2.1.67 *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.

- 2.1.68 *Professional 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.
- 2.1.69 *Public or semi-public building or use:* A building or use owned or operated by a local, county, state or federal governmental agency.
- 2.1.70 *Rectory:* Parsonage or dwelling occupied by a rector, minister, priest, rabbi or similar person in charge of a congregation or church.
- 2.1.71 *Rooming house:* See Boarding house.
- 2.1.72 *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. (10-26-98, Art. 10)
- 2.1.73 *Sign:* Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.
- 2.1.74 *Special Permit:* As defined in Massachusetts General Laws Chapter 40A, Sections 9 and 9A.
- 2.1.75 *Storage:* The deposit and/or care of materials in a warehouse or otherwise for safekeeping and/or ultimate distribution.
- 2.1.76 *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 (½) 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.
- 2.1.77 *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 7.5.2.3

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 7.5.2.3 regardless of the type or nature of the way offering the principal means of access to said building or use. (5-5-97, Art. 2)

2.1.78 *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.

2.1.79 *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.)

2.1.80 *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.

2.1.81 *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.

2.1.82 *Tourist home:* See Hotel.

- 2.1.83 *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.
- 2.1.84 *Trailer:* Any vehicle or object which is drawn by a motor vehicle.
- 2.1.85 *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.
- 2.1.86 *Variance:* As defined in Massachusetts General Laws Chapter 40A, Section 10.
- 2.1.87 *Warehousing:* The storage and/or distribution of goods and materials from a storehouse or center.
- 2.1.88 *Wholesale:* The sale of goods in large quantity for the purpose of resale.
- 2.1.89 *Wireless Communication Services:* Personal wireless services as defined in the Federal Telecommunications Act of 1996, as amended, by way of example but not limitations: personal wireless services includes cellular telephone services, personal communications services and commercial mobile radio service. (10-27-97)
- 2.1.90 *Wireless Service Facility:* Facility for the provision of personal wireless services as defined by the Federal Telecommunications Act of 1996, as amended; such facilities include but are not limited to transmitting and receiving equipment, antennas, antenna structures and supports and related structures or equipment which are accessory to such facilities. (10-27-97)
- 2.1.91 *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.
- 2.1.92 *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.
- 2.1.93 *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.
- 2.1.94 *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.

- 2.1.95 *Wireless Communications Facilities:* Any and all materials, equipment, storage structures, towers, and antennas, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services. (5-5-97, Art. 5)

3.0 ESTABLISHMENT OF DISTRICTS

3.1 *DISTRICTS:*

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

Residence A

Residence B

Neighborhood Business

Business

Central Business (Overlay)

Highway Business

Commercial I, II, and III (10-29-98, Art. 22)

Medical

Recreation/Open Space

Education (5-7-98, Art. 13)

3.2 *LOCATION OF DISTRICTS:*

Said districts are hereby established as shown on a map entitled "Stoneham, Massachusetts, Official Zoning Map," dated October 15, 2018. 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. (10-26-98, Art. 11) (5-5-08, Art. 7) (10-15-18, Art. 5)

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.

4.0 USE REGULATIONS

4.1 APPLICATION OF USE REGULATIONS:

- 4.1.1 Except as provided in Sections 6.0 and 7.0 of 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 4.0.
- 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:*
- 4.1.3.1 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). (5-1-06, Art. 5)
- An area of up to twenty percent (20%) of any Town of Stoneham owned property used for a public use (other than property used or zoned for open space and recreation) may be used for a non-public use if said use (as a use) is: (i) non-residential, (ii) not inconsistent with said Town of Stoneham public use, and (iii) not more detrimental to the neighborhood than the current Town of Stoneham public use. (10-18-07, Art. 2).
- 4.1.3.2 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 4.1.5.1 below, shall be limited to parcels containing at least five (5) acres.
- 4.1.3.3 Horticulture, floriculture, and viticulture, provided that such uses shall be limited to parcels of land containing at least five (5) acres.
- 4.1.3.4 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. (5-7-07, Art. 6)

- 4.1.4 *Uses Permitted with Site Plan Approval by the Select Board:*
- 4.1.4.1 Religious institutions, including places of worship, rectories, schools, 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: (5-8-89)*
- 4.1.5.1 Agricultural uses including the sale of agricultural products raised in or on the subject land, on parcels containing less than five (5) acres.
- 4.1.5.2 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:*
- 4.1.6.1 Race Tracks.
- 4.1.6.2 Tourist cabins, trailers and trailer camps.
- 4.1.6.3 Motels.
- 4.1.6.4 Quonset huts.
- 4.1.6.5 Carports.
- 4.1.6.6 The keeping of poultry, pigeons, dogs, pigs or other animals as a business, except as permitted by Section 4.7.3.5.
- 4.1.6.7 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 6.8.10.
- 4.1.6.8 No commercial wireless communications facility, including but not limited to towers and antennas and no building or other structure utilized primarily for the installation, support or operation of a commercial wireless communications facility shall be erected, constructed or installed in the Town of Stoneham nor shall a permit for said construction be issued for a period of six months from the effective date of this bylaw. This bylaw does not apply to the construction or use of facilities by a conforming federally licensed amateur radio as protected by Massachusetts General Laws C. 40A, Sec. 3 or television antennas which are accessory to a residential use.

If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw. If the six month moratorium period established hereby is determined by an authority or court of competent jurisdiction to be longer than allowed under law, the moratorium period shall be for the longest period of time allowed by law, but in no event less than three months. (5-5-97, Art. 5)

- 4.1.6.9 Junkyards. (10-26-98, Art. 12)
- 4.1.6.10 Pawnbrokers. (10-23-00, Art. 7)
- 4.1.7 Moratorium on distribution of Marijuana Not Medically Prescribed
- 4.1.7.1. Purpose: By vote at the State election on November 8, 2016 (Ballot Question 4), the voters of the Commonwealth approved a law to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older. Its intent is to remove the production and distribution of marijuana from the illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated and taxed distribution system. This moratorium will allow the Town sufficient time to engage in a planning process to consider and address the effects of such uses and structures in the Town, and to enact zoning bylaw provisions regarding the distribution of marijuana not medically prescribed in a manner consistent with sound planning and land use objectives, as well as applicable law and regulations. (5-1-17, Art.24)
- 4.1.7.2. Definition of Distribution of Marijuana Not Medically Prescribed: Distribution of marijuana not medically prescribed shall mean “an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers”, as defined by Massachusetts law only (as referenced in Ballot Question 4) and regulated by the Commonwealth of Massachusetts to “compound, blend, extract, infuse or otherwise make or prepare a marijuana product.” (5-1-17, Art.24)
- 4.1.7.3. Moratorium: For the reasons set forth in the purpose Section above, and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a moratorium on the use of any land or structures for the distribution of marijuana not medically prescribed in all zoning districts in the Town. The moratorium shall be in effect until such time that the Town Meeting enacts a Zoning Bylaw specifically addressing a Distribution Use(s) of Marijuana Not Medically Prescribed in Stoneham or through *December 31, 2018*, whichever date is sooner. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of the distribution of marijuana not medically prescribed and related uses in the Town, consider the State regulations regarding its distribution and related uses, and enact new Zoning

Bylaws to address these issues, including the use of any land or structures therefore. (5-1-17, Art.24)

4.2 RESIDENCE A DISTRICTS:

4.2.1 Purpose:

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

4.2.2 Uses Permitted:

4.2.2.1 One-family dwelling.

4.2.2.2 Accessory uses which are proper and usual with residences and are not injurious to a neighborhood as a place for such residences, including:

- (a) Private garage for not more than three (3) cars.
- (b) Private swimming pool.
- (c) 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. Maximum gross floor area one hundred thirty (130) square feet with side and rear setbacks of five (5) feet; provided that the structure is a minimum of ten (10) feet from any abutting principal use or detached garage;
 - 3. Maximum gross floor area of two hundred fifty (250) square feet provided that the accessory building complies with the minimum setback requirements for the district contained in Section 5.2.1;
 - 4. Maximum height of fifteen (15) feet. (5-4-09, Art.10)
- (d) One (1) unregistered motor vehicle per lot; provided that it is not a commercial vehicle with a gross vehicle weight greater than seventeen thousand five hundred (17,500) pounds and that this provision shall not be applicable to any unregistered motor vehicle housed exclusively in a garage on the premises. (10-26-98, Art. 13)
- (e) Parking of a commercial vehicle with a registered gross vehicle weight of no greater than seventeen thousand five hundred (17,500) pounds. (10-26-98, Art. 13)

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.

