ZONING BYLAW

of the

TOWN of WINCHESTER

MASSACHUSETTS

A Zoning Bylaw
adopted by the Town on April 27, 2009,
approved by the Attorney General on
January 7, 2011, and
effective as of November 4, 2010.

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TOWN of WINCHESTER
MASSACHUSETTS

Winchester Planning Board
Winchester, MA

Acknowledgements

This version of the Winchester Zoning Bylaw recodifies and updates the Winchester Zoning Bylaw of 1973 and includes amendments to November 2010 Town Meeting, which were approved by the Attorney General on January 7, 2011.

The recodification and amendments were done at the direction the Winchester Planning Board:

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SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE. The Winchester Zoning Bylaw ("this Bylaw") is enacted to promote the general welfare of the Town of Winchester, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the Town, and to increase the amenities of the Town, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.2 AUTHORITY. This Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 SCOPE. The construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.4 APPLICABILITY. All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. When the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq, or other local regulations such as, but not limited to, the Winchester Wetlands Bylaw, Sign Bylaw, Demolition Delay Bylaw, and other General Bylaws containing additional requirements.

1.5 AMENDMENTS. This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

1.6 SEPARABILITY. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT

The Town is hereby divided into the following underlying zoning districts:

2.1.1 Residential Districts

1. Multiple Family Residential Districts A (RA-120).
2. Apartment House Residential Districts B (RB-20).
3. Residential Districts A (RDA-20).
4. Residential Districts B (RDB-10).
5. Residential Districts C (RDC-15).
6. General Residence Districts (RG-6.5).

2.1.2 Business Districts

1. General Business Districts 1 (GBD-1).
2. General Business Districts 2 (GBD-2).
3. General Business District 3 (GBD-3).
4. Center Business Districts (CBD).

2.1.3 Industrial Districts

1. Limited Light Industrial Districts (IL).

2.1.4 Special Districts

1. Conservancy-Institutional Districts (SCI).

2.2 OVERLAY DISTRICTS

In addition, the following overlay districts are established and set forth in Section 8.0, herein.

2.2.1 Floodplain Overlay District (FPOD). See Section 8.1.

2.2.2 Independent Elderly Housing Overlay District (IEHOD). See Section 8.2.

2.2.3 Adult Use Overlay District (AUOD). See Section 8.3.

2.2.4 Wireless Communications Facilities Overlay District (WCFOD). See Section 8.4.

2.2.5 Village Center Overlay District (VCOD). See Section 8.5.

2.2.6 Planned Residential District (PRD). See Section 8.6.

2.2.7 Attached Residential Cluster Development Overlay District (ARCDOD). See Section 8.7.

2.2.8 Health Services Overlay District (HSOD). See Section 8.8.

2.2.9 Large Scale Ground Mounted Solar Photovoltaic Installation Overlay District. See Section 8.9 [1]

2.3 OFFICIAL ZONING MAP

2.3.1 Establishment. The location and boundaries of the district set forth under Section 2.0 are hereby established as shown on a map entitled, "Official Zoning Map of 1973, Town of Winchester, Massachusetts", revised which map, with all explanatory matter thereon, is declared to be part of this Bylaw hereafter referred to as Official Zoning Map. The Official Zoning Map shall be identified by the signatures of the members of the Planning Board attested by the Town Clerk and shall bear the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 2.3.1 of the Zoning Bylaw, Town of Winchester, Massachusetts", together with the date of adoption of this Bylaw.

2.3.2 Amendments. Changes may be made in district boundaries or other matter portrayed on the Official Zoning Map, in accordance with the provisions of this Bylaw and Chapter 40A, Section 5, General Laws. Following approval by the Town Meeting and the Attorney General, the Town Engineer shall promptly revise a Compiled Zoning Map to portray such amendment with suitable tabular notation of all amendments reflected on such map.

2.3.3 Compiled Zoning Map. The Town Engineer, under the direction of the Winchester Planning Board, shall annually during the month of January publish the Compiled Zoning Map. This Compiled Zoning Map shall be prima facie evidence of the Official Zoning Map with all amendments thereto. The original zoning map, entitled "Official Zoning Map of 1973" and original records of subsequent changes or additions thereto shall be kept by the Town Clerk. In event of a conflict between the Compiled Zoning Map and the original zoning map or original records of subsequent changes or additions, the original records shall take precedence.

2.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

2.4.1 Streets. Boundaries indicated as following the centerlines of streets, highways, or alleys shall be construed to follow the centerlines of such streets, highways, or alleys.

[1] Special Town Meeting Article 27 April 26, 2010

2.4.2 Lines. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

2.4.3 Town Lines. Boundaries indicated as approximately following town lines shall be construed as following such town lines.

2.4.4 Railroads. Lines shown following railroad lines shall in fact follow a sideline of the railroad right-of-way.

2.4.5 Shorelines. Boundaries indicated as following shorelines shall be construed to follow the limit of private ownership. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

2.4.6 Parallel. Boundaries indicated as parallel to or extensions of features indicated in Sections 2.4.1 through 2.4.5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map, as interpreted by the Zoning Enforcement Officer.

2.4.7 Others. Where physical or structural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Sections 2.4.1 through 2.4.6 above, the Zoning Enforcement Officer shall interpret the district boundaries.

2.5 LOTS SPLIT BY DISTRICT BOUNDARIES

2.5.1 Part in Adjacent Town. When a lot in one ownership is situated in part in the Town of Winchester and in part in an adjacent city or town, the regulations and restrictions of this Bylaw shall be applied to that portion of such lot as lies in the Town of Winchester in the same manner as if the entire lot were situated therein.

2.5.2 Part in Adjacent District. When a lot in one ownership is situated in more than one residential district, the regulations and restrictions of this Bylaw shall apply to the more restrictive of such district, unless 80 percent or more is in the less restrictive district, in which case the regulations of that district shall apply.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USE REGULATIONS

3.1.1 General. In each zoning district, land, buildings and other structures may be used as a principal use or an accessory use as specifically set forth in the Table of Use Regulations of this Section 3.1. Except as provided by law, all existing and future uses of land, buildings and structures not set forth in the Table of Use Regulations are expressly prohibited.

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

Y Permitted as of Right - See Section 9.5.1 for applicability of Site Plan Review.

N Not Permitted; Prohibited.

SP Permitted only under a special permit granted by the designated Special Permit Granting Authority, as provided for in Subsection 9.4 of this Bylaw.

Table of Use Regulations

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group I - Residential Uses												
1. Single-family detached dwelling on a separate lot	Y	N	Y	Y	Y	Y	N	N	Y	Y	N	N
2. Two-family attached dwelling on a separate lot	N	N	N	N	N	Y	N	N	Y	Y	N	N
3. Conversion of a single family attached dwelling unit built prior to the enactment of this Zoning Bylaw into a two-family attached dwelling, provided the conversion does not require for safety or other reasons any exterior change which alters the single family character of the attached dwelling, and no such change is made, and further provided that the lot contains no less than 11,000 square feet	N	N	N	N	N	SP	N	N	N	N	N	N
4. Garden apartment house	SP	SP	N	N	N	N	SP	N	SP	SP	N	N
5. Group or town house	SP	SP	N	N	N	N	SP	N	SP	SP	N	N
6. Mid-rise apartments	N	SP	N	N	N	N	SP	N	N	N	N	N
7. A combination of business and residential uses which are otherwise allowed in the Table of Use Regulations in the underlying GBD-2 or GBD-3 Districts	N	N	N	N	N	N	N	N	SP	SP	N	N
8. A combination of business and residential uses which are otherwise allowed in the Table of Use Regulations in the underlying GBD-2 or GBD-3 Districts with up to four dwelling units otherwise allowed in this Table	N	N	N	N	N	N	N	N	Y	Y	N	N
9. Cluster Residential Housing	N	N	SP	SP	N	N	N	N	N	N	N	N
10. Multiple Use Development	N	N	N	N	N	N	SP	N	N	N	N	N

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group II – Educational, Institutional, Recreational and Agricultural Uses												
1. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Child care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. (Reserved)												
4. Use of land or structures for religious purposes on land owned or leased by a religious sect or denomination	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Library or museum not conducted as a gainful business	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. Public park, playground, or other public recreation facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Reservation, wildlife preserve or other conservation area	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Private club or lodge	SP	SP	N	N	N	N	SP	SP	SP	SP	SP	SP
9. County club, sporting grounds, or other predominantly outdoor recreational use, excluding any use conducted as gainful business	SP	SP	SP	SP	N	SP	N	N	N	N	N	SP
10. Hospital.	N	N	N	N	N	N	N	N	N	N	N	SP
11. Orphanage, philanthropic or charitable institution	N	N	N	N	N	N	N	N	N	N	N	SP
12. Sanitarium, nursing, rest or convalescent home, operated for profit	N	N	N	N	N	N	N	N	N	N	N	SP
13. Cemetery	N	N	N	N	N	N	N	N	N	N	N	Y
14. Use of land for the primary purpose of agriculture, horticulture, floriculture, silviculture or viticulture on a parcel of land with more than five (5) acres in area.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group III – Government and Public Service Uses												
1. Essential services	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
2. Municipal administration building, fire or police station	N	N	N	N	N	N	Y	Y	Y	Y	N	Y
3. Water supply and sewage disposal facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Municipal waste disposal facility or transfer facility for rubbish, garbage, or other refuse originating within the Town	N	N	N	N	N	N	N	N	N	N	N	Y
5. Television receive-only antenna not over 30 feet in height above average ground level for a cable television system licensed by the Town and an accessory building not to exceed 100 square feet in floor area	N	N	N	N	N	N	N	N	N	N	N	SP
6. Television studio located within a municipal building and licensed by the Town, but excluding any office, storage or repair use	N	N	N	N	N	N	N	N	N	N	N	SP
7. Temporary public event	N	N	N	N	N	N	Y	Y	Y	Y	N	Y

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group IV – Commercial Uses												
1. Retail store for the sale of merchandise where all display and sales are conducted within a building	N	N	N	N	N	N	Y	Y	Y	N	SP	N
2. Personal service establishment	N	N	N	N	N	N	Y	Y	Y	N	Y	N
3. Lunch room, restaurant, cafeteria, or similar place for serving food or beverages, except diner or lunch cart, to persons inside the building	N	N	N	N	N	N	Y	Y	Y	N	Y	N
4. Fast food restaurant	N	N	N	N	N	N	SP	SP	SP	N	N	N
5. Drive-in/drive-up/drive-through restaurant	N	N	N	N	N	N	N	N	N	N	N	N
6. Indoor commercial amusement or assembly use	N	N	N	N	N	N	Y	Y	N	N	N	N
7. Undertaking or funeral establishment	N	N	N	N	N	N	Y	Y	Y	N	N	N
8. General service establishment	N	N	N	N	N	N	Y	Y	Y	N	Y	N
9. Trade shop	N	N	N	N	N	N	Y	Y	Y	N	Y	N
10. Bank or business office	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
11. Veterinary establishment, kennel, or place of the boarding of animals, conducted entirely within a building	N	N	N	N	N	N	SP	SP	N	N	SP	N
12. Kennel owned and operated by municipality	N	N	N	N	N	N	N	N	N	N	N	Y
13. Business or professional office	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
14. Medical or dental laboratory	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
15. Medical or dental center	N	N	N	N	N	N	Y	Y	Y	Y	N	N
16. Motor vehicle fuel facility, with sale of related products and services	N	N	N	N	N	N	Y	Y	N	N	N	N
17. Salesroom or repair garage for new and used automobiles, boats and other vehicles	N	N	N	N	N	N	SP	SP	N	N	N	N
18. Establishment for the sale of used cars, boats, and other vehicles	N	N	N	N	N	N	SP	SP	N	N	N	N
19. Commercial parking lot or parking garage	N	N	N	N	N	N	Y	Y	N	N	N	N
20. Commercial greenhouse salesroom or stand for the sale of nursery, garden or other agricultural produce	N	N	N	N	N	N	Y	Y	N	N	Y	N
21. Trade, professional or other school conducted as a gainful business	N	N	N	N	N	N	Y	Y	Y	Y	Y	N

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group V - Industrial Uses												
1. Storage, distribution or wholesale marketing of materials, merchandise, products or equipment conducted within an enclosed building provided that the use is part of or accessory to its own sales, service, storage or manufacturing facility; such facility need not be located on the same lot as the use permitted by this item. This space within such building devoted to such storage, distribution or wholesale marketing shall not exceed 25,000 square feet of floor area and shall not exceed 18 feet in height measured from the finished floor to the underside of the roof structure.	N	N	N	N	N	N	N	N	N	N	Y	N
2. Lumber yard, contractor's yard, open-air establishment for the storage, distribution or sale at wholesale or retail of materials (but not including used cars or salvaged materials) merchandise, products or equipment	N	N	N	N	N	N	N	N	N	N	Y	N
3. Printing or publishing plant, bottling works, manufacturing establishment or other lawful assembling, packaging, finishing or processing use	N	N	N	N	N	N	N	N	N	N	Y	N
4. Laboratory, not including a medical or dental laboratory, in a building or part of a building, equipped to conduct scientific experiments, research, tests or investigations	N	N	N	N	N	N	N	N	N	Y	Y	N
5. Wholesale laundry or dry cleaning establishment	N	N	N	N	N	N	N	N	N	N	N	N
6. Adult Uses – See Section 8.3.3	N	N	N	N	N	N	SP	N	N	N	N	N
7. Wireless Communications Facilities See Section 8.4	N	SP	N	N	N	N	SP	SP	SP	SP	SP	SP

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group VI - Accessory Uses												
1. Office within the place of residence of a physician, accountant, lawyer, architect, dentist or similar office uses, occupying not more than 25 percent of the floor area of the dwelling unit, and not more than one nonresident employee shall be employed, but subject to all other restrictions of Home Occupation	N	N	SP	SP	SP	SP	N	N	N	N	N	N
2. The use of a portion of a dwelling by a resident engaged in a home occupation. Special permit required if clients or pupils come to the house for consultation or instruction.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
3. Private garage for not more than three (3) automobiles per dwelling unit, not more than one of which shall be a commercial vehicle of a light panel, small delivery or pick-up truck type	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4. Noncommercial greenhouse, tool shed or other similar accessory structure not in excess of 150 square feet of gross floor area	Y	Y	Y	Y	Y	Y	N	N	N	N	N	SP
5. Living quarters for domestic employees, containing no kitchen facilities, provided that such quarters are not rented or used as a separate dwelling	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
6. An uncovered swimming pool, subject to the provisions of Section 4.4.2	Y	Y	Y	Y	Y	Y	N	N	N	N	N	SP
7. Tennis courts, subject to the provisions of Section 4.4.1	Y	Y	Y	Y	Y	Y	N	N	N	N	N	SP
8. Family day care, small	Y	Y	Y	Y	Y	Y	SP	SP	SP	SP	N	N
9. Family day care, large	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group VII - Nonresidential Accessory Uses												
1. Delicatessens, lunch counters and soda fountains incidental to the permitted business of a variety or drugstore	N	N	N	N	N	N	Y	Y	Y	N	N	N
2. Outdoor parking of commercial vehicles subject to provisions of Section 5.1.3 of this Bylaw	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
3. Where clearly secondary and incidental to a manufacturing establishment, retail uses such as cafeterias, soda or dairy bars, wholly within the same building as the principal permitted use, conducted primarily for the convenience of employees, and with no exterior advertising display, and in the Conservancy-Institutional District where incidental to the operation of schools and nonprofit institutions	N	N	N	N	N	N	N	N	N	N	Y	Y
4. In Light Industrial Districts, outdoor storage of supplies and equipment, incidental to permitted uses, subject to appropriate requirements for location, lighting, screening, fencing, cover and safety	N	N	N	N	N	N	N	N	N	N	SP	N
5. Restaurant play area	N	N	N	N	N	N	N	N	N	N	N	N

DISTRICT	RA	RB	RDA	RDB	RDC	RG	CBD	GBD1	GBD2	GBD3	IL	SCI
Group VIII - General Accessory Uses												
1. Removal of clay, sand, gravel, stone or other earth products, but not sod, loam or soil, from the premises only to the extent normally required for the excavation for a permitted construction including driveways, walks or streets, subject to the provisions of Section 6.3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Any use accessory to a principal use or uses necessary in connection with scientific research or scientific development or related production (regardless whether such accessory use is on the same lot as the necessary principal use to which it is accessory)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
3. Roof-mounted dish antennas two (2) feet or smaller in diameter, subject to provisions of Section 4.4.3	SP	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Dish antennas greater than two (2) feet in diameter, subject to the provisions of Section 4.4.4	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

3.2 ACCESSORY USES

3.2.1 Home Occupations

1. No person other than members of the family residing on the premises shall be engaged in such occupation.

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square feet in area, non-illuminated.