- 4.2.2.3 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.
- 4.2.3 *Uses Permitted with Variances Granted by the Board of Appeals:*
- 4.2.3.1 Conversion of an existing dwelling to accommodate more than one (1) dwelling unit, provided that:
- (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:

1. Stairways and exits required by law.
2. Restoration consistent with the original architecture of the structure.
3. 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.

Cross-reference - Unlawfully parking large vehicles on street, Sec. 8-8.

4.2.4 *Uses Permitted on a Special Permit Granted by the Planning Board:*

4.2.4.1 Accessory Dwellings (family apartments)

- (a) Owner occupancy required: The owner(s) of the single-family lot and dwelling upon which the accessory dwelling unit, or family apartment, is located or to be located shall occupy at least one (1) of the dwelling units on the subject property. The Special Permit shall be issued to the owner of the subject property and shall be filed with the Registry of Deeds and the Planning Board shall forward a copy to the Inspector of Buildings. In the event there is a change in ownership of the subject property via a transfer to a family member an amendment to the Special Permit must be applied for. The Planning Board retains rights of rescission should any portion of conditions be violated.
- (b) In the event a change in residence of either family member occurs, or a conveyance occurs that is to someone other than a family member, or a voluntary surrender of the Special Permit, the subject property will automatically revert to a single family dwelling and no longer enjoy the rights granted under the Special Permit that allowed for the accessory dwelling. This does not preclude a new application for a Special Permit in accordance with the described use at any time in the future.
- (c) The gross floor area of the accessory dwelling, or family apartment, shall not exceed 750 square feet under any circumstance or condition. The accessory dwelling unit must be attached to the subject property primary dwelling unit by way of minimum shared wall coverage of 75% (of length). In addition all utility services shall be single service (meter) to the subject property primary dwelling and accessory dwelling.
- (d) One additional parking space shall be provided for the accessory dwelling, or family apartment, in addition to a minimum of two spaces for the principal unit, or other parking requirements as determined by the Planning Board.
- (e) Occupancy of the accessory dwelling, or family apartment, shall be limited to two people and may not be used for business or commercial purposes.
- (f) A deed restriction for the affected lot must be filed with the Registry of Deeds to the effect that principal dwelling or accessory dwelling, or family

apartment, be owner occupied as a condition for the issuance of an occupancy permit for the subject accessory dwelling, or family apartment.

- (g) Construction and occupancy of the accessory dwelling, or family apartment shall comply with all applicable state, federal, and local laws and regulations. No Certificate of Occupancy shall be issued until evidence of the recording of the Special Permit and Deed Restriction has been provided to the Planning Board and Building Inspector.
- (h) Ownership of the principal dwelling and the accessory dwelling, or family apartment, shall be one and the same, and may not be separated. There shall be one accessory dwelling allowed per single family dwelling. There is to be no other apartment or accessory dwelling unit on the subject lot. (10-27-03, Art. 21)

4.3 RESIDENCE B DISTRICT:

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

4.3.2 *Uses Permitted:*

4.3.2.1 All of the uses and accessory uses permitted in Residence A District.

4.3.2.2 A dwelling containing one (1) or two (2) dwelling units.

4.3.3 *Uses Permitted on a Special Permit granted by the Planning Board and Site Plan Approval by the Select Board:* (5-1-95, Art. 11)

4.3.3.1 Multiple family dwellings, including apartment houses, garden apartments, and town houses, provided that:

- (a) Apartment sites and improvements and structures thereon, except structures regulated by Chapter 183A, Massachusetts General Laws, shall be constructed and retained as a single entity.
- (b) Off-street parking shall be provided as required by Section 6.3, provided that:
 - 1. All parking spaces shall be located to the rear of the front building line.
 - 2. 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 One may be raised by ten (10) feet for that building.

- (c) Each structure shall be connected to and serviced by municipal water and sewer.
- (d) There shall be seven hundred and fifty (750) square feet of usable common open space per dwelling unit. Usable common open space shall mean areas left substantially in a natural state or improved by such landscaping as required in Section 6.5 and primarily designed and intended for the active and passive recreation of the occupants of the dwellings. Usable common open space shall not include street rights-of-way, open parking, or service areas, driveways, easements for above-ground utilities, required minimum front yards, or any other land deemed unsuitable by the Planning Board or the Select Board for reasons of excessive slope or poor drainage. (5-1-95, Art. 11)
- (e) 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.
- (f) In cases of the sale of individual units as in a condominium, there shall be included in the deed a requirement obligating the purchasers to join in an organization of unit owners incorporated under Chapter 183A of the General Laws of the Commonwealth of Massachusetts, as amended. The organization shall file a written report, including the names of officers, with the Town Clerk, to be submitted to the Town Clerk by February 15 of each year. Such report may be the same written report rendered to all unit owners referred to in Chapter 183A, Section 10, Paragraph d.
- (g) All existing or proposed utilities shall be installed underground at the time of initial construction.
- (h) If there is more than one (1) such structure on a lot of record, there shall be at least sixty (60) feet between each structure except for town houses where there shall be at least forty-five (45) feet between each structure. The only exception may be that no more than three (3) buildings may each be interconnected by a covered walkway or breezeway for reasons of convenience and shelter from the elements, if such walkway, in the opinion of the Planning Board and the Select Board, shall not impair services to the buildings by emergency vehicles or equipment. Such buildings so interconnected shall be deemed as separate and individual buildings for the purposes of administering the Rules and Regulations Governing the Subdivision of Land for the Town of Stoneham. (5-1-95, Art. 11) (1-12-15, Art. 2)
- (i) 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.

4.3.4 *Uses Permitted on a Special Permit Granted by the Planning Board:*

4.3.4.1 All of the uses permitted on a Special Permit in Residence A Districts.

4.3.4.2 Lodging house or congregate housing.

4.3.4.3 Sanitarium or convalescent home.

4.3.4.4 Conversion of an existing dwelling to accommodate one (1) additional unit over that otherwise permitted, provided that:

- (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 minimum additional lot area of two thousand five hundred (2500) square feet for each newly created unit.
- (c) In addition to the requirements in Section 6.0, there is at least one (1) off-street parking space for each bedroom and efficiency apartment in the converted portion of the structure, which space shall not be provided in the front or side yard.
- (d) There is provision for screening by fencing or landscaping of outside storage areas.
- (e) No unit shall have a floor area of less than five hundred (500) square feet plus one hundred (100) square feet for each bedroom over one (1).
- (f) The floor area of the newly created unit(s) shall be less than fifty (50) percent of the total floor area of the principal dwelling unit, after conversion.
- (g) Each unit shall be a complete and independent dwelling unit.
- (h) The exterior appearance of the structure shall not be altered except for:
 1. Stairways and exits required by law, which shall be in the rear of the building.
 2. Restoration consistent with the original architecture of the structure.
 3. Additions in the rear or side yard which are not more than ten (10) percent of the original floor area.

Cross reference - Unlawfully parking large vehicles on street, Sec. 8-8.

4.4 NEIGHBORHOOD BUSINESS DISTRICT:

4.4.1 *Purpose:* The purpose of the Neighborhood Business District is to provide area for retail sales and services to satisfy daily need and convenience for a neighborhood or group of neighborhoods.

4.4.2 *Uses Permitted:*

4.4.2.1 The following uses are permitted provided that there is no outside display, sales or storage or live or mechanical music or amusement:

- (a) Retail store with a maximum gross floor area of five thousand (5000) square feet per floor.
- (b) Service shop, such as barber shop, beauty shop, dry cleaning pick-up shop, with a maximum gross floor area of two thousand (2000) square feet.
- (c) Repair shop, such as shoe repair, appliance or electronic repair, jewelry repair, with a maximum gross floor area of two thousand (2000) square feet.
- (d) Enclosed accessory uses normally incidental to the permitted uses.

4.4.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:* (10-21-85, Art. 15; 5-4-87 - See editor's note below)

4.4.3.1 Restaurant where food and beverages are consumed indoors with a maximum gross floor area of two thousand (2000) square feet and where there is no drive-in service.

4.4.3.2 Combined business-residential use in one building, provided that the residential use shall be permitted above or below the ground floor and further provided that no more than five (5) dwelling units shall be allowed in a building. (5-3-99, Art. 20)

4.4.3.3 Conversion of a residence existing at the time of adoption of this Section to combined business and residence use or to multiple dwelling units, provided that in either case no more than two (2) dwelling units shall be allowed in a building.

Editor's note - Amendment of Sec. 4.4.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.5 BUSINESS DISTRICT:

4.5.1 *Purpose:* 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.

4.5.2 *Uses Permitted with Site Plan Approval:*

- 4.5.2.1 All of the uses and accessory uses permitted in the Neighborhood Business District, subject to the same conditions.
- 4.5.2.2 Bank, financial, business, or professional office, telephone exchange.
- 4.5.2.3 Salesroom, showroom, department store or place for the conduct of retail business in a structure.
- 4.5.2.4 Restaurant, public dining room or lunch room, not including any drive-through facilities.
- 4.5.2.5 Accessory uses normal and incidental to uses permitted in Business Districts, including:
 - (a) Business accessory parking, provided that there is no repair, servicing, sale or storage of motor vehicles and vehicle parts.
 - (b) Off-street loading.
 - (c) 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. (4-03-01, Art. 12)
- 4.5.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board: (5-4-87, Art. 15)*
 - 4.5.3.1 Hall, club, theater, dance hall, dancing school, gymnasium, library and museum or other place of amusement or assembly within a structure.
 - 4.5.3.2 Hotel.
 - 4.5.3.3 Funeral Home or mortuary.
 - 4.5.3.4 Retail business and service establishment for motor vehicles, subject to the following:
 - (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.

4.6 CENTRAL BUSINESS DISTRICT:

- 4.6.1 *Purpose:* The purpose of the Central Business District is to preserve and improve the character and qualities of Stoneham Square.
- 4.6.2 *Uses Permitted:*
- 4.6.2.1 All the uses permitted in the Business District, subject to the same conditions.
- 4.6.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:* (10-21-85, Art. 15; 5-4-87, Art. 15 - See editor's note below)
- 4.6.3.1 Dwellings above the first floor of a building used for one of the uses allowed in Section 4.6.2.
- 4.6.3.2 Dwellings on the first floor of a building provided that fifty percent of the gross floor area of the first floor of the building is used for one of the uses allowed in Section 4.6.2 and that the uses allowed in Section 4.6.2 occupy except for entrances, the entire first floor area of the building adjacent to a street. (5-6-13, Art. 5)

Editor's note - Amendment of Sec. 4.6.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.7 HIGHWAY BUSINESS DISTRICT:

- 4.7.1 *Purpose:* 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.
- 4.7.2 *Uses Permitted with Site Plan Approval by the Select Board:*
- 4.7.2.1 Office, bank or financial institution.
- 4.7.2.2 Retail store or service establishment.
- 4.7.2.3 Salesrooms for automobiles, bicycles, boats, farm implements and similar equipment.
- 4.7.2.4 Building materials salesrooms.
- 4.7.2.5 Photographic studios, medical and dental offices and laboratories and clinics. (10-29-98, Art. 14)
- 4.7.2.6 Accessory uses within a principal structure.
- 4.7.2.7 Restaurant excluding those permitted in 4.7.3.6.
- 4.7.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:* (10-21-85; 5-4-87, Art. 15)

- 4.7.3.1 Any retail establishment or establishments with a combined gross floor area fifty thousand (50,000) square feet or more. (10-21-85, Art. 15; 5-8-89, Art. 19)
- 4.7.3.2 Hotels.
- 4.7.3.3 Indoor recreation or amusements, including entertainment such as theaters, provided that:
- (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.
- 4.7.3.4 Funeral homes, chapels, mortuaries, and crematoriums.
- 4.7.3.5 Commercial greenhouses, nurseries, and kennels, provided that:
- (a) All displays are set back at least thirty (30) feet from the street right-of-way.
 - (b) The paved area shall be screened in accordance with the provisions of Section 4.7.3.7 (e) below.
- 4.7.3.6 Drive-in, drive-through or fast food restaurants, and other drive-in retail establishments provided that:
- (a) No vehicles waiting service park or stand on a public way.
 - (b) The paved area shall be screened in accordance with the provisions of Section 4.7.3.7 (e) below.
- 4.7.3.7 Retail business and service establishments for the retail distribution of petroleum products, not including wholesale fuel storage and distribution areas, subject to the following:
- (a) Repairs shall be limited to minor repairs and adjustments unless conducted within a building.
 - (b) There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery, or required in the operation of the service station, garage or repair shop.
 - (c) The area used to service, repair or store vehicles shall be paved.
 - (d) There shall be an area at least fifteen (15) feet deep between the street line and the paved area which shall be separated from the street by a curb and which shall be seeded and landscaped except at an entrance and exit which shall be at least twenty (20) feet wide and at least fifty (50) feet apart, and further provided that there shall be only one (1) entrance and one (1) exit for each one hundred and fifty (150) feet of street frontage.