4. No home occupation shall be conducted in any accessory building.

5. There shall be no sales of products on the premises in connection with such home occupation.

6. No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

8. Barber shop, beauty shop, and mortuary are not permitted.

3.3 SPECIAL ACCESSORY REGULATIONS

3.3.1 Size Limitations

1. Other than required off-street parking, no accessory use or uses within a building shall occupy more than 25 percent of the floor area devoted to the principal use.

2. Other than required off-street parking, no accessory use or uses without a building shall occupy more than a combined total of 25 percent of the unbuilt lot area, or of the required rear yard area.

3. No accessory use shall occupy part of the required front or side yards, except signs as permitted in Winchester Bylaws and in business and industrial districts, and off-street parking as provided in Section 5.1.

3.3.2 Accessory Buildings. No separate accessory building shall be erected within 15 feet of any other building. No accessory building shall be erected in any required yard provided, however, one or more accessory buildings may be placed within a required yard within the RDA-20, RDB-10, RDC-15 and RG-6.5 districts if such accessory buildings:

1. Are located in the rear yard;

2. Do not, taken together, cover more than 30 percent of such rear yard;

3. Are not over one and one-half (1.5) stories in height; and

4. Are not located nearer than five (5) feet to any property line.

3.3.3 Parking, Storage, or Use of Major Recreational Equipment. No major recreational equipment shall, except as hereinafter provided, be parked or stored on any lot in residential and SCI districts except in an enclosed building or in the rear yard, provided however, that such equipment may be parked anywhere on residential premises for not to exceed 24 hours during loading or unloading. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored. Where, by reason of unique conditions, the strict application of these regulations would result in peculiar and exceptional practical difficulties, the Board of Appeals may issue a permit to allow the parking or storage of major recreational equipment within a front or side yard.

3.3.4 Parking and Storage of Unregistered Motor Vehicles. Unregistered motor vehicles shall not be parked or stored upon any residential zoned property other than within completely enclosed buildings.

3.3.5 Employment of Nonresidents. In any residence district, no accessory use shall be permitted which involves or requires the employment of the person who is not resident in the dwelling unit, other than a domestic employee, except an employee of a home occupation.

3.4 TEMPORARY USES

3.4.1 Mobile Homes. A mobile home may be placed upon the same lot as a residence which has been substantially rendered uninhabitable by fire or other casualty and may thereafter be used and maintained as a single family dwelling, subject to the following limitations:

1. The mobile home is occupied by the owner or immediately prior occupant of the damaged dwelling house.

2. Repair or restoration of the damaged dwelling shall commence within six (6) months of such fire or other casualty.

3. The mobile home shall be removed from such lot upon the sooner of 30 days following the issuance of a Certificate of Occupancy by the Building Commissioner with respect to the repaired dwelling; or one (1) year following the date on which the mobile home was placed upon such lot.

3.5 NONCONFORMING USES AND STRUCTURES

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

1. Construction or operations under a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

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

1. Change or substantial extension of the use; and

2. Change from one nonconforming use to another, less detrimental, nonconforming use.

3.5.3 Nonconforming Structures. The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or

change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended, or structurally changed; and

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

3.5.4 Variance Required. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require the grant of a variance; provided, however, that the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require the grant of a special permit from the Board of Appeals.

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

1. Alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

2. Alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

3. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements, where the alteration will also comply with all of said current requirements.

In any other case, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

3.5.6 Abandonment or Nonuse. A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw.

3.5.7 Reconstruction after Casualty or Voluntary Demolition. A nonconforming structure may be reconstructed after a casualty or after voluntary demolition in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two (2) years after such catastrophe or voluntary demolition.

2. Building(s) may be reconstructed as of right if located on the same footprint as the original nonconforming structure and equal to or less in gross floor area as the original nonconforming structure.

3. In the event that the proposed reconstruction would (a) cause the structure to exceed the gross floor area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition. The Board shall not grant such special permit unless it determined by the Board that the proposed reconstruction is compatible in scale with the existing neighborhood.

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

3.5.9 Administrative Provisions

1. A Certificate of Use and Occupancy shall be obtained in accordance with the provisions of Section 9.1 of this Bylaw in respect of any use or structure permitted under this Section 3.5.

2. Except as hereinafter provided, any use or structure which may only be maintained under a special permit in the district where located shall not be deemed a nonconforming use but shall be deemed a conforming use. A nonconforming use which has been changed from another nonconforming use by a special permit granted by the Board of Appeals shall be deemed a nonconforming use.

3. Continuance of Violations not Authorized. Nothing in this article shall be interpreted as authorization for or approval of the use of land or a structure in violation of regulations in effect at the date of adoption or amendment of this Bylaw.

SECTION 4.0 DIMENSIONAL REQUIREMENTS

4.1 GENERAL REQUIREMENTS

4.1.1 Table of Dimensional Requirements. The regulations for each district pertaining to minimum lot size, minimum lot area per dwelling unit, minimum lot width, maximum height of buildings, minimum percentage of open space per lot, minimum front yard depth, minimum side yard width, minimum rear yard depth, and minimum distance between buildings, shall be as specified in the following "Table of Dimensional Requirements", and shall be subject to the further provisions of this Section 4.0.

Table of Dimensional Requirements

DISTRICT	RA (r)	RB (r)	RDA (g) (q)	RDB (g) (q)	RDC (q)	RG	CBD (n)	GBD-1 (s)	GBD-2 (s)	GBD-3 (s)	IL	SCI
Min. Lot Area (in square feet)	120,000	20,000	20,000	10,000	15,000	6,500 (h)	NR	NR	NR (t)	NR (t)	20,000	NR
Min. Lot Frontage (in feet)	200	75 (b)	100 (b)	80 (b)	100 (b)	65 (b) (h)	20	20	50	50	100	NR
Min. Lot Width (in feet)	200	75	120	80	100	65 (h)	20	20	50	50	100	NR
Min. Front Yard (l) (in feet)	40	25 (d)	35	25	35	20	NR	NR	10 Ft. Min (u)(v) 15 Ft. Max (aa)	15 Ft. Min. (u)(w)	25	40 (m)
Min Side Yard (j) (in feet)	40	15 (d)	20	15	20	10 (h)	NR	NR	NR (x)	NR (x)	20	40
Min. Rear Yard (j) (in feet)	40	15 (d)	20	15	20	10	20	20	15	15	20	40
Min. Yard adj. to SCI & Residential Dist. (in feet)	40	15 (d)	15	15	15	10	20	20	15 (y)	15 (y)	25 (p)	40
Min. Yard adj. to other Dist. (in feet)	40	15 (d)	15	15	15	10	10	10	NR	NR	25	40
Min. % Open Area	75	60 (e)	75	70	70	70	NR	NR	NR (z)	NR (z)	60	85
Max. Building Height (in stories)	3	5	2.5	2.5	2.5	2.5	3 (o)	3	3	3	3	3
Max. Building Height (in feet) (k)	40	45	40	40	40	40	45	45	45	45	45	45
Min. Distance between Buildings (in feet)	30 (c)	(d)	15	15	15	15	NR (c)	NR (c)	NR	NR	30 (c)	30

4.1.2 Notes to Table of Dimensional Requirements

a. Dimensional requirements of RDA District apply to single-family dwellings. See Section 4.2.2 for density requirements.

b. See Section 4.2.8 for certain reduced requirements.

c. Buildings shall be surrounded by fire lanes. (See Definitions.)

d. In the Apartment House RB-20 District, no building or structure (other than fences) shall be located closer than 50 feet to any RDA, RDB, RDC or RG zone boundary, except that if no portion of the particular yard is used for surface parking and at least 75 percent of the required parking for such building is underground, such 50-foot distance shall be reduced to 40 feet. The distance between any two buildings on a single lot shall not be less than 30 feet or half the sum of the height of the two buildings, whichever is greater. An accessory underground garage structure or part of a main building for accessory garage use which is located entirely beneath the surface of the natural grade level and is completely covered by landscaped open space may extend to within 15 feet of any street or property line.

e. In the Apartment House RB-20 District, the minimum open space shall be 60 percent of the lot area except that garage space developed with landscaping for sitting and recreational purposes on the roof area shall not be considered in computing lot coverage, if such garage space is an enclosed structure not over 12 feet in height. In no case shall the structures including the qualified garage cover more than 60 percent of the lot area.

f. (Deleted)

g. See Section 7.2 for Cluster Residential Housing.

h. Two-family dwelling: Minimum lot area 11,000 square feet; Minimum lot frontage 85 feet; Minimum lot width 85 feet; Minimum side yard 15 feet.

i. If lot abuts or is within 15 feet of the district boundary, the 15 feet nearest such boundary shall be unpaved, shall not be used for parking, driveways or outdoor storage, and shall contain only grass, plants, shrubs, trees and fences.

j. For uses permitted under Special Permits, increase the required rear and side yard requirements by five (5) feet.

k. Does not apply to chimney, ventilators and other structural features usually carried above roofs, not to domes, towers or spires of buildings provided such features are in no way used for living purposes. Maximum height, except for church spires or domes, shall not exceed 15 feet above the height permitted in the District. See definition - “Height of a Building.”

l. Where "building lines" are specified by Town of Winchester under the Bylaw "building lines established under the provisions of Section 37 of Chapter 82 of the General Laws prior to July 1, 1953" no building shall be closer to the street than such building line distance or as specified by the minimum front yard requirement contained herein, whichever is more restrictive.

m. Not applicable to existing temporary school structures.

n. See Section 7.3 for Multiple Use Development.

o. Four (4) or five (5) stories allowed with a Special Permit with conditions imposed by Section 9.4.

p. The 25-foot minimum yard requirement shall be kept in its natural state where wooded, and, when its natural vegetation is sparse or nonexistent, a year-round visual screen shall be required. No principal or accessory structure, nor any off-street parking, driveways, loading areas or other use shall be permitted in the buffer area.

q. In order to limit the degree to which a lot may have an irregular shape, the following build factor formula shall be used:

$$\frac{\text{LOT PERIMETER SQUARED}}{\text{ACTUAL LOT AREA}} \div \frac{\text{ACTUAL LOT AREA}}{\text{REQUIRED LOT AREA}}$$

The maximum build factor shall be 20 in the RDB-10 and RDC-15 Districts and 25 in the RDA-20 District.

r. Maximum density in the Apartment House RB-20 District shall be 20 units per acre and in the Multiple Family RA-120 District shall be three (3) units per acre. Additional density may be allowed consistent with the affordable incentives described in Section 7.1.

s. See Section 9.5 for Site Plan Review requirements for Lot Areas equal to, or greater than, 15,000 square feet.

t. A 6,500 square-foot lot area is required for new one-family and two-family dwellings.

u. (Deleted).

v. Required front yards shall be either 1) landscaped and/or 2) paved as a patio to provide outdoor sitting or dining areas in front of food service establishments as defined in Group IV, Item 3 in the Table of Use Regulations. At the first floor level, up to 40 percent of that area of a front yard located directly in front of a building or structure may be occupied with front steps, entryway, walkway, porches, bay windows, or other architectural appended features.

w. Required front yards shall be landscaped. At the first floor level, up to 40 percent of that area of a front yard located directly in front of a building or structure may be occupied with front steps, entryway, walkway, porches, bay windows, or other architectural appended features.

x. A minimum 10 feet side yard setback shall be required for one-family and two-family dwellings.

y. If a lot abuts or is within 15 feet of the district boundary, either: 1) the 15 feet nearest such boundary shall be unpaved, shall not be used for parking, driveways or outdoor storage, and shall contain only grass, plants, shrubs, or fencing; or 2) a suitable fence must be erected at the rear property line, and be at least six (6) feet in height to visually screen the lot from the abutting district. If such fence is erected, then the 15 feet nearest such boundary may be paved, used for parking, driveways or outdoor storage, or planted – except, however, the four (4) feet nearest such fence shall contain only plants, shrubs, and trees. The fence shall be opaque and be constructed of either wood, brick, or stone.

z. Sixty (60) percent open area shall be required for garden apartments and townhouses; Seventy (70) percent open area shall be required for one-family and two-family dwellings.

aa. For the purposes of this requirement, 85 percent of the first floor length of the proposed structure's front walls shall comply with the minimum setback of 15 feet. The remaining 15 percent may exceed this requirement if, in the opinion of the Zoning Board of Appeals, the nature of the street, lot, or proposed structure necessitates such a deviation from the requirement. If the maximum setback is exceeded per this note (aa), the conditions of note (v) shall apply.

4.1.3 Erection of More Than One Principal Structure on a Lot

1. In single and general residence districts, not more than one structure of housing as a permitted or permissible principal use may be erected on a single lot, except under the provisions of Cluster Residential Housing in an RDA-20 or RDB District as permitted by Special Permit or in an Attached Residential Cluster Development Overlay District as permitted by Special Permit.

2. In all business and industrial districts, more than one structure including a permitted or permissible use may be erected on a single lot, provided that the yard and other requirements of this Bylaw shall be met for the collective buildings for each lot.

4.1.4 Structures to Have Access. Except as otherwise provided in herein, every building hereafter erected or moved shall be on a lot having required street frontage under this Bylaw.

4.1.5 Yards. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Bylaw, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

4.1.6 Existing Lot or Yard. No yard or lot existing at the time of passage of this Bylaw shall be reduced in dimension or area below the requirements set forth herein. Yards or lots created after the effective date of this Bylaw shall meet the requirements established by this Bylaw.

4.1.7 Annexation. All territory which may hereafter be annexed to the Town shall be considered to be in the RDA-20 District until otherwise classified.

4.2 SUPPLEMENTARY REGULATIONS

4.2.1 Floor Area Ratio. The Floor Area Ratio (FAR) is computed by dividing the total floor area, based on the outside dimensions at each story, of all buildings on the lot by the total area of the lot. The maximum Floor Area Ratio for these districts is as follows:

Table of Floor Area Ratio

DISTRICT	FAR
Apartment House Residential Districts B (RB-20)	2.0 *
General Business District 1 (GBD-1)	1.0
General Business District 2 (GBD-2)	1.0 **
General Business District 3 (GBD-3)	1.0 **
Center Business District (CBD)	2.0
Light Industrial District (IL)	1.0
Conservancy-Institutional District (SCI)	0.5

* If required off-street parking is provided within a garage on the site, maximum Floor Area Ratio may be increased to 2.5.