- (e) The paved area shall be screened from all adjacent lots, whether on the side or rear, by a strip fifteen (15) feet wide, densely planted with shrubs or trees, which are at least three (3) feet high at the time of planting and are of a type which may be expected to form a year- round dense screen at least five (5) feet high within three (3) years. This screening should not obstruct a view of on-coming traffic when entering or exiting the property.
- 4.7.3.8 Places of amusement or entertainment, including skating rinks; dance halls; restaurants or other establishments with live entertainment; theaters.
- 4.7.3.9 Veterinary Hospital. (5-6-19, Art. 16)

Editor's note - Amendment of Sec. 4.7.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.8 COMMERCIAL DISTRICT I: (10-29-98, Art. 22)

- 4.8.1 *Purpose:* The purpose of the Commercial District I is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses. (10-29-98, Art. 22)
- 4.8.2 *Uses Permitted with Site Plan Approval by the Select Board:*
- 4.8.2.1 Research Laboratory.
 - 4.8.2.2 Office Building.
 - 4.8.2.3 Light Manufacturing.
 - 4.8.2.4 Veterinary Hospital.
 - 4.8.2.5 Office Parks.
 - 4.8.2.6 Industrial Parks.
 - 4.8.2.7 Retail store, service establishment, and retail business of which the gross floor area of the store or establishment is not greater than three thousand (3,000) square feet. (5-8-89, Art. 20)
 - 4.8.2.8 Restaurant, public dining room or lunch room, not including any drive-through, of which the gross floor area of said restaurant, public dining room or lunch room, shall not be greater than three thousand (3,000) square feet and provided that the site in total contains fifty thousand (50,000) square feet or more of gross floor area. (10-30-89, Art. 1)
 - 4.8.2.9 Deleted. [Refer to 4.14] (10-29-98, Art. 22)
 - 4.8.2.10 Medical and dental offices and laboratories and clinics.

- 4.8.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:* (10-21-85, Art. 15; 5-4-87, Art. 12 - See editor's note below)
- 4.8.3.1 Utility buildings, contractor's storage warehouses and buildings, and wholesale distribution plants.
- 4.8.3.2 Passenger depots and terminals.
- 4.8.3.3 Retail store, service establishment, and retail business with gross floor area in excess of three thousand (3,000) square feet; and service establishment for the retail distribution of petroleum products, provided that such shall not permit gasoline service stations and garages. (10-21-85, Art. 15; 5-8-89, Art. 12)
- 4.8.3.3.1 Any retail store, service establishment or retail business with a combined gross floor area of seventy-five thousand (75,000) square feet or more. (5-8-89, Art. 12)
- 4.8.3.4 Automobile repair services provided that:
- (a) All service is performed within an enclosed structure.
 - (b) Such building shall be located not less than three hundred (300) feet from properties used or zoned for residential purposes, and not less than six hundred (600) feet from a school.
 - (c) Such building shall be set back at least fifty (50) feet from the street right-of-way.
 - (d) 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 and streets.
 - (e) Screening in accord with Section 6.5 shall be provided and maintained along all adjacent property boundaries.
- 4.8.3.5 Banquet Facilities, Function Halls and Dinner Theaters. (7-28-03, Art. 3)
- 4.8.3.6 Senior Residential Overlay (SRO) District (See Section 4.16 Senior Residential Overlay (SRO) District for additional regulations and requirements)

Editor's note - Amendment of Sec. 4.8.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.9 MEDICAL DISTRICT:

4.9.1 *Purpose:* The purpose of the Medical District is to provide an area for hospitals and services related to said hospitals, and medical offices and residential uses related to the Medical District uses.

4.9.2 *Uses Permitted with Site Plan Approval by the Select Board:*

4.9.2.1 Convalescent home, nursing home, life care facility, day care facility.

4.9.2.2 Residential uses related to any other allowed uses in the Medical District provided that the total residential uses shall not exceed forty percent (40%) of the total area of a lot or all contiguous lots in the Medical District.

4.9.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:*(5-4-87, Art. 15) (See editor's note below)

4.9.3.1 Semi-public, philanthropic, or charitable institutions, but not including a correctional institution or a place of detention.

4.9.3.2 Library or museum.

4.9.3.3 Hospital.

4.9.3.4 Health Care Facility.

4.9.3.5 Activities accessory to uses otherwise permitted, either with Site Plan Approval and by Special Permit, within the District, including medical professional offices and medical schools or training facilities. (5-7-87, Art. 5)

A certain tract of land located in the town of Stoneham, Middlesex County, Massachusetts. Beginning at an iron pin at the most southwesterly corner of the property on Franklin Street thence running

N 29°08'30"E a distance of three hundred eight six and 20/100 (386.20) feet to an unmarked point, thence running

S75°29'36"E a distance of one hundred seventy three and 64/100 (173.64) feet to an unmarked point, thence running

S 14°50'15"W a distance of two hundred forty three and 44/100 (243.44) feet to an unmarked point, thence running

S73°29'30"E a distance of forty nine and 80/100 (49.80) feet to an unmarked point, thence running

S15°44'45"W a distance of thirty and 69/100 (30.69) feet to an unmarked point thence running

S26°42'15"W a distance of one hundred six and 57/100 (106.57) feet to an unmarked point, thence running

S16°36'46"W a distance of one hundred fourteen and 45/100 (114.45) feet to an unmarked point, thence running

S34°19'00"E a distance of eight four and 57/100 (84.57) feet along Franklin Street to a stone bound, thence running

One hundred thirty three and 46/100 (133.46) feet along an arc with a radius of two hundred sixty three and 08/100 (263.08) feet to an unmarked point, thence running

N63°23'00"W a distance of eleven and 23/100 (11.23) feet along Franklin Street to the point of beginning (10-1-12, Art. 3)

Editor's note - Amendment of Sec. 4.9.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.10 RECREATION/OPEN SPACE DISTRICT:

4.10.1 *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 and/or features which serve a regional purpose.

4.10.2 *Uses Permitted:*

4.10.2.1 Conservation areas for water, water supply, plants, and wildlife, flood protection and dams necessary for achieving these purposes.

4.10.2.2 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.

4.10.2.3 Cemeteries.

4.10.2.4 Recreational, cultural, civic and not for profit expositions when the land/structures are owned by the Town of Stoneham. (5-12-86)

4.10.3 *Uses Permitted on a Special Permit Granted by the Planning Board and the Select Board:* (5-4-87, Art. 15) (See editor's note below)

4.10.3.1 Recreational, cultural, civic and not for profit expositions when the land/structures are not owned by the Town of Stoneham. (5-12-86)

4.10.3.2 Zoos, public gardens, day camps, picnic areas and nature study areas.

4.10.3.3 Accessory uses, including snack bars, pro shops and retail sales in connection with and incidental to a permitted use.

Editor's note - Amendment of Sec. 4.10.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

4.11 WIRELESS SERVICE FACILITIES OVERLAY DISTRICT: (10-29-98, Art.20)

4.11.1 *Purpose:*

This bylaw is adopted for the regulation and restriction of the construction, erection, installation, placement and/or use of Wireless Service Facilities and the protection of the general public from the impacts associated with Wireless Service Facilities. It is the purpose of this bylaw to: (1) minimize the adverse impacts of wireless communications facilities on adjacent properties and residential neighborhoods; (2) limit the overall number and height of such facilities; (3) encourage the most appropriate use of the land; (4) promote shared use of existing facilities to reduce the need for additional facilities and (5) guide sound development while promoting the health, safety and general welfare of the Town consistent with applicable federal law. This bylaw is intended to be used in conjunction with any and all other applicable bylaws and regulations adopted by the Town. (10-29-98, Art. 20)

4.11.2 *Applicability:*

The provisions of other sections of this zoning bylaw notwithstanding, the regulations and restrictions set forth herein shall apply to the construction, erection, installation, placement and/or use of Wireless Service Facilities including, but not limited to personal wireless service facility and free-standing devices. No Wireless Service Facility shall be constructed, erected, installed, placed and/or used on land, buildings, and/or structures within the Town of Stoneham on or after the date of enactment of this bylaw except in accordance with the provisions of this Section 4.11. Wireless Service Facilities lawfully in existence on the date of enactment of this bylaw may be maintained and shall be kept in good condition. (10-29-98, Art. 20)

This section does not apply to the construction or use of facilities by a conforming federally licensed amateur radio used in accordance with said license as protected by Massachusetts General Laws c.40A, Sec. 3 or television antennas, including so-called satellite dishes, which are necessary to a residential use and protected by applicable federal law. (10-29-98, Art. 20)

4.11.3 *Uses Permitted:*

The following Wireless Service Facilities may be constructed, erected, installed and/or used in the Wireless Service Facilities Overlay District subject to the issuance of a building permit by the Inspector of Buildings:

- (a) A Wireless Service facility may be installed on: (i) a building, excluding buildings used for one to four family residential use or (ii) other structure, excluding any structure constructed or used primarily as a mount for antennas or other appurtenances to a Wireless Service Facility and excluding utility or similar poles and billboards or signs, provided that such Wireless Service Facility, including its supports, is:
1. Finished in a manner designed to be aesthetically consistent with the exterior finish of such building or structure, and
 2. Mounted in such a manner so that it does not:
 - (a) Extend above the building height (not including any structures on the roof of the building) by more than fifteen (15') feet.
 - (b) Extend above the height of a structure other than a building by more than 15 feet;
 - (c) Extend beyond the face of any wall, or exterior surface in case of structures that do not have walls, by more than 18 inches;
 - (d) Extend below the top of any wall, or exterior surface in case of structures that do not have walls, by more than 12 feet;
- When a Wireless Service Facility extends above the height of a building or the face of a structure as provided in subparagraphs (a) and (b), above, the Wireless Service Facility shall extend the minimum necessary for the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location, and every effort shall be made to conceal the Wireless Service Facility within or behind existing architectural features to limit its visibility from public ways. A Wireless Service Facility mounted on a roof shall be stepped back from the front facade in order to limit its impact on the building's silhouette; and
3. Individually or in the aggregate have a front surface facing surrounding streets and adjacent properties that does not exceed fifty (50) square feet in area.
- (b) A Wireless Service Facility installed wholly within and not protruding from the interior space of any existing building or structure, excluding buildings used for one to four family residential use.
- (c) A Wireless Service Facility used exclusively for non-commercial municipal public safety purposes.

Wireless Service Facilities constructed, erected, installed, placed and used pursuant to this as-right provision shall, unless otherwise provided, also be subject to the following Sections of this bylaw: 6.11.3.4 Color, 6.11.3.8 Lighting, 6.11.3.10 Historic, 6.11.4 Environmental Standards, 6.11.5 Safety Standards, 6.11.6.6 Noise Filing Requirements, 6.11.6.7 Radio Frequency Radiation Requirements, 6.11.8 Monitoring and Maintenance, and 6.11.10 Abandonment or Discontinuance of Use. (10-25-99, Art. 24)

4.11.4 *Severability*

If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw (10-29-98, Art. 20)

Editor's note – 5-8-16, Article 14 adds the Stoneham Senior Center to the Wireless Services Facility Overlay District. See 10.29.98, Article 21 for initial placement of land into the Wireless Services Facility Overlay District.

4.12 ***EDUCATION DISTRICT:*** (5-7-98, Art.13) (See editor's note)

4.12.1 *Purpose:*

The purpose of the Education District is to provide an area for educational instruction and recreation.

4.12.2 *Uses Permitted:*

- 4.12.2.1 Educational facilities owned or operated by the Town of Stoneham as utilized by the Stoneham School Committee for educational purposes or operated by any other governmental entity for educational purposes.

Editor's Note - The Education District was renumbered as 4.12 from 4.13 to allow for Commercial District II as a result of the October 26, 1998 Town Meeting, Article 22.

4.13 ***COMMERCIAL/MIXED USE DISTRICT:*** (10-15-12, Art. 2)

- 4.13.1 *Purpose:* The purpose of the Commercial District II is to provide for the development and redevelopment of the Fallon Road area. The district provides for commercial, office, and light industrial use.

4.13.2 *Uses In The Commercial District II Permitted As Of Right:*

- 4.13.2.1 Restaurant, public dining room or lunch room with a gross floor area not greater than five thousand (5,000) square feet
- 4.13.2.2 Retail store, service establishment, and retail business with gross square floor area not greater than fifty thousand (50,000) square feet.

- 4.13.2.3 Medical and dental offices, laboratories and clinics.
- 4.13.2.4 Office Buildings.
- 4.13.2.5 Office Parks.
- 4.13.2.6 Research and Development Laboratory engaged in any one of the following: experimental research and testing activities and production, including but not limited to the fields of life sciences, biology, chemistry, electronics, engineering, geology, medicine and physics excluding nuclear and hazardous biological uses.
- 4.13.2.7 Light Manufacturing.
- 4.13.2.8 Industrial Parks.
- 4.13.2.9 Elder Congregate housing, resident care living facility, including without limitation, nursing facility, assisted living facility, hospice care facility and long term care facility.
- 4.13.2.10 Storage warehouses and distribution buildings.
- 4.13.3 *Uses permitted with a Special Permit Granted by Planning Board:*
- 4.13.3.1 Wireless Service Facility (including its supports) subject to the provisions of 6.11 Wireless Service Facility Regulations and Restrictions.
- 4.13.4 *Uses Permitted with a Special Permit Granted by the Planning Board and Site Plan Approval by Select Board: (10-21-85, Art. 15; 5-4-87, Art. 12 – See editor’s note below)*
- 4.13.4.1 Restaurant, public dining room or lunch room with gross floor area of greater than five thousand (5,000) square feet with or without drive through facilities.
- 4.13.4.2 Retail store, service establishment, and retail business with gross floor area greater than fifty thousand (50,000) square feet.
- 4.13.4.3 Hotels including both full 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.
- 4.13.4.4 Electric utility substation.
- 4.13.4.5 Auto repair services provided that:
 - (a) All service is performed within an enclosed structure.
 - (b) 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.

- (c) Such building shall be set back at least fifty (50) feet from the street right-of-way.
 - (d) 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.
- 4.13.4.6 Banquet Facilities, Function Halls, and Dinner Theaters.
- 4.13.5 Off-Street Parking, Layout, and Loading Requirements for Commercial District II shall be in accordance with Section 6.3 Off-Street Parking Requirements except as follows:
- (a) Parking spaces shall be on the same lot as the principle use except that parking spaces may be provided on an adjacent lot provided there is a special permit granted for said parking by the Planning Board.
 - (b) A minimum of one (1) off-street loading area per office, commercial or retail building.

4.14 *COMMERCIAL DISTRICT III:* (10-29-98, Art. 22)

- 4.14.1 *Purpose:* The purpose of the Commercial District III is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses, wireless service facilities, large scale retail and other uses.
- 4.14.2 *Uses Permitted with Site Plan Approval by the Select Board:*
- 4.14.2.1 All uses permitted with Site Plan Approval in Commercial District I.
 - 4.14.2.2 Any retail store, service establishment or retail business with a combined gross floor area of no less than one hundred thousand (100,000) square feet or more than one hundred fifty thousand (150,000) square feet. (5-3-93, Art. 6)
 - 4.14.2.3 Truck deliveries restricted to the hours of 7:00 A.M. to 3:00 P.M. No deliveries allowed on Sunday. (5-3-93, Art. 6)
 - 4.14.2.4 The establishment shall not open until 9:00 A.M. except Sundays when they may not open until 12 noon. (5-3-93, Art. 6)
- 4.14.3 *Uses permitted on a Special Permit Granted by Planning Board:*
- 4.14.3.1 Wireless Service Facility (including its supports) subject to the provisions of 6.11 Wireless Facility Regulations and Restrictions.
- 4.14.4 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:* (10-21-85, Art. 15; 5-4-87, Art. 12 - See editor's note below)

- 4.14.4.1 All uses permitted on a Special Permit and Site Plan Approval in Commercial District I.
- 4.14.4.2.1 Body Art Establishments (4-03-01, Art. 10)
- 4.14.4.2.2 Adult Uses - 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. (12-2-96, Art. 4)

- 4.14.4.3 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. (12-2-96, Art. 4)

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. (12-2-96, Art. 4)

Editor's Note - West of I-93 bounded by Woburn/Stoneham Line.