** FAR 1.25 shall be allowed as-of-right for provision of housing with an affordable housing component which shall be comprised, at a minimum, of 15 percent of the total number of dwelling units.

4.2.2 Allowed Density; RA-120 District. In the Multiple Family Residential District A (RA-120) the allowed density shall be three (3) dwelling units per acre. A maximum of eight (8) units per acre may be allowed by special permit in conformance with Section 7.1 - Affordable Housing Incentives. Apartment houses restricted by law to serve elderly citizens may reduce the above requirements as follows:

1. 2,500 square feet of lot area per dwelling unit containing one room used for sleeping.

2. 3,000 square feet of lot area per dwelling with two such rooms.

4.2.3 Allowed Density; RB-20 District. In the Apartment House Residential District B (RB-20), no project shall exceed a density of 20 dwelling units per acre; a maximum of 50 dwelling units per acre may be allowed by special permit in conformance with Section 7.1 - Affordable Housing Incentives. The lot area required in the RB-20 district for any new building and the lot area required in the RB-20 district in determining lot area per dwelling unit for any new building shall not include any part of a lot that is required by any other conforming or nonconforming building or use to comply with the requirements of this Bylaw, or was required by the applicable dimensional requirements prior to the effective date the land was placed in the RB-20 district.

4.2.4 Allowed Density; PRD District. In the Planned Residential District (PRD) the density of dwelling units shall not exceed two (2) units per acre unless the applicant designates at least 15 percent of the units above the two units per acre standard for use in conjunction with one or more state or federal housing assistance programs; see Section 7.1.3 for a complete description of the required affordable housing criteria and procedures. In no instance shall the total number of dwelling units exceed a density of three (3) dwelling units per acre in any PRD special permit project.

4.2.5 Allowed Density; Cluster Residential Development. The maximum number of dwelling units in the Cluster Residential Development in the Residential Districts RDA-20 and RDB-10 shall be computed as follows:

1. In the RDA-20, divide the gross lot area by 25,000 square feet.

2. In the RDB-10, divide the gross lot area by 12,500 square feet.

4.2.6 Enlargement of Public and Nonprofit Institutional Buildings. Such buildings existing at the time of adoption of this Bylaw may be enlarged to exceed the maximum building height of not more than three sides of the building where:

1. There are substantial finished grade differentials between the side of the building with the highest average finished grade (where the maximum building height cannot be exceeded) and one or more of the sides of the building with a lower average finished grade.

2. The Board of Appeals shall find in its review under Section 9.4 that no reasonable alternate method of enlarging the structure is available and that adequate provision has been taken to eliminate any adverse impact on surrounding properties through the provision, on those sides where the maximum height will be exceeded, of increased yard areas.

4.2.7 Lot Width. The measurement of lot width shall be shown on a plan approved and endorsed by the Planning Board.

4.2.8 Lots with Frontage on a Circular Turnaround or Curve. Lots having one half or more frontage on a circular turnaround or curve of less than 100 feet radius may

be reduced to a minimum frontage of 50 feet, provided that the minimum lot width otherwise required is maintained at the front yard setback line.

4.3 SPECIAL PERMIT RELIEF

4.3.1 IL Districts. In the IL Districts in particular instances, the Board of Appeals may grant a special permit permitting a principal building to be erected on a lot having less area or frontage, or both, than the minimum requirements specified in the Table of Dimensional Requirements, if at the time of the adoption of said minimum requirements such lot was lawfully laid out and recorded by plan or deed and did not join other land of the same owner available for use in connection with such lot, provided that the Board determines that such special permit can be granted without substantial derogation from the intent and purpose of this Bylaw.

4.3.2 SCI Districts. In SCI Districts in particular instances the Board of Appeals may grant a special permit permitting buildings owned and occupied at the time of the effective date of adoption or amendments of this Bylaw for a public, charitable or other purpose lawful in such district to be altered, repaired, rebuilt, or added to in a manner failing to conform to the dimensional requirements set forth in the Table of Dimensional Requirements or the floor area regulations set forth in Section 4.2.1 or permitting uses accessory to such buildings which fail to conform to the area limitations of Section 3.3.1 subject however to such conditions or limitations as the Board in its decision may impose as in its judgment are reasonably required to minimize any departures from the general purpose and intent of such requirements, regulations or limitations.

4.3.3 Residential Districts. In Residential Districts, the Board of Appeals may grant a special permit permitting alterations to existing structures which encroach on the side or rear yard requirements of the district or to the front yard requirements, providing that:

1. The enforcement thereof would involve practical difficulty or unnecessary hardship and the granting of relief will not result in menace to the public safety, health or welfare of the neighborhood.

2. The intended use of the alteration is permitted in the district.

3. The yard requirement is not reduced by more than 20 percent.

4.4 ACCESSORY STRUCTURES

4.4.1 Tennis Courts. Tennis courts are allowed, provided no portion of the playing surface including fences shall be within the required front, side or rear yards. If a lot cannot reasonably accommodate a tennis court without infringing the side or rear yard requirements, the Board of Appeal may, by Special Permit, allow location of a tennis court within the side or rear yard up to half the distance required from the side or rear lot line.

1. Lighting facilities in accordance with Section 5.4 of this Bylaw, may be provided for exterior tennis courts only upon the granting of a special permit by the Board of Appeals. The Board may grant a special permit for this purpose where it finds that the relief requested would not result in detriment to the public safety, health or welfare of the neighborhood, but without further reference to Section 9.4.

4.4.2 Swimming Pools. Swimming pools are allowed as set forth in the Table of Use Regulations, subject to the following:

1. Such pool is used only by the residents of the premises and their guests.

2. No portion of the water or pool equipment including but not limited to pumps, mechanical equipment, heaters and fuel tanks shall be within a required yard area.

3. If a lot cannot reasonably accommodate a pool without infringing the side or rear yard requirements, the Board of Appeals may, by Special Permit, allow location of a pool or pool equipment within the required side or rear yard up to half the distance required from the side or rear lot line. The Board may grant a Special Permit for this purpose where it finds that enforcement of the yard restrictions would involve practical difficulty or unnecessary hardship and the granting of relief would not result in a detriment to the public safety, health or welfare of the neighborhood, but without further reference to Section 9.4.

4. No portion of the water shall be within ten (10) feet of any building.

5. A covered or indoor pool must meet all requirements pertinent to any building or structure.

6. Uncovered, exterior swimming pools shall be considered open area for the purpose or computation under Section 4.1.1.

7. The pool shall not be filled with water or used by any person until a Certificate of Occupancy has been issued.

8. A fence or protective barrier not less than five (5) feet in height having self-latching devices on all gates shall be installed and maintained so as to completely enclose all swimming pools. All latches shall be located not less than four (4) feet above ground.

4.4.3 Roof Mounted Antennae or Dishes; Two Feet or Smaller. The following requirements shall apply:

1. Such equipment complies with all applicable building, electrical, and other code requirements, and all applicable dimensional requirements imposed by the Zoning Bylaw with respect to such building or structure.

2. Such antenna and its related equipment shall not cause excessive noise, electro-magnetic interference, or otherwise adversely affect the public health, safety, general welfare, and other valid zoning purposes.

3. No more than one such antenna may be affixed to any single-family residence, and no more than two such antennas on any two-family residence.

4. In residential districts such antennas shall not be used for commercial purposes.

5. As a condition of any special permit, the Board of Appeals may require screening, vegetative buffering, and greater set-backs to prevent visibility of such antennas from neighboring properties.

4.4.4 Roof Mounted Antennae or Dishes; Two Feet or Larger. The following requirements shall apply:

1. Such equipment complies with all applicable building, electrical, and other code requirements, and all applicable dimensional requirements imposed by the Zoning Bylaw with respect to such building or structure.

2. Equipment and related structures shall be screened from adjoining properties.

3. Such antenna and its related equipment shall not cause excessive noise, electro-magnetic interference, or otherwise adversely affect the public health, safety, general welfare, and other valid zoning purposes.

4. Equipment and structures shall not be placed within a required front, rear or side yard, or on a building.

5. When necessary to better protect health, safety and welfare, and other valid zoning purposes, the Board of Appeals shall require greater setbacks.

6. Such antenna and related equipment shall be affixed to the ground and shall not exceed a height of 15 feet above the adjacent ground.

7. In residential districts such antennas shall not be used for commercial purposes.

SECTION 5.0 GENERAL REGULATIONS

5.1 OFF-STREET PARKING REQUIREMENTS

5.1.1 Purpose. It is the intent of this Section of the Bylaw:

1. That any use of land involving the arrival, departure, storage, or entry upon the land of motor vehicles be so designed and operated as to reduce hazard to pedestrians upon the public sidewalks;

2. To protect the use of adjoining property from nuisance caused by the noise, fumes, and glare of headlights, which may result from the operation of cars parking off the street;

3. To reduce congestion in the streets; and

4. To contribute to traffic safety by assuring adequate places for the standing and storing off the street of motor vehicles associated with the use of a lot of land.

5.1.2 General Regulations Applying to Required Off-Street Parking Facilities

1. Structures and land uses in existence or for which building permits have been issued at the date of adoption of this Bylaw shall not be subject to the requirements of Section 5.1 so long as the kind or extent of use is not changed so that the changed or enlarged use would require an increase of more than 15 percent in the parking facilities required in this Section, provided that any parking facilities now serving such structures or uses shall not in the future be reduced below such requirements.

2. Whenever there is an alteration of a structure, addition of a new structure, or a change or extension of use which increases the parking requirements by 15 percent or more according to the standards of Section 5.1, the total parking required for the entire structure or use shall be provided in accordance with the requirements of this section.

3. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

4. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of Section 5.1. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the employees or other persons whom the facilities are designed to serve. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance or a hazard or unreasonable impediment to traffic.

5. Any privately owned off-street parking areas now serving structures or uses within the CBD District which are in existence or for which building permits have been issued at the date of adoption of this Bylaw shall be continued and shall not, in the future, be reduced below the off-street requirements of the GBD-1 except through application to the Board of Appeals as described below. The Board of Appeals may allow a reduction or discontinuance of existing privately owned off-street parking in the CBD District if it finds that sufficient and accessible off-street municipal parking facilities have been provided within 300 feet (walking distance) of the structure or use being served. "Sufficient" shall be deemed to mean that the off-street municipal parking facility or facilities contain sufficient parking spaces to serve all existing uses, based on the standards of the GBD-1 District within 300 feet of the parking facility or facilities.

6. Where a parking facility is a principal use of any lot, it shall not be opened to use until the Zoning Enforcement Officer has issued a certificate of use and occupancy to the effect that the lot conforms to the provisions of Section 5.1.6. Such certificate may be revoked by the Zoning Enforcement Officer upon violation of any of the conditions set forth in this Section.

5.1.3 Table of Off-Street Parking Requirements. Off-street parking facilities shall be provided for each type of land use, in accordance with the following Table of Off-Street Parking Requirements, and subject to the further provisions of Section 5.1.

Group	Type of Use	Zoning District	Min. Number of Parking Spaces to be Provided per Dwelling Unit or per Gross Floor Area of Building
Group I – Residential Uses			
1.	Single-family dwelling.	RDA, RDB, RDC, RG, PRD, RA,	2 spaces per dwelling unit
		GBD-2, GBD-3	
2.	Two-family dwelling.	RG, PRD, GBD-2, GBD-3	2 spaces per dwelling unit
3.	Conversion to two-family.	RG	2 spaces per dwelling unit
4. and 5.	Group, garden apartment, town house.	CBD	See Section 7.3.13
		PRD, RA, RB, GBD-2, GBD-3	2 spaces per dwelling unit
6.	Mid-rise apartments.	CBD	See Section 7.3.13
		RB	2 spaces per dwelling unit
7. and 8.	Business/residential combination.	GBD-2, GBD-3	2 spaces per dwelling unit, 1 space per 200 SF (nonresidential)
9.	Cluster Residential Housing.	RDA, RDB	2 spaces per dwelling unit
10.	Multiple Use Development.	CDB	2 spaces per dwelling unit
Group II – Educational, Institutional, Recreational, and Agricultural Uses			
1.	Educational institution, exempt.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, GBD-3, IL, SCI,	1 space per 600 SF
		RDA, RDB, RDC, RG, PRD, RA, RB	
2.	Child care center.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, GBD-3, IL, SCI	1 space per 600 SF
		RDA, RDB, RDC, RG, PRD, RA,	
		RB	
3.	Reserved.		
4.	Religious use, exempt.	CBD	1 space per 1200 SF
		All other districts	1 space per 4 fixed seats
5.	Library, museum.	CBD	1 space per 1200 SF
		All other districts	1 space per 4 fixed seats
6.	Public park, playground, or other public recreational facility.	All districts	NR
7.	Reservation, wildlife preserve, conservation area.	All districts	NR
8.	Private lodge, club.	CBD	1 space per 1200 SF
		PRD, RA, RB, IL, SCI, GBD-2,	1 space per 4 fixed seats
		GBD-3	
9.	Country club, sporting grounds, outdoor recreation.	RDA, RDB, RG, PRD, RA, RB,	1 space per 600 SF
		SCI	
10.	Hospital.	SCI	1.5 spaces per hospital bed
11.	Orphanage, philanthropic, or charitable institution	SCI	1 space per 600 sf.
12.	Sanitarium, nursing, rest or convalescent home.	SCI	1 spaces per three (3) beds

Group	Type of Use	Zoning District	Min. Number of Parking Spaces
13.	Cemetery.	SCI	NR
14.	Agriculture, horticulture, floriculture, etc.	CBD	1 space per 1200 SF
		All other districts	1 space per 200 SF

Group III – Government and Public Service Uses			
1.	Essential services.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, GBD-3	1 space per 200 SF
		IL	1 space per 850 SF
2.	Municipal administration building, fire or police station.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, GBD-3	1 space per 200 SF
		SCI	1 space per 600 SF
3.	Water/sewer facility.	All districts	NR
4.	Municipal waste disposal or transfer facility.	SCI	NR
5.	Television receive-only antenna.	SCI	NR
6.	Television studio in municipal building.	SCI	NR
7.	Temporary public event.	CBD, GBD-1, GBD-2, GBD-3, SCI	As determined by Board
Group IV – Commercial Uses			
1.	Retail store.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
		GBD-2 (less than 10,000 GSF)	1 space per 400 SF
		GBD-2 (10,000 GSF or greater)	1 space per 300 SF
2.	Personal service establishment.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
		GBD-2	1 space per 400 SF
3.	Lunch room, restaurant, cafeteria or similar.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, IL	1 space per 4 seats
4.	Fast food restaurant.	CBD, GBD-1, GBD-2	1 space per 2 seats
5.	Drive-in/drive-up/drive-through restaurant.	NA	NR
6.	Indoor commercial amusement or assembly use.	CBD	1 space per 1200 SF
		GBD-1	1 space per 4 seats
	Bowling alley.	CBD	1 space per 1200 SF
		GBD-1	4 spaces per alley
	Tennis courts.	CBD	1 space per 1200 SF
		GBD-1	2 spaces per court