Editor's Note - Amendment of Sec. 4.8.3 on 5-4-87 added the requirement of site plan approval to the existing special Permit requirement.

4.14.4.5. Medical Marijuana Treatment Center (5-5-14, Special Town Meeting, Art. 4)

4.14.4.5.1 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.

4.14.4.5.2 *Purpose*

The purpose of this bylaw is to:

- (a) 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.

- (b) 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.
- (c) regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Treatment Centers.

4.14.4.5.3 *Applicability*

- (a) No Medical Marijuana Treatment Center shall be established except in compliance with the provisions of this Section 4.14.5.
- (b) 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.
- (c) 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.

4.14.4.5.4 *General Requirements and Conditions for all Medical Marijuana Treatment Centers.*

The following requirements and conditions shall apply to all Medical Marijuana Treatment Centers:

- (a) All Medical Marijuana Treatment Centers not otherwise specifically exempted by State law shall be contained within a building or structure.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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.
- (g) 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.
- (h) No products shall be displayed in the facilities windows or be visible from any street or parking lot.
- (i) Notwithstanding any provisions of Section 6.7 of the Zoning Bylaws, 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.
- (j) 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.

4.14.4.5.5 *Special Permit Requirements*

4.14.4.5.5.1 A Medical Marijuana Treatment Center shall only be allowed by special permit in accordance with G.L. c. 40A, §9 and Section 7.4 of the Zoning Bylaws, subject to the regulations, requirements, conditions and limitations of contained in Section 4.14.5.

4.14.4.5.5.2 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:

- (a) cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter 40A Section 3 shall not require a Special Permit;

- (b) 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
- (c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;

4.14.4.5.5.3 In addition to the application requirements set forth in this Section 4.14.4.5, 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:

- (a) the name and address of each owner of the establishment and property owner;
- (b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the establishment;
- (c) evidence of the applicant's right to use the site for the establishment, such as a deed, or lease;
- (d) 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;
- (e) 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.

4.14.4.5.6 *Mandatory Findings*

In addition to the findings required under Section 7.4 of the Zoning Bylaws, the Planning Board shall not issue a Special Permit for a Medical Marijuana Treatment Center unless it finds that:

- (a) 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;
- (b) 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

- (c) the applicant has satisfied all of the conditions and requirements of this Section 4.14.4.5.

4.14.4.5.7 *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.

4.14.4.5.8 *Term of Special Permit*

- (a) A special permit issued pursuant to this Section 4.14.4.5 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 4.14.4.5 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 4.14.4.5.8 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 4.14.4.5.6 if specific circumstances warrant.
- (b) A Special Permit granted under this Section 4.14.4.5 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 4.14.4.5. 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.

4.14.4.5.9 *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 4.14.4.5.10 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.

4.14.4.5.10 *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.

4.14.4.5.11 *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.

Severability

If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

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

4.15 MEDICAL/OFFICE/RESIDENTIAL/DISTRICT:

- 4.15.1 *Purpose:* 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 multi-family residential uses.
- 4.15.2 *Uses related to the Medical/Office District permitted as of right:*
- 4.15.2.1 Elder congregate housing.
- 4.15.2.2 Hospital, related medical treatment, diagnostic care and services.
- 4.15.2.3 Health Care Practice and Services whether offered in an individual or group practice setting, including free standing and mobile diagnostic facilities.
- 4.15.2.4 Garden or Town house design dwelling units not to exceed 310 units in the Medical/Office/Residential District provided that there is a maximum of thirty (30) units per acre for Garden dwellings and a maximum of ten (10) units per acre for Town house style dwellings.
- 4.15.2.5 Medical, Professional, Administrative, Executive or Management Offices.
- 4.15.2.6 Office Buildings.
- 4.15.2.7 Office Parks.
- 4.15.2.8 Research laboratory with uses such as, but not limited to, electronics, engineering and software.
- 4.15.2.9 Accessory uses incidental to and in support of any of the as of right uses described above are permitted in Section 4.15.2. Accessory uses greater than 2,500 square feet of the gross floor area shall be allowed only with the grant of a Special Permit pursuant to Section 4.15.4.3. Further provided that there shall be no exterior advertising of accessory uses. 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.
- 4.15.2.10 Off-street Parking, Layout, Screening and Loading Requirements for Medical/Office/Residential District are in accordance with Section 6.3 except as follows:
- (a) Minimum of 1.7 parking spaces per dwelling unit.
 - (b) Parking spaces shall be a minimum of eight (8') feet by sixteen (16') feet.
 - (c) Minimum aisle width of twenty-two (22') feet.

- (d) No minimum or maximum for the number of driveways permitting entrance to and exit from a lot to a street.
 - (e) Parking spaces shall be on the same lot as the principle use except that parking spaces may be provided on an adjacent lot provided there is a recorded parking easement for said parking.
 - (f) Tandem parking spaces are allowed for Town house use.
 - (g) No side and/or rear parking setbacks are required and the parking setback for any street is two (2') feet except the parking setback for Woodland Road is ten (10') feet.
 - (h) No requirement for off-street loading area for Garden or Town house design residential use and a minimum of one (1) off-street loading area per office building.
 - (i) No requirement to protect abutting properties from headlight glare.
- 4.15.2.11 The four (4) foot wide area of landscaping adjacent to the property boundary required by Section 6.5.2.4 is not required in Medical/Office/Residential District.
- 4.15.2.12 Up to two levels of parking within the building footprint is allowed beneath the uses permitted as described in 4.15.2 above.
- 4.15.2.13 Pre-existing wireless facilities subject to the provisions of 4.11 Wireless Facility Regulations and Restrictions.
- 4.15.3 *Uses in the Medical/Office/Residential District Permitted with Site Plan Approval by the Select Board:*
- 4.15.3.1 Resident care living facility, including, without limitation, nursing facility, assisted living facility, hospice care facility, and long term care facility.
 - 4.15.3.2 Medical laboratories, or clinics, dental laboratories or clinics.
 - 4.15.3.3 Clinics and facilities licensed by the Department of Public Health or by the Department of Mental Health or any successor agency.
- 4.15.4 *Uses Permitted in the Medical/Office/Residential District with a Special Permit Granted by the Planning Board and Site Plan approval by the Select Board after concurrent hearings held by the Boards:*
- 4.15.4.1 Medical schools, medical training facilities and training facilities for health professions.
 - 4.15.4.2 Conference center.
 - 4.15.4.3 Hotels, including both full 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 shops wholly within the premises.

- 4.15.4.4 Research and Development Laboratory engaged in any one of the following: research, experimental and testing activities, and production, including but not limited to the fields of life sciences, biology, chemistry, electronics, engineering, geology, medicine and physics excluding any high hazard uses.
- 4.15.4.5 Restaurant, public dining room or lunch room, with a gross floor area not greater than five thousand (5,000) square feet.
- 4.15.4.6 Multi-level parking facility accessory to a principal use permitted in Section 4.15.2, 4.15.3 or 4.15.4 including enclosed and open facilities and above and below ground.
- 4.15.4.7 Non-residential uses that provide services ancillary to uses permitted by right or on a special permit in the Medical/Office/Residential District, including, without limitation, maintenance shop, machine shop, water tower, steam plant and power plant. (05-02-11, Art. 5)

4.16 SENIOR RESIDENTIAL OVERLAY (SRO) DISTRICT:

- 4.16.1 *Purpose:* The purpose of the SRO District is to encourage the development of safe, independent senior housing within the Commercial 1 District in order to provide the following: a variety of housing options for a senior couple or individual who are Qualified Occupants who are/is capable of living independently; to create a style of housing which reflects the desires of a maturing population; to encourage social interaction through the utilization of an increased density of development; to provide access to existing commercial and retail amenities to minimize dependence on vehicles; and to provide links to transportation and recreational opportunities.
- 4.16.2 *Uses within the SRO District are permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Select Board:*
- 4.16.3 *Definitions:*
 - (a) **Qualified Project and Qualified Occupants:**
Any application within the SRO District for the development of independent senior housing shall provide evidence of compliance with the requirements of MGL, Chapter 151B, Section 4, subsection 6, which permits the creation of age restricted housing subject to the units being owned or rented by at least one (1) person who is fifty-five (55) years of age or older or sixty-two (62) years of age or older on a property consisting of five (5) or more acres. The application shall also include a preliminary agreement or restrictive

covenant which outlines how the units will be regulated to ensure compliance with these restrictions.

(b) **Independent Senior Housing:**

A residential facility consisting of a multi-unit building or buildings that provide accommodations for independent senior adults who are Qualified Occupants. These residences and associated structures may include common areas, a common dining facility, and space for social, psychological and/or educational programs. Home health care or other community based services may be used on an individual basis. There may be management and maintenance staff but there is no permanent on-site medical staff.

4.16.4 *Application of SRO District Regulations:*

- (a) *Overlay District:* This by-law is adopted as an overlay district for all qualifying properties within the Commercial 1 District and sets forth the design and dimensional standards that apply to all developments of an SRO District Project. These standards shall apply to any development proposing a new building or any redevelopment that will require the alteration of an existing building and parking area. All applications under this SRO District shall comply with Section 6.8 “Performance Standards” and Section 7.4 “Special Permit”, of the Zoning By-Laws.
- (b) *Application Process:* The Planning Board shall be the Special Permit Granting Authority and the Select Board shall be the Site Plan Granting Authority for developments proposed under Section 4.16 “Senior Residential Overlay (SRO) District”. Applicants shall comply with the procedures for Site Plan and Special Permit review as listed elsewhere in this by-law.
- (c) *Waivers:* The Planning Board may, as part of any Special Permit decision, modify or waive any dimensional requirement of the SRO District, unless otherwise noted, upon a finding that due to unique conditions effecting the property, project location, or other beneficial site designs, that the dimensional 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 or waivers, the Board may impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section. The Planning Board may not waive the Minimum Lot Area requirement of 5 acres, unless such provision is modified under M.G.L., Chapter 151B, § 4.
- (d) *Review by other agencies:* Any Special Permit application submitted to the Planning Board or a Site Plan application submitted to the Select Board

under Section 4.16 shall comply with all local review requirements and procedures for Special Permit and Site Plan review.

4.16.5 *General Requirements:*

- (a) *Design:* The site layout shall utilize appropriate building placement and landscape design to reasonably protect project residents from excessive noise, lights and traffic, emanating from adjacent properties.
- (b) *Infrastructure:* The proposed site shall be served by municipal water and sewer services and shall comply with all utility design standards imposed by the Town Department of Public Works and Town Engineer.

4.16.6 *Signage:*

- (a) Developments constructed under the SRO District By-law shall comply with the signage requirements of the Commercial 1 District, as described within Section 6.7 “Signs and Illumination” contained elsewhere within this By-law.

4.16.7 *Dimensional Requirements and Additional Regulations:*

- (a) Dimensional restrictions shall be consistent with the limitations specified for the Commercial 1 District, as described within Section 5.2.1 “Table One - Dimensional Requirements”, of this By-law, subject to the following requirements below and waiver provisions as detailed in Section 4.16.3 (c) of this By-Law.
- (b) Minimum Lot Size: 5 Acres (This dimensional requirement is not permitted to be reduced or waived by the Planning Board, subject to Section 4.16.3 (c) of this By-Law.)
- (c) Building Height: If some or all of the required parking spaces for the proposed dwelling units are enclosed within the structure of the building, the height requirement specified within Section 5.2.1 “Table One - Dimensional Requirements”, is permitted to be raised by ten (10) feet for that specific structure.
- (d) Multiple Structures: The SRO District allows for the construction of multiple structures on one lot in order to minimize sprawl and to encourage the creation of useable open space for residents. In all cases, the buildings shall maintain a minimum separation of thirty (30) feet and shall be subject to applicable Massachusetts State Building Code requirements. The building locations shall be designed to ensure that adequate emergency vehicle access is provided.
- (e) Connections: Buildings may be connected by a series of covered walkways, pursuant to applicable Massachusetts State Building Code requirements

- (f) Common Open Space: The development shall provide an area of useable common open space which will be accessible by residents of the development for passive recreational opportunities. Qualifying useable common open space shall mean (i) Existing vegetated areas which are left substantially in a natural state; (ii) areas improved by such landscaping as required in Section 6.5 and primarily designed and intended for passive recreational opportunities; or (iii) enclosed common space (i.e., clubhouse), which provides gathering areas, entertaining space or exercise facilities, available for use only by residents of the facility and their guests. Useable common open space shall not include a public or privately owned right-of-way, open parking or service areas, or driveways.
- (g) Base Unit Density: Subject to the dimensional requirements and restrictions outlined within this By-law, the base number of units permitted within an SRO development shall be limited to 2 units per 2,000 square feet of total land area, inclusive of wetlands or other land areas regulated by the Conservation Commission.
- (h) Density Bonus: Notwithstanding the limitations set out above, the Planning Board may, at their discretion, authorize an increase in the permissible intensity of an SRO District development over the Base Unit Density, provided the applicant offers one or more of the following public benefits: (In no event shall the Density Bonus increase the Base Unit Density more than 10%)
 - 1. Traffic or pedestrian improvements (such as, but not limited to, bike path connections, off-site sidewalks or pedestrian improvements; traffic mitigation).
 - 2. Landscaped open space which adds unusual value or character to the community or provides enhanced protection to an environmentally sensitive area.