Group	Type of Use	Zoning District	Min. Number of Parking Spaces to be Provided per Dwelling Unit or per Gross Floor Area of Building
7.	Undertaking or funeral establishment.	CBD	1 space per 1200 SF
		GBD-1, GBD-2	1 space per 200 SF
8.	General service establishment.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
9.	Trade shop.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 500 SF
		GBD-2	1 space per 400 SF
10.	Bank or business office.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
		GBD-2	1 space per 400 SF
11.	Veterinary establishment, kennel, boarding animals.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 500 SF
12.	Municipal kennel.	SCI	NR
13.	Business or professional office.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
		GBD-2/GBD-3 (less than 10,000 GSF)	1 space per 400 SF
		GBD-2/GBD-3 (10,000 GSF or greater)	1 space per 200 SF
14.	Medical or dental laboratory.	CBD	1 space per 1200 SF
		GBD-1, GBD-2 and GBD-3	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
15.	Medical or dental center.	CBD	1 space per 1200 SF
		GBD-1, GBD-2, GBD-3	1 space per 150 SF
16.	Motor vehicle fuel facility.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
17.	Salesroom or repair garage for new and used automobiles, boats and other vehicles.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
18.	Establishment for the sale of used automobiles, boats and other vehicles.	CBD, GBD-1	NR

19.	Commercial parking lot or parking garage.	CBD, GBD-1	NR
Group	**Type of Use**	**Zoning District**	**Min. Number of Parking Spaces to be Provided per Dwelling Unit or per Gross Floor Area of Building**
20.	Commercial greenhouse salesroom or stand for sale of nursery, garden or other agricultural products.	CBD	1 space per 1200 SF
		GBD-1	1 space per 200 SF
		IL	1 space per 350 SF (ground floor), 1 space per 500 SF (all other floors)
21.	Trade, professional or other school.	CBD, GBD-1, GBD-2, GBD-3, IL	1 space per 600 SF
Group V – Industrial Uses			
1.	Storage, distribution, or wholesale marketing facility.	IL	1 space per 850 SF
2.	Lumber yard, contractor's yard, open-air establishment.	IL	1 space per 850 SF
3.	Printing or publishing plant, bottling works, manufacturing establishment.	IL	1 space per 500 SF
4.	Laboratory.	IL, GBD-3	1 space per 500 SF
5.	Wholesale laundry or dry cleaning establishment.	NA	NR
6.	Adult Uses.	CBD	See Section 8.3
7.	Wireless Communications Facilities.	RB, CBD, GBD-1, GBD-2, GBD-3, IL, SCI	See Section 8.4

NR = No Requirement
NA = Not Applicable
SF = Square Feet
GSF = Gross Square Feet

5.1.4 Notes to Table of Off-Street Parking Requirements

1. Where the computation of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

2. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually. The number of spaces required in a common parking facility may be reduced below this total by a special permit under Section 9.4 of this Bylaw if it can be demonstrated to the satisfaction of the Board of Appeals that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility.

3. Where part of a lot is or has been acquired by the Town to be used by the Town for public parking or for facilities accessory to public parking, the parking requirements on the remaining portion of the lot in private ownership shall be reduced by the number of spaces that could have been provided on the part of the lot so acquired by the Town, calculated on the basis of one space per 400 square feet of lot area so acquired.

4. In the CBD district, the requirement of 1200 square feet shall only apply in cases where the existing exterior walls are expanded beyond existing dimensions, and only to the gross floor area of the new expansion. Parcels of land that have existing areas devoted to parking shall be required to maintain and continue those areas as provided in paragraph 5 of Section 5.1.2.

5. Where places of public assembly are provided with benches rather than fixed individual seats, each two linear feet of bench shall equal one seat and where no fixed seats are used, each 20 square feet of public floor area shall equal one seat.

6. In the CBD district, Multiple Use Development special permit requirements for off-street parking shall conform as specified in this section and Section 7.3.13.

7. Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Zoning Enforcement Officer shall determine the area to be considered equivalent to floor space. This subsection applies only to Group IV- Commercial Uses 16 through 20 and Group V – Industrial Uses 1 through 3.

8. Where any land, structure or land and structure in combination is in more than one use, parking spaces shall be provided for the entire lot in accordance with the requirements of the use which requires the maximum number of spaces except that the number of spaces may be reduced below that maximum requirement by a special permit if it can be demonstrated to the Board of Appeal that: (1) At least 15 percent of the area is in a use with a requirement less than the maximum; (2) A total number of parking spaces is provided so that the area of each use shall be provided with parking spaces as required for that use; and

(3) It is unlikely that the uses requiring the lesser number of spaces will be changed to one requiring a greater number.

5.1.5 Location of Required Off-Street Parking Facilities. Required off-street parking facilities shall be provided on the same lot.

Where the requirements of this section cannot be met on the same lot, the Board of Appeals by special permit under Section 9.4 may authorize, within the same district, required parking on any lot in the same ownership within 300 feet of the principal use served, as measured along street lines, subject to such bond or other assurance of permanence and of common ownership, as it may deem adequate.

1. In the GBD-2 and GBD-3 districts, required off street parking facilities shall be provided on the same lot. Where the requirements of this section cannot be met on the same lot, the Board of Appeals, by special permit under Section 9.4 may authorize, within the same district or within a nonresidential district, required off street parking on any lot either in the same ownership, in different private ownership, or in municipal ownership, within 500 feet of the principal use served, as measured along street lines, subject to such bond or other assurance of permanent and of common rights to usage for such parking purposes, as it may deem adequate.

5.1.6 Design of All Off-Street Parking Facilities

1. Parking facilities shall be occupied only by passenger cars and commercial vehicles not exceeding seven and one half (7.5) feet in width and 18 feet in length, unless the special standards provided in Section 5.1.8 are met.

2. Stall width shall be at least nine (9) feet.

3. Stall depth shall be at least 19 feet for all angle parking and 22 feet for parallel parking. Such dimension may include no more than two feet of any landscape setback area adjacent to the front and rear of a stall and used for bumper overhang.

4. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking, shall be:

Table of Minimum Parking Aisle Width

ANGLE OF PARKING	MINIMUM AISLE WIDTH
Parallel	12 feet
30 Degrees	11 feet
45 Degrees	13 feet
60 Degrees	18 feet
90 Degrees	20 feet

5. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet, except that aisles providing access primarily for overnight parking may be a minimum of 22 feet.

6. Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle. The Board of Appeals, however, may by special permit modify this requirement, and the dimensional requirements of paragraphs 2 through 5 of this Section 5.1.6 where a parking facility is under full-time attendant supervision.

7. The width of entrance and exit drives, except as permitted in paragraph 5 of Section 5.1.9 shall be: (1) A minimum of 12 feet for one-way use only; (2) A minimum of 20 feet for two-way use, except that driveways providing access primarily for overnight parking, with incidental daytime use, may be a minimum of 12 feet wide and (3) A maximum of 20 feet at the street lot line in residence districts, and 30 feet in business and industrial districts. In the GBD-2 and GBD-3 districts the maximum width shall be 24 feet, except as otherwise specified in herein; (4) A maximum of 30 feet at the street line in the GBD-2 or GBD-3 districts for a combined access drive where two or more business property owners with adjoining lots agree to share access to their adjoining properties, provide binding evidence of that agreement, and request such a combined access drive from the Board of Appeals. The Board of Appeals, by Special Permit under Section 9.4, may authorize such a combined access drive subject to assurance that anticipated traffic volumes and turning movements can be accommodated by such a combined access drive, as it may deem adequate.

8. Setbacks for parking areas in all districts, except as permitted in paragraph 5 of Section 5.1.9 shall be as follows: parking stalls in parking lots shall be set back from the street lot line to whatever extent may be necessary in the specific situation, as determined by the Zoning Enforcement Officer to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls. In no case shall parking lots be designed to require or encourage cars to back into a public or private way in order to leave the lot; except for parking stall the sole access to which is an alley adjacent to rear lot lines and so arranged that there is at least 20 feet of clear backing between the rear line of the parking stall at the opposite and more distant line of the alley.

9. In all residential districts, the surfaced area of a parking lot shall be set back: (1) from the front lot line, except where an access driveway crosses the street lot line, the distance specified for building setback in the Table of Dimensional Requirements; (2) from the side lot line one third the distance specified for minimum side yard set back of the district in the Table of Dimensional Requirements, except in the Multiple Family RA-120 district, where the minimum setback shall be 20 feet; (3) from the side and rear lot lines in the rear yard, a minimum of five feet. Such setback shall be seven (7) feet where two (2) feet of setback area is included in a minimum stall depth as provided in paragraph 3 of this Section 5.1.6.

10. In the Apartment House RB-20 District, from an RDA, RDB, RDC and RG District Boundary a minimum of 25 feet in side or rear yards where the buildings and other structures (other than fences) located in the RB-20 District are set back at least 50 feet; provided that no surface parking shall be permitted within side or rear yards in the RB-20 District, where the buildings or other structures are set back less than 50 feet pursuant to note (d) in Section 4.1.2.

11. In all districts, barriers shall be provided to prevent motor vehicles from being parked within required setback areas, or beyond the boundaries of the lot where no setback is required.

12. In the GBD-2 District, on lots where new buildings, additions, or structures are constructed, parking shall not be allowed within 15 feet of the front property line. Furthermore, this 15-foot zone nearest to the front property line shall either be landscaped or landscaped and fenced (up to four (4) feet high) to visually screen any parking beyond this 15-foot zone from view from the adjoining public right-of-way.

13. In the GBD-3 District, on lots where new buildings, additions, or structures are constructed after November 2000, parking shall not be allowed within 15 feet of the front property line. Furthermore, this 15-foot zone nearest to the front property line shall either be landscaped or landscaped and fenced (up to four (4) feet high) to visually screen any parking beyond this 15-foot zone from view from the adjoining public right-of-way. Additionally, on lots where new buildings, additions, or structures are constructed, parking shall not be allowed in front of the principal front wall plane of such buildings or structures.

5.1.7 Lighting and Screening of Parking Facilities

1. In all residential districts, the setback areas shall be planted and maintained.

2. Properties shall be protected from lighting pursuant to Section 5.4.

3. Properties in residential districts or residential buildings in GBD Districts, other than the use served by the parking lot, which abut the parking lot shall be protected from headlight glare by either: (1) A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or (2) A wall, barrier, or fence of uniform appearance at least five feet high, but not more than six feet above finished grade, or above the roof level, if on a roof.

4. Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrance and exits, and shall have no signs hung or attached thereto other than those permitted in the district.

5. No stall shall be located within 10 feet of that part of a building having windows of habitable rooms at the basement or first story level, except as permitted in paragraph 5 of Section 5.1.9.

5.1.8 Parking of Larger Motor Vehicles. The regulations for the parking of trucks, buses, or other commercial vehicles exceeding seven and one-half (7.5) feet by 18 feet in size shall be as follows:

1. Stalls to provide parking for commercial vehicles exceeding seven and one-half feet (7.5) by 18 feet in size shall be located at least 100 feet from the nearest dwelling unit in a residence district.

2. Stalls for such vehicles shall be specifically identified upon the plan, and shall be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved.

3. Whenever such lot is adjacent to residential districts it shall be screened from abutting property as provided in Section 5.1.7.

5.1.9 Drainage of Parking Lots. Drainage, surfacing, and maintenance of parking lots shall be as follows:

1. The parking lot shall be marked so as to indicate clearly the space to be occupied by each motor vehicle, in accordance with the dimensions specified in paragraphs 2 through 5 of Section 5.1.6. Such markings shall be maintained so as to be plainly visible.

2. The area of the lot not planted and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material and drained to the satisfaction of the Town Engineer, to the extent necessary to prevent nuisance of dust, erosion or excessive water flow across public ways.

3. Lots shall be kept clean and free from rubbish and debris.

4. Where parking lots are increased in capacity after the effective date of this Bylaw, the expanded portion thereof shall be designed in accordance with the regulations set forth herein.

5. Parking lots for three vehicles or less shall conform to the regulations of Sections 5.1.6 through 5.1.9, with the exception of paragraphs 7(1), 7(2) and 8 of Section 5.1.6 and paragraph 5 of Section 5.1.7.

6. Under a special permit after a hearing, the Board of Appeals may permit in lieu of the dimensional requirements set forth herein, where new parking facilities are being installed to serve structures and land uses in existence or for which building permits had been issued at the date of adoption of this Bylaw, the substitution of other dimensional requirements, provided such substitution is necessary to permit the installation of some or all of the off-street parking spaces that would be required for a similar new building.

7. At least two (2) percent of the interior of a parking lot with 21 or more parking spaces shall be planted and continuously maintained. Planting along the perimeter of a parking area, whether for required screening or general

beautification, shall not be considered as part of the two (2) percent interior planting. The planting shall be distributed throughout the parking area and shall include trees as well as other plant material. Existing trees shall be preserved where possible. No planting bed shall have a width of less than three (3) feet.

8. In the GBD-2 and GBD-3 districts, if parking is provided at or below ground level, but also located beneath a raised portion of a building or structure, then such area of parking shall be completely screened from view, from any public right-of-way which adjoins the front of a lot, by inhabited ground floor uses (e.g., building entry lobbies, retail space, offices, etc.) and from any adjoining side street (if applicable) either by such active ground floor uses or by an opaque wall.

9. Garage doors shall not be located in the front wall of a building in the GBD-2 and the GBD-3 districts, except for one and two family dwellings.

5.2 OFF-STREET LOADING FACILITIES

5.2.1 Applicability. Structures and land uses in existence or for which building permits have been issued at the date of adoption of this Bylaw shall not be subject to the requirements stated below, provided that any loading facilities now serving such structures or uses shall not in the future be reduced below these requirements.

1. Where a structure existing on the effective date of this Bylaw is altered or extended in such a way as to increase the gross floor area by 5,000 square feet or more, only this additional gross floor area shall be counted in computation of the off-street loading requirements. Alterations or extensions aggregating less than 5,000 square feet subsequent to the effective date of this Bylaw do not require such provisions of loading space.

2. Where retail or other stores are designed or constructed as a group or as a unified building, the aggregate of individual stores shall be treated as one building for the purpose of calculating off-street loading facilities.

3. Where mixed uses occur, off-street loading facilities shall be the sum of the requirements for the several individual uses computed separately, except that such facilities may be less than said sum by special permit from the Board of Appeals when it can be demonstrated that such individual uses are not in operation at the same time.

5.2.2 Required Facilities. Off-street loading facilities shall be provided in accordance with the following requirements for each type of land use except Group I, Items 1 to 5 inclusive, as listed in the Table of Use Regulations.

Table of Off-Street Loading Facilities.

Number of Loading Bays Required for New Structures by Gross Floor Area of Structures (in Thousands of Square Feet)

Uses as Listed in Table of Use Regulations	2-15	15-50	50-100	100-150	150-300	For Each Additional 150 over 300
Group III #1-3	1	2	3	4	5	1
Group IV #9, 14, 17, 20						
Group V #1-5						
Group II #1-5, 8-11	1	1	2	3	4	1
Group IV #1-8, 10-15						

5.2.3 Design and Layout of Off-Street Loading Facilities. Off-street loading facilities shall be designed to conform to the following specifications:

1. Each required space shall be no less than 12 feet in width, 30 feet in length, and 14 feet in height, exclusive of drives and maneuvering space, and located entirely on the lot being served.

2. There shall be appropriate means of access to a street or alley as well as adequate maneuvering space.

3. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 28 feet; the minimum width shall be 12 feet.

4. Loading spaces may be enclosed in a structure and must be so enclosed if located within 50 feet of a residence district where the use involves regular night operation.

5. All accessory driveways and entranceways shall be graded, surfaced, drained, to the satisfaction of the Zoning Enforcement Officer, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

6. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance, or a hazard or unreasonable impediment to traffic.

5.2.4 Conditions. All required loading facilities shall be provided and maintained in accordance with the following requirements:

1. They shall be provided and maintained so long as the use exists which the facilities were designed to serve.

2. They shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Section 5.2.

3. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the delivery and pick-up vehicles that they are designed to serve.

5.2.5 Special Permit. The Board of Appeals may vary the requirements of Section 5.2 upon the grant of a special permit after consideration of the factors set forth in Section 9.4.

5.3 [RESERVED]

5.4 OUTDOOR LIGHTING

5.4.1 Purpose. The purpose of this Bylaw is to:

1. Create standards for outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property within Winchester;

2. To encourage, through the regulation of the types, construction, installation and uses of outdoor electrically powered illuminating devices, lighting practices and systems which will reduce light pollution, light trespass and glare;

3. To preserve and enhance the natural, scenic, and aesthetic qualities of Winchester;

4. To conserve energy and decrease lighting cost without decreasing nighttime safety, security, and productivity; and

5. To preserve the night sky as a natural resource to enhance nighttime enjoyment of property within Winchester.

5.4.2 Related Regulations. Reference is also made to Chapter 9, Section 2 of the General Bylaws regarding internally lit signs.

5.4.3 Applicability. The requirements of this section shall apply to the following zoning districts: PRD, RB-20, CBD, GBD-1, GBD-2, GBD-3, IL, SCI, and RA-120.

5.4.4 Exemptions. The requirements of this section shall not apply to the following:

1. Municipal Lights. Municipal street lighting, lights that control traffic or other lighting for public safety on Town streets and ways.

2. Fossil Fuel Light. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.

3. Other Light Sources. All outdoor light fixtures using an incandescent lamp or lamps of 150 watts or less. All outdoor light fixtures using any non-incandescent lamp or lamps of 50 total watts or less.

4. Zoning districts RDA, RDB, RDC, and RG.

5. Temporary decorative lighting which may include colored lamps, such as holiday lighting.

6. Houses of Worship.

5.4.5 Prohibited Light Sources. The following light sources are prohibited:

1. Neon Lights

2. Mercury Vapor and Quartz Lamps

3. Searchlights. The operation of searchlights is prohibited.

5.4.6 State Building Code. State Board of Building Regulations and Standards (the Massachusetts State Building Code); 780 CMR 1313.0; Lighting systems;

Applicability. The Outdoor Lighting Bylaw, Section 5.4, shall be administered in conformance with this code, to determine minimum standards. However, the express provisions contained in Section 5.4 shall govern in all respects.

5.4.7 Lighting Plan. Wherever outside lighting is proposed, or when an existing outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this section and every application for a building permit, a special permit, a special permit with site plan review, a variance, or an electrical permit, shall be accompanied by a lighting plan which shall show:

1. The location and type of any outdoor lighting luminaires, including the height of the luminaire;

2. The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;

3. The type of lamp such as: metal halide, compact fluorescent, high pressure sodium with color temperature (Kelvin) and CRI indicated;

4. A photometric plan showing the intensity of illumination at ground level, expressed in foot candles; and

5. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.

5.4.8 Control of Glare and Light Trespass.

1. All outdoor light fixtures subject to this Bylaw shall be shielded. This provision shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of any building but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.

2. All outdoor light fixtures using a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.

3. Any luminaire with a lamp or lamps rated at a total of more than 2000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.

4. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.

5. All lamps subject to this Bylaw shall have a minimum color temperature of 2000 degrees Kelvin and a maximum color temperature of 3700 degrees Kelvin.

5.4.9 Lamps. Lamp types shall be selected within the allowable color temperature range of 2000 to 3700 degrees Kelvin, for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer.

5.4.10 Efficacy. The use of highly efficient lamp sources, in conformance with this Bylaw is encouraged.

5.4.11 Hours of Operation. Outdoor lighting shall not be illuminated between 11 p.m. and 6 a.m. with the following exceptions:

1. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases.

2. Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11 p.m. and 6 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5-foot candles.

5.4.12 Special Permits. In accordance with Section 9.4, the Board of Appeals, acting as the special permit granting authority, may grant a special permit modifying the requirements of this Section, provided it determines that such modification is consistent with the objectives set forth in Section 5.4.1, in the following cases:

1. Where an applicant can demonstrate, by means of a history of vandalism or other objective means, that an extraordinary need for security exists;

2. Where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;

3. Where a minor change is proposed to an existing nonconforming lighting installation, such that it would be unreasonable to require replacement of the entire installation; and

4. Where it can be demonstrated that for reasons of the geometry of a lot, building, or structure, complete shielding of direct light is technically unfeasible.

SECTION 6.0 SPECIAL REGULATIONS

6.1 REGULATIONS APPLYING TO MOTOR VEHICLE FUELING FACILITIES

6.1.1 Dimensional Requirements. Motor vehicle fueling facilities shall be designed to conform to the following requirements:

1. The minimum lot area shall be 10,000 square feet.

2. The minimum frontage on a street shall be 100 feet.

3. The minimum setback of any building from all street lot lines shall be 40 feet.

4. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.

6.1.2 Design Standards

1. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet, the minimum width shall be 20 feet.

2. The minimum distance of driveways, measured at the lot line shall be as follows: From the corner lot line, 20 feet; from interior side lot line, 10 feet; and from other driveways on same lot, 20 feet.

3. A raised curb at least six (6) inches in height shall be constructed and maintained along the edges of all pavement on the lot except at the bases of buildings and at driveway openings.

6.1.3 Lighting Standards. Properties in residential districts which abut a motor vehicle service station shall be protected from headlight glare by either:

1. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years; or

2. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

3. Such screening shall be maintained in good condition at all times, may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

6.1.4 Other Standards

1. All washing, lubricating, and making of repairs shall be carried on inside the building.

2. No major repairs such as body work shall be performed.

3. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises.

4. The area of the lot not planted and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Zoning Enforcement Officer, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across the public ways.

6.1.5 Eligible Activities. The following activities may be conducted at a motor vehicle fueling facility:

1. Sale and servicing of spark plugs, batteries, and distributor parts;

2. Tire servicing and repair, but not recapping or re-grooving;

3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;

4. Radiator cleaning and flushing, including removal and replacing;

5. Washing and polishing, and sale of automotive washing and polishing materials;

6. Greasing and lubrication;

7. Providing and repairing fuel pumps, oil pumps, water pumps, and lines;

8. Minor servicing, replacement and repair of carburetors;

9. Emergency wiring repairs;

10. Adjusting and repairing brakes;

11. Servicing of front end including ball joints;

12. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;

13. Sales of cold drinks, packaged foods, tobacco and similar convenience goods for facility customers, as accessory and incidental to principal operation; and

14. Provision of road maps and other informational material to customers; provision of restroom facilities.

6.1.6 Ineligible Activities. Uses permissible at such facility do not include major mechanical and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in stations.

6.2 OUTDOOR MOTOR VEHICLE RENTAL OR SALES AND STORAGE FOR RENTAL OR SALE

6.2.1 Dimensional Requirements. A lot to be used for outdoor motor vehicle rental or sales or storage for rental or sale shall conform to the following requirements:

1. The minimum lot area shall be 10,000 square feet.

2. The minimum frontage on one street shall be 100 feet.

6.2.2 Design Standards

1. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet, the minimum width, 20 feet.

2. The minimum distance of driveways, measured at lot line, shall be as follows: From corner lot line, 20 feet; from interior side lot line, 10 feet; and from other driveway on same lot, 20 feet.

6.2.3 Lighting Standards. Properties in residential districts which abut an outdoor automobile sales lot shall be protected from headlight glare by either:

1. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

2. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than six feet high above finished grade, or above the roof level, if on a roof.

3. Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

6.2.4 No Repair Work. No repair work of any kind shall be performed.

6.3 EARTH REMOVAL

6.3.1 General. Removal from the premises of sod, loam or soil and removal of all other earth products is prohibited except under a special permit for an exception granted by the Board of Appeals subject to the applicable provisions of Section 9.4 of this Bylaw, and subject to the following conditions:

1. The Board of Appeals finds that such removal is necessary to achieve a grade reasonably consistent with adjoining property, or to comply with street grade requirements of subdivision control regulations, and that such removal be restricted to minimum amounts required.

2. Conditions shall be imposed to assure the health and safety of the community and that such removal is conducted in the minimum practical time.

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 AFFORDABLE HOUSING INCENTIVES

In order to assist in the provision of affordable housing in Winchester, the Board of Appeals may grant a special permit consistent with the criteria established in Sections 9.4 of this Bylaw to increase the density of projects in the Apartment House RB-20, Multiple Family RA-120, PRD Districts and in Multiple Use Developments.

7.1.1 Apartment House Residential Districts B (RB-20) The Board of Appeals may grant an increase in density above the allowed maximum of 20 dwelling units per acre to a maximum special permit density of 50 units per acre given the following conditions:

1. The applicant must designate at least 30 percent of the total number of units for use in conjunction with one or more state or federal housing assistance programs. For purposes of this Bylaw, any calculation of required affordable housing units that results in the fractional or decimal equivalent of one half or above shall be increased to the next highest whole number.

2. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 30 percent required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

3. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state or federal programs employed before the Board of Appeals may grant a special permit for an increase in project density.

4. In instances where the state and federal program entails a home ownership provision said units shall be sold directly from the applicant to the buyer consistent with the state or federal guidelines for such a sale. Further, the units sold by the applicant shall be counted towards the total number of affordable housing units required by the Planning Board.

5. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this Bylaw the Board of Appeals may allow alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable dwelling units to the Housing Authority. Said fee shall be seven ($7.00) dollars per gross square foot for all project structures excluding uninhabitable basements, parking and recreation areas. The payment in lieu shall be made into

the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

7.1.2 Multiple Family Residential District A (RA-120) The Board of Appeals may grant an increase in density above the maximum of three (3) dwelling units per acre to a maximum special permit density of eight (8) units per acre given the following conditions:

1. The applicant must designate at least 15 percent of the number of additional units being requested by special permit for use in conjunction with one or more state or federal housing assistance programs. In no instance shall any special permit approval create less than one affordable housing unit, and for purposes of this Bylaw any calculation of required affordable housing units shall result in the fractional or decimal equivalent of one half or above shall be increased to the next highest whole number.

2. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 15 percent required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

3. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state and federal programs employed before the Board of Appeals may grant a special permit for an increase in project density.

4. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this Bylaw the Board of Appeals may propose alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable dwelling units to the Housing Authority. Said fee shall be seven ($7.00) dollars per gross square foot for all project structures excluding uninhabitable basements, parking and recreational areas. The payment in lieu shall be made into the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

7.1.3 Planned Residential District (PRD). The Board of Appeals may grant an increase in density above the maximum of two (2) dwelling units per acre to a maximum special permit density of three (3) units per acre given the following conditions:

1. The applicant must designate at least 15 percent of the number of additional units being requested by special permit for use in conjunction with one or more state or federal housing assistance programs. In no instance shall any special

permit approval create less than one affordable housing unit, and for purposes of this Bylaw any calculation of required affordable housing units shall result in the fractional or decimal equivalent of one half or above shall be increased to the next highest whole number.

2. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 15 percent required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

3. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state and federal programs employed before the Board of Appeals may grant a special permit for an increase in project density.

4. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this Bylaw the Board of Appeals may propose alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable Dwelling units to the Housing Authority. Said fee shall be seven dollars ($7.00) per gross square foot for all project structures excluding uninhabitable basements, parking and recreational areas. The payment in lieu shall be made into the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

7.2 CLUSTER RESIDENTIAL HOUSING

7.2.1 Purpose. This Section has been enacted:

1. To permit maximum flexibility for developing land for single-family homes;

2. To promote open space;

3. To promote private recreational facilities for the exclusive use of the occupants of the Cluster Residential Housing and their guests; and

4. To regulate related off-street parking and landscaping.

7.2.2 Applicability. Tracts of land consisting of 20 acres or more in the RDA District and 10 acres or more in the RDB District may be developed as Cluster Residential Housing provided the number of dwelling units shall approximate the number permitted in the district, and maximum density shall be determined as provided herein.

7.2.3 Special Permit Required. To afford the Town of Winchester ample assurance that such developments will not tend to degrade the amenities of the neighborhoods in which they occur, or of the Town as a whole, and to insure that objectionable congestion of traffic is not created, Cluster Residential Housing may only be constructed under a special permit granted by the Board of Appeals as hereinafter defined and limited, within such districts as are established with the vote of Town Meeting.

7.2.4 Procedures. The owner or owners of a parcel of land in the RDA or RDB District which is of sufficient size to allow cluster residential housing, as defined in Section 7.2.2, shall submit to the Board of Appeals an application for a special permit, together with plans and a filling fee, in accordance with the provisions in Section 9.4 of this Bylaw and in accordance with the additional provisions of this Section 7.2.

7.2.5 Referral to Planning Board. The Planning Board shall review all Cluster Residential Housing applications submitted to it by the Board of Appeals. The Planning Board shall report its recommendations for approval or disapproval, together with reasons therefore and any additional requirements, to the Board of Appeals within 30 days of receipt of the application and plan. Reasonable requirements may be recommended to the Board of Appeals by the Planning Board for the protection of adjoining residential property. The Planning Board shall recommend approval of the Cluster Residential Housing application and plan only if it finds the Cluster Residential Housing satisfies all of the following standards.

7.2.6 General Standards

1. The permitted uses in the Cluster Residential Housing may include single-family homes, open space, private recreational facilities for the exclusive use of the occupants of the Cluster Residential Housing and their guests and related off-street parking and landscaping.

2. The Cluster Residential Housing shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.

3. The Cluster Residential Housing shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

4. More than one building is permitted on tracts of lots held by one owner or in common ownership.

5. The uniqueness of each proposal for a Cluster Residential Housing requires that the specifications for the width and surfaces of streets ways for public utilities, for curbs, gutters, sidewalks, street lights, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established in the Rules and Regulations Governing the Subdivision of Land in the Town of Winchester, Massachusetts and as amended from time to time. The Planning Board may recommend that the specifications otherwise applicable for a particular public facility may be waived or modified (provided that such modification shall not apply to the materials of said construction and shall not produce construction of inferior quality to that required in the Rules and Regulations Governing Subdivision) when such waiver or modification is not inconsistent with generally approved design standards.

6. The Planning Board shall recommend the installation or the furnishing of a performance guarantee in lieu thereof, of all or any of the following improvements it may deem to be necessary or appropriate: street grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, landscaping, surveyor's monuments, water mains, culverts, bridges, storm sewers, sanitary sewers or other means of sewage disposal, drainage facilities or structures and other improvements as the Planning Board require or deem necessary in the public interest. The Planning Board may recommend phases for the completion of improvements in sections of the Planned Residential Development and recommend minimum improvement completion requirements necessary for the issuance of Certificates of Use and Occupancy.

7.2.7 Design Standards

1. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and roadways.

2. Except to the extent regulated by the provisions of the state building code, individual buildings shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development.

3. Buildings shall be separated by a minimum of 20 feet or 0.75 percent of the building height times its length measured in feet, whichever is greater.

4. Treatment of the sides and rear of all buildings within the Cluster Residential Housing shall be comparable in amenities and appearance to the treatment given to street frontages of these same buildings.

5. All buildings walls shall be so oriented as to insure adequate light and air exposures to the rooms within.

6. All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented so as to preserve visual and audible privacy between adjacent buildings.