4.17 RESIDENTIAL /BUSINESS OVERLAY DISTRICT

- 4.17.1 *Purpose:* The purpose of the Residential/Business Overlay District is to allow the development of housing within portions of the Business and Central Business Districts.
- 4.17.2 Uses within the Residential/Business Overlay District are permitted on a Special Permit granted by the Planning Board and Site Plan approval by the Select Board.
- 4.17.2.1 Residential use is allowed on all floors in the Residential/Business Overlay District provided that no more than five (5) dwelling units shall be allowed in a building. (5-7-12)

4.18 RAILROAD RIGHT-OF-WAY DISTRICT:

- 4.18.1 *Purpose:* To allow for the temporary use of a portion of the former Railroad Right-of-Way as described in Section III below, for business uses as described in Section 4.18.2 below for a period of time no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway, linear park, or other recreation area, or (ii) June 30, 2014. The Railroad Right-of-Way Overlay District confers additional land use options and does not eliminate or alter zoning rights permitted in the underlying zoning district.
- 4.18.2 *Uses Permitted As Of Right:*
- 4.18.2.1 All of the uses and accessory uses allowed in the Business District, Central Business District, Highway Business District, and Commercial District I, regardless of whether any such uses or accessory uses requires a Special Permit or other approval in said zoning district, shall be allowed as of right in the Railroad Right-of-Way Overlay District, other than the following uses: (i) automobile repair services and (ii) gasoline station or other service establishment for the retail distribution of petroleum products.
- 4.18.2.2 Uses, as allowed by Section 4.18.2.1 above, shall be limited for a period of time no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway or linear park, or (ii) June 30, 2014.
- 4.18.2.3 Structures (defined in Section 2.1.79 of these Zoning Bylaws) shall be limited to temporary structures. For purposes of this Railroad Right-of-Way Overlay District “temporary” shall, notwithstanding the time period set out in Section 2.1.81 of these Zoning Bylaws, mean with a time limit no greater than that allowed for uses authorized pursuant to said Section 4.18 as described above (no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway or linear park, or (ii) June 30, 2014).
- 4.18.2.4 Any temporary structure in excess of seven hundred fifty (750) square feet of gross floor area shall have one (1) parking space for every seven hundred fifty (750) square feet of gross floor area. There shall be no other parking

requirements for a use in this Railroad Right-of-Way Overlay District. [See also M.G.L. c.40, Sec. 54A.]

- 4.18.2.5 The Performance Standards of Section 6.8 of these Zoning Bylaws shall be applicable to any use in this Railroad Right-of-Way Overlay District. (4-7-09. Art. 11)

4.19 *RESERVED*

4.20 *EAST SCHOOL OVERLAY DISTRICT:*

- 4.20.1 *Purpose:* The purpose of the East School Overlay District is to encourage the as-of-right development and use of a residential building with no more than three (3) dwelling units on a portion of the site of the former East School at 12 Beacon Street, located within the underlying Resident A District, in order to best reuse this unique property and building. The East School Overlay District confers an additional land use option and does not eliminate or alter zoning rights permitted in the underlying zoning district.

4.20.2 *Use(s) Permitted As of Right:*

- 4.20.2.1 One building for residential use with no more than three (3) dwelling units.

4.20.3 *Accessory Buildings and Structures:*

- 4.20.3.1 There shall be no accessory buildings or other structures, other than a flagpole or as otherwise required by applicable law, bylaws or regulations of the Commonwealth of Massachusetts or the Town of Stoneham, except as allowed by Special Permit from the Planning Board, pursuant to Section 7.4. There shall be no personal wireless service facility or other telecommunications structure, except to the extent required by applicable federal or state law.

4.20.4 *Off-Street Parking, Layout, Screening and Loading Requirements:*

- 4.20.4.1 Off-Street Parking, Layout, Screening and Loading Requirements shall be in accordance with Section 6.3, except as follows:

- (a) Two (2) parking spaces for every dwelling unit.
- (b) The Section 6.3.5.2 requirement regarding the shielding of abutting properties, from the headlight glare shall apply to the protection of properties across a public or private way from the subject property, other than in the area of a driveway or other entrance or egress.
- (c) Section 6.3.7 (Off-Street Loading) shall not be applicable.

4.21 NORTH ELEMENTARY SCHOOL OVERLAY DISTRICT:

- 4.21.1 *Purpose:* The purpose of the North Elementary School Overlay District is to allow the as-of-right development and use of a residential building with no more than twelve (12) dwelling units on a portion of the site of the former North Elementary School at 195 Collincote Street, located within the underlying Resident A Zoning District, in order to best reuse this unique property and building. The North Elementary School Overlay District allows an additional land use option and does not eliminate or alter zoning rights permitted in the underlying zoning district.
- 4.21.2 *Use(s) Permitted As Of Right:*
- 4.21.2.1 One building for residential use with no more than twelve (12) dwelling units:
- (a) Each dwelling unit containing no more than two (2) bedrooms.
 - (b) There shall be one thousand (1,000) square feet of usable common open space per dwelling unit. Usable common open space shall mean areas left substantially in a natural state or improved by such landscaping as required in Section 6.5 and primarily designed and intended for the active and passive recreation of the occupants of the dwellings. Usable common open space shall not include street rights-of-way, open parking, or service areas, driveways, easements for above-ground utilities, required minimum front yards, land with greater than a ten percent (10%) slope or land deemed unsuitable for common open space by the Building Inspector after consultation with the Town Engineer for reason of poor drainage.
- 4.21.3 *Accessory Buildings and Structures:*
- 4.21.3.1 There shall be no accessory buildings or other structures, other than a flagpole or as otherwise required by applicable law, bylaws or regulations of the Commonwealth of Massachusetts or the Town of Stoneham, except as allowed by Special Permit from the Planning Board, pursuant to Section 7.4. There shall be no personal wireless service facility, including, but not limited to, a cellular facility, tower or antenna, or any other telecommunication facility or structure, except to the extent required by applicable federal or state law.
- 4.21.4 *Off-Street Parking, Layout, Screening and Loading Requirements:*
- 4.21.4.1 Off-Street Parking, Layout, Screening and Loading Requirements shall be in accordance with Section 6.3, except as follows: (a) two (2) off-street parking spaces for every dwelling unit; (b) the Section 6.3.5.2 requirement regarding the shielding of abutting properties from headlight glare shall apply to the protection

of properties across a public or private way from the subject property, other than in the area of a driveway or other entrance or egress; and (c) Section 6.3.7 (Off-Street Loading) shall not be applicable. (5-7-12, Art. 2)

4.22. RESIDENTIAL OVERLAY FALLON ROAD DISTRICT:

4.22.1 *Purpose:* The purpose of the Residential Overlay Fallon Road District is to provide for the redevelopment of a portion of the Fallon Road area for residential use.

4.22.2 *Uses in the Residential Overlay Fallon Road District permitted as of right.*

4.22.2.1 Apartment Building or Town house Design Dwelling Units, not to exceed four hundred ten (410) units in the Residential Overlay Fallon Road District provided that:

- (a) There is a maximum of twenty (20) units per acre.
- (b) Each structure shall be connected to and serviced by municipal water and sewer.
- (c) All existing or proposed utilities shall be installed underground at the time of initial construction.
- (d) The applicant must provide documentation to the Town of Stoneham Department of Public Works that the site is satisfactory in regard 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 and approved by the Town Engineer.

4.22.2.2 Off-Street Parking, Layout, and Loading Requirements for Residential Overlay Fallon Road District shall be in accordance with Section 6.3 Off-Street Parking Requirements except as follows:

- (a) Minimum required parking of 1.7 parking spaces per dwelling unit.
- (b) Parking spaces shall be a minimum of eight (8') feet by sixteen (16') feet.
- (c) Minimum aisle width of twenty-two (22') feet.
- (d) No minimum or maximum for the number of driveways permitting entrance to and exit from a lot to a street.
- (e) Parking spaces shall be on the same lot as the principle use except that parking spaces may be provided on an adjacent lot provided there is a special permit granted for said parking by the Planning Board.

- (f) Tandem parking spaces are allowed for Town house use.
- (g) One level of parking within the building footprint is allowed beneath the uses permitted as described in 4.22.2.1 above in which case the height regulation of Section 5.2.1 Table One will be raised ten (10') feet for that building.
- (h) No requirement for off-street loading area for Apartment Building or Town house design residential use. (10-1-12, Art. 2)

5.0 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 6.2 and 7.0.

5.2 DIMENSIONAL REGULATIONS BY DISTRICT:

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