7. All buildings shall be arranged as to be accessible to emergency vehicles.

8. All utilities shall be placed underground.

7.2.8 Landscape Design Standards

1. Landscape treatment for plazas, road, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.

2. Primary landscape treatment shall consist of shrubs, ground cover and trees, and shall be combined with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the local growing conditions.

3. Whenever appropriate, existing trees shall be preserved and integrated into the landscape design plan.

4. All streets contained within and bordering the project area shall be planted at appropriate intervals with street trees.

5. Whenever possible the existing terrain shall be preserved and land moving shall be kept to a minimum.

7.2.9 Circulation System Design Standards

1. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading spaces.

2. Roads, pedestrian walks, and open space shall be designed as an integral part of the overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.

3. There shall be an adequate amount, in a suitable location, of pedestrian walks, malls and landscaped spaces in order to discourage pedestrian use of vehicular ways and parking and loading spaces; and to separate pedestrian walks, malls and public transportation loading spaces from general vehicular circulation facilities.

4. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

5. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.

6. The location and design of pedestrian walks should emphasize desirable views of new and existing developments in the area.

7. The maximum separation of private automobiles and service vehicles shall be provided through the use of separate service lanes.

8. Materials and design of paving, lighting fixtures, retaining walls, bulkheads, fences, curbs, benches, etc., shall be of good appearance easily maintained and indicative of their function.

7.2.10 Parking and Loading Design Standards

1. Off-street parking and loading facilities shall conform to the provisions of Sections 5.1 and 5.2 of this Bylaw. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and to the monotony of parked vehicles.

2. Pedestrian connections between parking areas and buildings shall be via special pedestrian walkways and or elevators.

3. Parking facilities shall be designed with careful regard to arrangement, topography, landscaping, and ease of access and shall be developed as an integral part of an overall site design.

4. Any above grade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.

7.2.11 Common Open Space. A minimum of 25 percent of a Cluster Residential Housing site area shall be developed as open space, including walkways, plazas, landscaped areas, recreation areas, tennis courts, pools and fountains. Parking areas and vehicle access facilities shall not be considered in calculating open space. A maximum of 40 percent of the Cluster Residential Housing site area shall be covered by impervious waterproof surface.

1. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements in the common open space must be appropriate to the uses which are authorized for the common open space.

2. The development schedule must coordinate the improvement of the common open space and the construction of residential dwellings.

3. All land shown on that site plan as common open space shall be subject to covenants approved by the Board of Appeals, which covenants shall include,

without limitation, restrictions prohibiting (a) the use of the common open space for uses other than those specified on the site plan and (b) the development of the common open space for residential use or accessory uses such as parking or roads, such portion to be kept in an open or natural state. The restrictions contained in subsection (b) shall be enforceable by and be for the sole benefit of the Town of Winchester and may be modified or released by Town Meeting. Further, in addition to requiring the imposition of such covenants, title to the common open space shall be conveyed either to a nonprofit organization, the principal purpose of which is the conservation of open space or to a corporation or trust owned or to be owned by the owners of the lots within the Cluster Residential Housing Development, provided the interest of the individual lot owner in such corporation or trust is appurtenant to the owner's interest in the lot and passes with title to the individual lot. In lieu of a conveyance to such a nonprofit organization or such a corporation or trust, title to the common open space may be conveyed to the Town of Winchester, provided the Board of Appeals recommends the acceptance of such conveyance and the same is accepted by Town Meeting, in which event the restrictions otherwise mandated by this section shall not be applicable.

7.2.12 Buffer Zone Requirements. A buffer zone within 50 feet of all external lot lines of a designated Cluster Residential Housing shall be provided except that portion which fronts upon an existing external street or roadway. Said buffer zone shall be kept in its natural state where wooded, and, when its natural vegetation is sparse or nonexistent, the landowner may be required to provide a year-round visual screen as recommended by the Planning Board. Within said buffer zone, no principal or accessory structure, nor any off-street parking or loading areas or other use shall be permitted. Within said buffer zone, utility easements and streets may be provided if necessary to insure continuity with adjoining properties, subject to the recommendations of the Planning Board.

1. Said buffer zone area may be utilized for the purpose of computing the Cluster Residential Housing open space requirements of this Ordinance. The requirements of this paragraph may be modified or eliminated where two Cluster Residential Housing developments abut or adjoin one another.

7.2.13 Setbacks. A minimum setback from all external lot lines of a Cluster Residential Housing from all existing streets and thoroughfares for all buildings, structures and uses of no less than 75 feet or a distance equal to twice the height of any structure or building within the development, whichever is greater, shall be provided.

7.3 MULTIPLE USE DEVELOPMENT (MD)

7.3.1 Purpose. The purpose of this Bylaw governing Multiple Use Development is to provide for a mixture of land usage within the Central Business District at greater density and intensity than would normally be allowed provided that said land usage can be shown to be in the public good and:

1. Will improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment;

2. Is consistent with the objectives of the Zoning Bylaw;

3. Promotes the development of housing in Winchester Center; and

4. Preserves, promotes, and encourages use of public and private open space.

7.3.2 Special Permit. In order to permit a mixture of residential, open space and commercial uses, and a variety of building types, tracts of land within the Center Business District (CBD) may be developed under a special permit granted by the Board of Appeals as hereinafter defined and limited. The special permit shall conform to this Bylaw and to Regulations which the Board shall adopt for carrying out its requirements hereunder.

7.3.3 Review Board. The Planning Board shall function as a review board to review each proposed Multiple Use Development. For this function, the Planning Board shall have the authority to appoint up to four (4) citizens at large to assist them in the review of the proposal. Of the four citizens, one must be a registered architect or graduate architect; and another must be a registered landscape architect or graduate landscape designer. The citizen appointees shall have the right to fully discuss all elements of the proposed project but shall be advisory only, shall have no official status and shall not have any voting power.

7.3.4 Pre-Application Conference. Prior to the submission of an application for a special permit, the applicant must confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

7.3.5 Submission of Preliminary Plan. The applicant shall file a preliminary plan, accompanied by the form titled "Submission of Preliminary Plan, Multiple Use Development" to the Planning Board at a regularly scheduled meeting. A copy of the preliminary plan and the above form shall also be filed in the Town Clerk's office. A check made out to the Town of Winchester, in the amount set forth in the current Planning Board fee schedule, shall accompany the submission of the preliminary plan. The Planning Board within 20 days from receipt of the Plan shall review and determine whether the proposed project is consistent with the development of the Town. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of the final plan. If the Planning Board fails to act within 20 days, the applicant may proceed to file his final plan.

7.3.6 Contents of Preliminary Plan. The preliminary plan shall contain the following information:

1. Multiple Use Development Boundaries, north arrow, date, scale, legend, and title "Preliminary Plan: Multiple Development", the name or names of applicants and engineer or designer.

2. Names of all abutters, land uses, and approximate location and width of all adjacent streets.

3. Show the existing and proposed lines of streets, ways easements and of any public areas within or next to the Multiple Use Development.

4. The approximate boundary lines of existing and proposed lots with approximate areas and dimensions.

5. Indicate the proposed system of drainage, including adjacent existing natural waterways and the topography of the land.

6. Show the existing and proposed buildings, significant structures and proposed open space on the project site; and to include adjacent buildings and their actual use.

7. An analysis of the natural features of the site, including wetlands, floodplains, slopes over 10 percent, soil conditions and other features requested by the Planning Board or required by the regulations of the Board.

8. A description of the neighborhood in which the tract lies, including utilities and other public facilities and the general impact of the proposed Multiple Use Development upon them.

9. A summary of environmental concerns relating to the Multiple Use Development.

7.3.7 Submission of Final Plans. The applicant shall submit an application for a special permit accompanied by the original final plans, plus 10 copies, to the Town Clerk.

1. The Town Clerk shall transmit the original and three (3) copies of the final plans to the Planning Board. Copies shall also be forwarded by the applicant to the Town Engineer, Director of Public Works, Building Department, Board of Health, Fire Department, Conservation Commission and the Historical Commission.

2. The agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the proposed project within 20 days of filing. Failure to comment shall be deemed lack of objection.

3. Within 35 days of the receipt of the final plan from the Town Clerk, the Planning Board shall submit to the Board accompanied by its written recommendations a report discussing the feasibility of the project and its consistency with the purposes in 7.3.1.

4. No construction or reconstruction except as shown on the recorded plan shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded plan and upon deeds to any property within the Multiple Use Development.

7.3.8 Contents of Final Plan. The application for a special permit and a site plan review shall be accompanied by the original copy of the final plan and 10 copies and any other data required to be submitted and shall contain the following data:

1. It shall be drawn at a scale of one inch equals 40 feet unless another scale is requested and found suitable by the Engineering Department.

2. A professional engineer, registered architect or registered landscape architect shall prepare the site plan.

3. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the location of the buildings, setbacks, and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury.

4. A utilities and drainage plan shall be prepared by a professional engineer.

5. The scale, date, and north arrow shall be shown.

6. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.

7. Easements within the lot and abutting thereon.

8. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required.

9. The location of existing wetlands, water bodies, wells, 100-year floodplain elevation and other natural features requested by the Board.

10. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.

11. Percent of the building lot coverage.

12. Average finished grade of each building.

13. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.

14. Existing and proposed topographical lines at two-foot intervals.

15. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.

16. Numbering of parking spaces.

17. Height of all buildings, above average finished grade of abutting streets.

18. A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size and species of plantings.

19. Deed or other recorded instrument that shows the applicant to be the owner or owner under option of the land to be designated as a multiple use development.

20. The applicant shall provide graphic and/or narrative descriptions of the differences, if any, which would occur if the site were not to be developed with a special permit under this section.

7.3.9 Minimum Requirements. The plan shall be subject to the following conditions, and the Board of Appeals with the advice of the Planning Board shall make a determination that the project meets all of the following conditions:

1. The Multiple Use Development is consistent with the purposes set out in 7.3.1.

2. The Multiple Use Development received site plan approval as described in Section 9.5 of the Winchester Zoning Bylaw.

3. The Multiple Use Development has been reviewed by the Planning Board and approved by the Board as to its design and architectural consistency. Further, the Board shall consider and make recommendations regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Board shall consider the appropriateness of the size and shape of the buildings or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity. Further, the Board may, in appropriate cases, impose dimensional and set back requirements in addition to those required by this Bylaw.

4. The Board shall not consider interior arrangements or architectural features not subject to public view.

7.3.10 Permitted Uses; Residential. In a Multiple Use Development, the following residential uses are permitted:

1. Dwelling units only on floors above the ground floor. However, in areas where the Multiple Use Development abuts a residential zone, dwelling units are allowed on all floors on the side of the parcel facing the residential zone.

2. The density of dwelling units shall not exceed 20 units per acre unless the applicant designates at least 30 percent of the total number of units for use in conjunction with one or more state or federal housing assistance programs; see Section 7.1 for a complete description of the required affordable housing criteria and procedures.

3. In no instance shall the total number of dwelling units exceed a density of 50 dwelling units per acre.

4. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 30 percent required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

7.3.11 Permitted Uses; Business. In a Multiple Use Development the following business uses are permitted only within the first three floors.

1. Restaurants (excluding fast food restaurants).
2. Theater.
3. General retail sales and services (excluding retail sales of motor vehicles, boats, mobile homes and house trailers, automobile service stations and drive-through banking facilities).
4. Banks and Financial Services.
5. Business and Professional Offices (excluding medical and dental laboratories, medical and dental centers, and medical and dental offices).

7.3.12 Expansion of Buildings or Rehabilitation of Existing Interiors. Special permits may be granted to a Multiple Use Development that is essentially an expansion of the existing building if the expansion will at least double the existing gross square footage (excluding basements); and if the project meets all parking and site plan criteria required by the Board. A special permit may be granted to a Multiple Use Development that is essentially a major renovation of an existing building if the major renovation involves 100 percent of the gross floor area, excluding basements; and if the project meets all parking and site plan criteria required by the Board. The Board may reduce the required renovation percentage if it can be shown that the 100percent requirement would endanger historically significant interior space.

7.3.13 Dimensional Requirements.

1. Site Area Requirements. For both new construction and expansion, there shall be no minimum square foot requirements. All portions of the project area must be zoned for Center Business District use.
2. Usable Open Space. "Usable open space" shall mean the part or parts of land or structure within a Multiple Use Development which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, required setbacks, waterways, walkways, and be open and unobstructed to the sky. Trees, plantings, arbors, flagpoles, sculpture, fountains, swimming pools, open-air recreational facilities and similar objects shall not be considered obstructions. In all Multiple Use Developments that are new construction, at least ten (10) percent of the land shall be set aside as permanent usable open space, for the use of the Multiple Use Development residents, or for all Multiple Use Development users, or for the community. The required open space shall, at the option of the Board, be conveyed to the Conservation Commission or to a

nonprofit conservation organization, or to a corporation or trust representing persons responsible for the Multiple Use Development and shall be protected by a conservation restriction as required by G.L.C. 40A, s.9, for common open space in cluster developments. A covenant shall be placed on the land such that no part of the Multiple Use Development can be built, sold or occupied until such time as a satisfactory written agreement has been executed for protection of the open space. Open space requirements do not apply for Multiple Use Development projects which are expansions of existing buildings or are major internal renovations. It shall be the objective of this Bylaw, in cases where private open space has been traditionally utilized by the public and where the public has been allowed to use the area as open space by the owner or owners of the building, that open space should not be included as part of the building expansion and is subject under this section of the Bylaw.

3. Setback Requirements. Insofar as the Multiple Use Development abuts a residential district, all structures and facilities within the Multiple Use Development shall be set back no less than 20 feet from adjacent residential property lines.

4. Height. No buildings in the Multiple Use Development shall exceed 45 feet in height above the mean finished grade of abutting properties. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities shall be nine (9) feet.

7.3.14 Parking Requirements. In all Multiple Use Developments adequate off-street parking shall be provided for all vehicles normally visiting the property at any one time. The parking may be ground level, underground, or in a garage structure. Parking shall be provided at the following rates, unless otherwise permitted by the Board, for the different types of use within the Multiple Use Development projects on land in the same ownership or on a separate parcel, provided the nearest parking space is within three hundred (300) feet of a principal entrance to the building that the parking lot will serve, and further provided that an agreement will be recorded dedicating the parcel to parking use for the reasonable life of the building.

Table of Minimum Number of Required Parking Spaces in MD

USE	MINIMUM REQUIRED SPACES
Apartment, Condominiums	1.50 spaces per unit
All Commercial and Business Activities	1 space per 1,200 square feet of floor space or fraction thereof
Theaters, Restaurants, or Places of Public Assembly	1 space for every four (4) seats

1. The design standards for off-street parking shall be 8.5 feet by 17 feet for angle parking and 7.5 feet by 20 feet for parallel parking.

2. The off-street loading requirements for all uses located in a Multiple Use Development shall comply with Section 5.2 of this Bylaw, or as otherwise approved by the Board.

SECTION 8.0 SPECIAL DISTRICT REGULATIONS

8.1 FLOODPLAIN OVERLAY DISTRICT (FPOD)

8.1.1 Purpose. The purposes of the Floodplain Overlay District (FPOD) are to:

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

2. Eliminate new hazards to emergency response officials;

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

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

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

6. Reduce damage to public and private property resulting from floodwaters.

8.1.2 Floodplain District Boundaries. The FPOD is herein established as an overlay district. The FPOD includes all special flood hazard areas designated within the Town of Winchester designated as Zone A, AE, AH, AO and A99 on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Winchester are panel numbers 25017C0404E, 25017C0407E (Corrected 5/17/2010), 25017C0408E, 25017C0409E, 25017C0416E, 25017C0417E, 25017C0426E (Corrected 5/17/2010) and 25017C0428E, dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM, and Flood Insurance Study (FIS) report are incorporated herein by reference and are on file with the Town Engineer.

8.1.3 Base Flood Elevation and Floodway Data

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

2. Where the base flood elevations are not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Commissioner for its reasonable utilization towards meeting the

elevation or flood proofing requirements, as appropriate, of the State Building Code.

8.1.4 Floodway. In the floodway, as shown on the Flood Boundary and Floodway Map, the following provisions shall apply:

1. All encroachments, including fill, new construction, substantial improvements of existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant to demonstrate that such encroachments shall not result in any increase in flood levels greater than the occurrence of the 100-year flood.

2. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code with the exception of the requirements noted herein.

8.1.5 Floodplain. In the floodplain designated on the Flood Insurance Rate Map as Zones A or AE, the following provisions shall apply:

1. All new construction and substantial improvements to any structures must comply with the Massachusetts State Building Code, as amended, for construction within a floodplain designated as Zones A or AE on the Flood Insurance Rate Maps.

2. Buildings meeting the requirements of 8.1.4 must comply with the Massachusetts State Building Code, as amended, for construction within a floodplain designated as Zones A or AE on the Flood Insurance Rate Maps or designated as being within a floodway on the Flood Insurance Rate Maps.

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

8.1.7 Notification of Watercourse Alteration. The Town Engineer shall notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

1. Adjacent communities.

2. NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation (DCR)
   Flood Hazard Management
   251 Causeway Street, Suite 700
   Boston, MA 02114-2104

3. NFIP Program Specialist
   FEMA Region 1
   99 High Street, 6th Floor
   Boston, MA 02110

8.1.8 Use Regulations

1. Reference to Existing Regulations. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws (known as the Massachusetts Wetlands Protection Act statute), and with the following:

   a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas, (currently 780 CMR 120.G);

   b. Wetlands Protection Act Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

   c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and

   d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CRM 15, Title 5).

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

8.1.9 Other Use Regulations

1. Within Zones A, AE, AO, AH, and A99 on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

2. Review all subdivision proposals to assure that: (a) such proposals minimize flood damage; (b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and (c) adequate drainage is provided to reduce exposure to flood hazards.

3. Existing contour intervals of site and elevations of existing structures must be included on the plan.

4. There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

8.1.10 Permitted Uses. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the

underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas, etc.;
4. Conservation of water, plants, wildlife;
5. Wildlife management of areas, foot, bicycle and/or horse paths;
6. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
7. Buildings lawfully existing prior to the adoption of these provisions;
8. Temporary construction for the repair or placement of pipes, drains, utilities, and like installations, which are currently permitted by the Board of Selectmen; and
9. Any work undertaken by or on behalf of the Town of Winchester individually or in conjunction with any other governmental agency, so long as that work is subject to regulation under existing state or federal laws or regulations.

8.1.11 Definitions. See Section 10 for "Floodplain Overlay District"

8.2 INDEPENDENT ELDERLY HOUSING OVERLAY DISTRICT (IEHOD)

8.2.1 Purpose. The purpose of the Independent Elderly Housing Overlay District (IEHOD) is to provide an alternative and supplement to the assisted living and public elderly housing in Winchester in a manner that encourages the preservation of open space and is consistent with the scale of residential development in the community.

8.2.2 Overlay District. The IEHOD is herein established as an overlay district as per vote of the Town Meeting. The application of an IEHOD to the Zoning Map shall not restrict the uses allowed by right or special permit in the underlying zones. However, properties designated within the IEHOD may apply for a special permit to build assisted living and elderly housing consistent with this Section of the Bylaw.

8.2.3 Applicability. Assisted living and elderly housing shall be permitted only in areas designated on the zoning map as an IEHOD. Said IEHOD shall not deny to the owners of property the uses allowed by right or special permit in the underlying zones. However, properties designated within the IEHOD may also apply for a special permit to construct assisted living and elderly housing consistent with the guidelines of this Bylaw. In addition to the special permit criteria listed herein, a special permit for assisted living and elderly housing in the IEHOD is subject to the provisions and procedures established for special permits in this Bylaw in Section 9.4.

8.2.4 Special Permit Criteria

1. Minimum Parcel or Lot Size. Five (5) Acres.

2. Minimum Open Space. A minimum of 65 percent of the total site area shall be set aside for open space as defined by this Bylaw and shall not include any parking area as described below in 5. and 6.

3. Development Capacity. The maximum allowable development capacity shall be 12 dwelling units per acre. Development capacity shall be a function of the lot size multiplied by the dwelling unit per acre allowance, but in no instance shall any project exceed 150 assisted living and elderly housing dwelling units.

4. Minimum Off-Street Parking. A minimum of one-half (0.50) parking spaces per dwelling unit shall be provided. Further, all site plans shall indicate an area where an additional one-quarter (0.25) parking spaces per dwelling unit can be provided. The area set aside for additional parking shall remain as open space unless within a five year period of the granting of the special permit the Board of Appeal requires that all or part of said area be developed for off-street parking purposes.

5. Minimum Setbacks. No building or structure shall be located within 100 feet of the perimeter legal lot lines of a development within the IEHOD. Said setbacks may be calculated as part of the minimum open space requirement, if they remain as open and undeveloped areas. Parking may be permitted in the minimum setbacks but not within fifty feet of the perimeter legal lot lines and

shall be well buffered. Further, the portion of the minimum setback that may be used for parking shall not be calculated as part of the required open space.

6. Maximum Height. Three stories, but not more than 40 feet.

7. Maximum Lot Area Coverage. Not more than 15 percent of the total lot area may be devoted to buildings or structures; this requirement shall not apply to at grade or below grade parking areas but shall apply to garage parking above grade.

8. Minimum Lot Frontage. Frontage on an approved way shall be a least 200 feet. Lots having one half or more frontage on a circular turnaround or curve of less than 100 feet radius, may be reduced to a minimum frontage of 50 feet, provided that the minimum lot width otherwise required is maintained at the front yard setback line.

8.2.5 Permitted Uses. Subject to the grant of a special permit, the following uses are allowed in the IEHOD:

1. Multi-family residential structures intended for assisted living or elderly residents.

2. Retail and personal service commercial uses provided that there are no exterior signs indicating the nature of the commercial activity beyond one square foot in size, and further that the sum total of the retail and personal service areas does not exceed two percent of gross square feet of the project, excluding basements and parking areas.

3. Recreation facilities, dining rooms, for on-premise use only, kitchens, pools, meeting and function rooms, administrative offices, and medical facilities for diagnosis, out-patient services, and in-home care, including without limitation assistance for memory-impaired residents.

8.2.6 Affordable Housing Requirements. The applicant shall be required, as a condition of the special permit, to provide affordable housing in Winchester. Specifically, the applicant shall provide affordable housing through one of, or a combination of, the following methods with preference given to provisions of on-site units:

1. Setting aside a determined number of dwelling units up to 10 percent in the IEH project for rental by the Board of Selectmen. In this instance the applicant shall transfer an amount to the Winchester Housing Fund consistent with the criteria of Section 8.2.7 below. The Board of Selectmen shall have the authority to use said amount to rent units in the IEHOD project at the market rate. Alternatively, the Board of Selectmen shall have the right to negotiate arrangements for rent reduction in said units in lieu of the amount that would have been transferred to the Winchester Housing Fund.

2. Consistent with Section 8.2.7 below, transferring ownership to the Board of Selectmen of a dwelling unit or dwelling units for affordable housing purposes. The dwelling units may be newly constructed or derived from existing stock in the community.

3. Payment into the Winchester Housing Fund an amount consistent with the Section 8.2.7.

8.2.7 Affordable Housing Procedure and Determinations

1. The Board of Appeal shall determine the estimated construction costs of all buildings and further shall determine an amount that represents five percent of said costs. As the basis for its determination, the Board of Appeal shall use the appropriate current year edition of Building Construction Cost Data published by the R.S. Means Company of Kingston, Massachusetts. Using said construction cost data, and specifically, the median of the upper quartile costs associated with the construction of housing for the elderly, the Board shall calculate five percent of said construction costs. The resulting dollar value expressed in whole dollars shall be known as the base value. If the applicant requests a change in the original special permit, the base value shall be recalculated.

2. The applicant shall be required to transfer ownership to the Board of Selectmen or purchase and transfer, dwelling units in the community that are equivalent in value to the determined base value. However, to provide flexibility in meeting the above requirement, the Board of Selectmen may allow the applicant to construct and transfer, or purchase and transfer, dwelling units that represent not less than 75 percent of the base value given a written agreement indicating that the balance of the base value will be invested into the required dwelling units as interior or exterior improvements. If said improvements are not required or if there is a balance of funds after the improvements are made, said funds shall be transferred to the Winchester Housing Fund (Fund). Further, the Board of Selectmen may, at its discretion, require that the entire base value be transferred to the Fund; or that the base value be transferred to the Fund with the stipulation that said base value amount be invested and that the interest or portion of the interest earned be used to rent units in an assisted living or elderly housing project in the IEHOD at market rates.

3. Appraisals. In the instance where the base value is used to purchase housing and to insure the Town is receiving proper value, the Board of Selectmen shall hire a professional real estate appraiser to determine the value of all dwelling units intended to meet the requirements of this Bylaw. The Board of Selectmen shall hire the said appraiser within seven days of the applicant's submission, in writing, of a residential property intended to meet the requirements of this subsection; said submission shall be to the Town Manager. The Town Manager may use the base value funds to pay for the appraisal, or may reduce the base value by the amount necessary to pay for the appraisal and require the applicant to pay the appraiser selected by the Town Manager.

a. If applicants disagree with the appraisal provided by the Town, they shall have the right to provide their own professionally prepared appraisal. If said appraisals differ by more than ten percent, a third appraisal undertaken by a mutually acceptable professional appraiser shall be undertaken. The cost of the third appraisal, if necessary, shall be shared by the Town and the Applicant. The third appraisal shall be binding on both parties.

b. However, if the first and second appraisals do not differ by more than ten percent, the base value shall be considered as the average value of the two appraisals.

4. Type of Dwelling Units. The type of dwelling units required of the applicant shall be determined by the Board of Selectmen after consultation with the Winchester Housing Authority on a project by project basis.

5. Letter of Credit or Escrow Account. The applicant shall be required to secure a Letter of Credit for the entire base value amount. If the applicant is unable to secure a Letter of Credit, the Board of Selectmen may permit the applicant to establish an escrow account in the full amount of the base value.

a. The Board of Selectmen shall have the authority to require the applicant to draw on the Letter of Credit or escrow account only for the purpose of purchasing new or existing housing stock to be transferred to the Board of Selectmen or to transfer funds to the Winchester Housing Fund.

b. The applicant shall establish the Letter of Credit or escrow account before the issuance of the building permit. In the instance where the applicant is required to transfer the entire base value amount to the Winchester Housing Fund, the amount shall be transferred prior to the issuance of the temporary or permanent occupancy permit.

c. In the instance where the applicant is required to transfer housing units, the total amount of the base value amount shall be expended for this purpose within six months of the issuance of the temporary or permanent occupancy permit.

d. If the Board of Selectmen does not direct the purchase of housing units before the final expenditure date noted above, the full balance of the Letter of Credit or escrow account shall be transferred by the applicant to the Winchester Housing Fund.

8.3 ADULT USE OVERLAY DISTRICT (AUOD)

8.3.1 Purpose. It is the purpose and intent of this Bylaw, in accordance with the provisions of General Laws, Chapter 40A, Section 9A, not to suppress free speech activities protected by the First Amendment, but to control and minimize, in a reasonable manner, the adverse secondary effects of adult uses on the surrounding community, including such effects as nighttime traffic and noise, increased crime, declining property values, impairment of retail trade, limitation of economic

development, inappropriate impact on the Town's children and youth, and deterioration of the quality of suburban life.

8.3.2 Definitions. See Section 10.0 – "Adult Uses"

8.3.3 Overlay District. The Adult Use Overlay District (AUOD) is herein created as an overlay district within portions of the Center Business District, more fully described on a plan entitled "Adult Use Overlay District" hereinafter described:

The Adult Use District Overlay is located within the Center Business District along the Easterly side of Shore Road and Westerly and Northeasterly of Winchester Place. Said district is comprised of three separate areas, as shown on a plan entitled "Adult Use Overlay District" by George J. Zambouras, P.E. Town Engineer dated September 26, 1997, more particularly described as follows; all distances being more or less:

Beginning at a point on the Southeasterly side of Shore Road 98 feet from the intersection of Mount Vernon Street; Northwesterly by Shore Road 165 feet; Northeasterly by Town of Winchester 116 feet; Southeasterly by Winchester Place 130 feet; Southerly by land now or formerly R.A. Johnson Realty Trust 71 feet; and Southwesterly by land now or formerly Tara Realty Trust 74 feet.

Beginning at a point on the Southeasterly side of Shore Road 337 feet from the intersection of Mount Vernon Street; Northwesterly by Shore Road 144 feet; Northeasterly on ten courses by land now or formerly Aberjona Park Real Estate Trust 160 feet; Easterly and Southerly on three courses by Winchester Place 169 feet; Southwesterly by Town of Winchester 103 feet. Beginning at a point on the Southeasterly side of the Winchester Place 334 feet from the intersection of Mount Vernon Street; Northwesterly by Winchester Place 76 feet; Northerly by land now or formerly Aberjona Park Real Estate Trust 128 feet; Easterly by Aberjona River 76 feet; Southwesterly by Town of Winchester 145 feet.

8.3.4 Effect. The application of the AUOD shall not restrict the uses allowed by right or special permit in the underlying zone. However, a special permit is required to establish any Adult Use within the AUOD.

8.3.5 Submittal Requirements. The application for a permit for adult use shall submit the information required by Section 9.4 and the following additional information:

1. The names and addresses of the applicant and the legal owners of the establishment and of the building in which the Adult Use is to be conducted. In the case of a partnership, state the name and address of each general and limited partner. In the case of a corporation, state the name and address of each officer and director.

2. The names and addresses of all persons having a legal or equitable interest in the establishment and of the building in which the Adult Use is to be conducted, including mortgages and other security interests, leases, and such interests as are held by trustees and beneficiaries of trusts.

3. The names and addresses of the managers and other employees who will be working at the site.

4. Proposed provisions for security within and without the building in which the Adult Use is to be conducted.

5. A plan and description of the physical layout of the interior of the building in which the Adult Use is to be conducted.

6. A written statement by the applicant certifying under penalty of perjury that, in the case of a corporate applicant, no officer or director thereof has been convicted of violating the provisions of General Laws, Chapter 119, Section 63, Chapter 272, Section 28, or any other felony; that in the case of a partnership applicant, no general or limited partner has been so convicted; and that in the case of an individual applicant, he or she has not been so convicted.

8.3.6 Decision. The Planning Board shall submit recommendations to the Board of Appeals, in writing, within 20 days after the conclusion of such public hearing. The provisions of Section 9.4 of this Bylaw shall apply to the granting of special permits for Adult Uses. With respect to AUOD special permits, the required criteria of Section 9.4.2 shall include the following:

1. General compatibility of the property (apart from the use thereof) with adjacent properties and other properties in the district.

8.3.7 Conditions

1. No Adult Use shall be located within 150 feet of any residential use, church or place of worship, school, park, playground, daycare center or nursery. The distance shall be measured from the nearest point of the property parcel upon which the proposed adult use is to be located, to the nearest point of the parcel of property from which the proposed Adult Use is to be separated.

2. No Adult Use shall be located within 150 feet of any other Adult Use.

3. An adequate security plan shall be presented for each such proposed Adult Use.

4. Any display or advertising shall be in accordance with the sign provisions of this Bylaw, provided that no advertisement, display or other sexually explicit graphic or text, as defined in General Laws Chapter 272 Section 31, is to be visible to the public from any public way or walkway.

5. An Adult Use special permit shall not be issued to any person convicted of violating the provisions of General Laws Chapter 119, Section 63 or Chapter 272, Section 28, or any other felony.

6. Nothing in this Bylaw is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town regulation or statute of the Commonwealth of Massachusetts

regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.

8.4 WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT (WCFOD)

8.4.1 Purpose. This Section is adopted for the authorization and regulation of the placement, construction, installation, modification, use, monitoring and removal of Wireless Communications Facilities and the protection of the general public from the impacts associated with Wireless Communications Facilities. This Section is intended to be used in conjunction with other provisions of the Zoning Bylaw, other regulations and requirements adopted by the Town and other zoning and general bylaws designed to encourage appropriate land use, environmental protection, preservation of the Town's residential character, and the provision of adequate infrastructure development. It is the purpose of this Bylaw to:

1. Preserve the character and appearance of the Town, including, but not limited to, the scenic, historic, environmental and natural or man-made resources of the Town, while simultaneously allowing adequate Wireless Communications Facilities to be developed;

2. Minimize the adverse impact of Wireless Communications Facilities on adjacent properties and residential neighborhoods;

3. Provide procedures, standards and requirements for the authorization, regulation, placement, construction, installation, modification, use, monitoring, and removal of Wireless Communications Facilities;

4. Minimize the overall number and height of such Facilities and 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 of Winchester consistent with applicable federal law.

8.4.2 Discrimination Among Providers. In accordance with the requirements of 47 U.S.C. s332(c)(7)(B), and until these requirements are modified, amended or repealed, in regulating the placement, construction, installation, modification, use, monitoring and removal of Wireless Communications Facilities, the administration of this Bylaw shall not be undertaken in a manner which unreasonably discriminates among providers of Functionally Equivalent Services or prohibits or has the effect of prohibiting the provision of Wireless Communications Services. Furthermore, any decision to deny a request to place, construct, install, modify, and/or use Wireless Communications Facilities shall be in writing and supported by substantial evidence contained in a written record. Furthermore, this Bylaw may not regulate the placement, construction, installation, modification and/or use of Wireless Communications Facilities on the basis of the environmental effects of radio frequency emissions to the extent that such Facilities comply with the Federal Communications Commission's (the "FCC") regulations concerning such emissions.

8.4.3 Applicability. The Wireless Communications Facilities Overlay District (WCFOD) is herein established as an overlay district within: Apartment House Residential Districts B (RB-20); Limited Light Industrial Districts (IL-0); General Business Districts (GBD-1, GBD-2, GBD-3); Center Business Districts (CBD), and the Conservancy-Institutional District (SCI). The application of the WCFOD shall not restrict the uses allowed by right or special permit in the underlying zone. Properties within the WCFOD may apply for a special permit to establish and operate a Wireless Communications Facility use consistent with this Section 8.4 and the other applicable requirements of this Bylaw.

The provisions of other sections of this Bylaw notwithstanding, the regulations and restrictions set forth herein shall apply to the placement, construction, installation, modification, monitoring and removal of Wireless Communications Facilities. No Wireless Communications Facility shall be placed, constructed, installed, or modified within the Town of Winchester on or after the date of enactment of this Bylaw, except in accordance with the provisions of this Section 8.4. All Wireless Communications Facilities shall:

1. Be restricted solely to the WCFOD;

2. Require the issuance of a Special permit by the Board of Appeals as provided herein; and

3. Shall follow the site plan review process outlined in this Bylaw.

8.4.4 Exemptions. The following shall be exempt from the provisions of Section 8.4:

1. Facilities used for noncommercial Town or state public safety purposes.

2. Facilities used by a conforming, federally licensed amateur radio used in accordance with said FCC license as protected by Massachusetts General Laws Chapter 40A, Section 3, provided that (1) any such Facility is not used or licensed for any commercial purpose; and (2) any Mount used in connection

with said federally licensed amateur radio use must be removed upon loss or termination of said FCC license.

3. Television antennas, including so-called dish antennas which are subject to other sections of this Bylaw.

4. Licensed commercial mobile radio services primarily used in support of the licensee's own business purpose, provided that (1) such services are not used as a dispatching or communication service for third parties and (2) any Facilities used in connection therewith may not exceed the maximum height permitted hereunder. By way of example but not limitation, exempt commercial mobile radio services would include such services used by a taxi or limousine company to communicate with its vehicles and repair, service, delivery, towing and fuel delivery companies to communicate with their respective vehicles.

5. Notwithstanding anything to the contrary contained in this Section 8.4, Wireless Communications Facilities installed wholly within and not protruding from the interior space of an existing structure, excluding buildings used for residential use, (except in the RDB Districts), shall be allowed as of right in all Districts, subject to all other applicable bylaws and regulations of the Town and the following subsections of this Section 8.4: 8.4.14, 8.4.15, and 8.4.17.1.

8.4.5 Prohibitions

1. Lattice style towers, guyed towers and other Facilities requiring three or more legs and/or guy wires for support shall not be allowed.

2. Advertising signs shall not be allowed. Other signs shall not be allowed, except in accordance with the other provisions of this Bylaw.

3. Fences using razor wire or barbed wire or similar types shall not be allowed.

4. The use of telephone and electric utility poles and structures as sites for Wireless Communications Facilities is prohibited, except the use of electric utility transmission towers for which a special permit issued under this Bylaw is in effect shall be allowed, provided that any new Facility shall not exceed the terms and conditions of the special permit in effect for the existing Facility on which it is to be located.

5. Wireless Communications Facilities may not be located on a nonconforming building or structure, unless said building or structure first obtains any zoning relief necessary to extend, alter or change the building or structure in accordance with General Laws Chapter 40A, Section 6 and the requirements of this Section 8.4 are satisfied.

6. Monopoles and other Wireless Communications Facilities in excess of 15 feet in height are prohibited, except in the Limited Light Industrial Districts.

7. Side and roof-mounted Wireless Communications Facilities shall not be allowed on a building or structure of less than two stories.

8.4.6 Regulations

1. If primary coverage (greater than 50 percent) from the proposed Wireless Communications Facility is outside of the Town of Winchester, then the Board of Appeals may decline the special permit, unless the applicant can show that it is unable to locate within the town which is primarily receiving service from the proposed Facility.

2. Any applicant for a special permit for the placement, construction, installation or modification of a Wireless Communications Facility shall demonstrate to the Board of Appeals that the location of the proposed Facility complies with all of the requirements of this Bylaw; that the size and height of the proposed Facility is the minimum necessary for its intended purpose using topographical advantage where possible; and furthermore, that the proposed Facility provides the least obtrusive visual impact based on commercially reasonably available technology.

3. This Section 8.4 is intended to be used in conjunction with the other provisions of the Zoning Bylaw, other regulations and requirements adopted by the Town of Winchester, and other zoning and general bylaws designed to encourage appropriate land use, environmental protection, preservation of Winchester's residential character and the provision of adequate infrastructure development in Winchester.

4. With respect to properties within the SCI District, see Section 8.4.38 below.

8.4.7 Definitions. See Section 10.0-Wireless Communications Facility Overlay District"

8.4.8 Location. Applicants seeking approval for Wireless Communications Facilities shall comply with the following:

1. If feasible, Wireless Communications Facilities shall be located on existing structures, including but not limited to buildings, existing telecommunications Facilities, Monopoles, and related Facilities, provided that such installation preserves the character and integrity of those structures. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

2. In addition to and without limitation of the other provisions of this Section 8.4, if feasible, applicants shall seek to locate Monopoles at the following locations (which are ranked in order of preference):

   a. Adjacent to existing Monopoles;

   b. On Town lands and preexisting structures where visual impact can be minimized; and

c. Distant from higher density residential properties where visual impact can be minimized.

8.4.9 Height. Wireless Communications Facilities shall comply with the following requirements:

1. Height, Ground-Mounted Facilities. The maximum height of a ground mounted Wireless Communications Facility shall not exceed 100 feet.

2. Height, Roof-Mounted Facilities. Roof-mounted Wireless Communications Facilities shall not project more than 15 feet above the height of the building or structure on which they are mounted nor project more than 15 feet above the height limit of the zoning district within which the Facility is located, whichever is less.

3. Height, Side-Mounted Facilities. Side-mounted Wireless Communications Facilities shall not project above the parapet of the building or top of any wall or structure on which they are mounted.

8.4.10 Extensions from Walls. Wireless Communications Facilities shall comply with the following requirements:

1. Extensions Beyond the Face of Walls, Side and Roof-Mounted Facilities. Side and roof-mounted Wireless communications Facilities shall not extend beyond the face of any wall, or exterior surface in the case of a building or structure that does not have walls, by more than 18 inches.

2. Extensions Below the Top of Walls, Side and Roof-Mounted Facilities, Multi-Story. Side and roof-mounted Wireless communications Facilities shall not extend below the top of any wall, or exterior surface in the case of structures that do not have walls, by more than four (4) feet as to any two (2) story building or structure or by more than eight (8) feet as to any building or structure of three (3) or more stories.

8.4.11 Setbacks. Wireless Communications Facilities shall comply with the following requirements:

1. Setbacks, Ground-Mounted. The minimum distance from the base of any ground-mounted Wireless Communications Facility to any property line shall be two and a half (2.5) times the height of the Facility/mount, including any antennas or other appurtenances from the property line. In addition, a minimum setback of 300 feet from any habitable dwelling or business is required.

2. Setbacks, Preexisting Structures. In the event that a structure is proposed as a Mount for a Wireless Communications Facility, the setback provisions of the underlying zoning district shall apply. In the case of preexisting, nonconforming structures, Wireless Communications Facilities and their Equipment Shelters shall not increase any nonconformities unless the necessary zoning relief to extend, alter or change the building or structure in accordance

with General Laws Chapter 40A, Section 6 and Section 3.4 of this Bylaw has been issued.

8.4.12 Surface Area. Roof-mounted Wireless communications Facilities shall not individually or in the aggregate have a front surface area facing surrounding streets and adjacent properties that exceeds 50 square feet in area.

8.4.13 Flexibility. In reviewing a special permit application for a Wireless Communications Facility, the Board of Appeals may reduce the required setback distance of the zoning district by as much as 50 percent of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Board of Appeals shall consider the visual and, to the extent permitted under the Telecommunications Act, the safety impacts of the proposed use.

8.4.14 Design Standards; Camouflage by Buildings or Structures. Wireless Communications Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, with natural and/or artificial plantings (as indicated through site plan review), and placement within trees.

1. Camouflaging, Roof-Mounted. When a Wireless Communications Facility extends above the roof height of a building on which it is mounted, every reasonable effort shall be made to conceal the Facility within or behind the architectural features of the building to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the parapet in order to limit their visual impact from the ground.

2. Camouflaging, Side-Mounted. Wireless Communications Facilities which are side- mounted shall blend with the building's architecture and, if over five square feet, shall be shielded with material which is consistent with the design features and materials of the building.

8.4.15 Camouflage by Vegetation. If Wireless Communications Facilities are not camouflaged from public viewing areas by the architectural features of buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted Wireless Communications Facilities shall provide a year- round vertical evergreen vegetated buffer of 50 feet, or 75 percent of the overall height of the structure, in all directions, whichever is less. Trees and vegetation may be existent on the subject property or installed as part of the proposed Facility or a combination of both. Vegetation should be natural in appearance and consistent with surroundings.

8.4.16 Color

1. Wireless Communications Facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

2. To the extent that any Wireless Communications Facilities extend above the height of the building and the vegetation immediately surrounding it, they shall be painted in a light gray or light blue hue, or other suitable color, which blends with sky and clouds, or otherwise creates the greatest camouflage effect.

8.4.17 Equipment Shelters. Equipment Shelters for Wireless Communications Facilities shall be designed consistent with one of the following design standards:

1. Equipment Shelters must be located in underground vaults when reasonably practicable.

2. Equipment Shelters must be designed consistent with traditional materials, color and design of the area.

3. Equipment Shelters must be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence acceptable to the permitting authority.

8.4.18 Lighting, Signage, and Security

1. Wireless Communications Facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of Equipment Shelters and any other Facilities on site shall be shielded from abutting properties.

2. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs are subject to review by the Board of Appeals.

3. All ground mounted Wireless Communications Facilities shall be surrounded by a Security Barrier.

8.4.19 Historic Buildings

1. Any Wireless Communications Facilities located on a structure listed on the National Register of Historic Places ("Historic Structure") shall not materially alter the character-defining features, distinctive construction methods, or original historic materials of the Historic Structure.

2. Any alteration made to a Historic Structure to accommodate a Wireless Communications Facility shall be fully reversible.

8.4.20 Noise Standards

1. Facilities shall comply, to the extent not in violation of the Telecommunications Act, with the noise regulations under 310 CMR 7.10 enacted pursuant to General Laws Chapter 111, Sections 142B and 142D, as amended from time to time. Failure to comply with such noise regulations may result in a revocation of the special permit.

2. After the Wireless Communications Facility is in operation, the applicant shall submit to the Zoning Enforcement Officer, within 90 days of the beginning of

operations, current measurements of acoustic noise from the Wireless Communications Facility. Such measurements shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards of subsection of this Bylaw.

8.4.21 Radiofrequency Radiation (RFR) Standards. All equipment proposed for a Wireless Communications Facility shall be authorized pursuant to the *FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation* (FCC Guidelines) or any other applicable FCC guidelines and regulations. Failure to comply with the FCC Guidelines may result in a revocation of the special permit.

8.4.22 Special Permit Granting Authority (SPGA). The SPGA for Wireless Communications Facilities shall be the Board of Appeals.

8.4.23 Application Filing Requirements. General Filing Requirements Applicable to All Facilities. The following shall be included with an application for a special permit for all Wireless Communications Facilities:

1 Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants. A 24-hour emergency telephone contact number shall be included for use during construction as well as operation of a Wireless Communications Facility.

2. Every application for a Wireless Communications Facility special permit shall include the owner of the subject property and at least one Licensed Carrier as an applicant or a co-applicant.

3. Original signatures are required for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, an original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.

8.4.24 Location Filing Requirements Applicable to All Facilities. The following shall be included with an application for a special permit for all Personal Wireless Facilities:

1. Identify the subject property by including the name of the nearest road or roads and the street address, if any, and Assessors Map and Parcel number of the subject property.

2. A Town Engineer's map to scale showing the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

3. If the FCC requires that an EA be filed with the FCC prior to beginning operations of the subject Facility, a copy of the EA shall be submitted with the application.

4. A listing of the location, type and amount (including trace elements) of any materials proposed for use within the Wireless Communications Facility that are considered hazardous by the federal, state or local government.

8.4.25 Additional Location Filing Requirements Applicable to Monopoles and Other Facilities in Excess of 15 feet in Height. In addition to the Location Filing Requirements above, an application for a special permit in connection with a Monopole or another Facility in excess of 15 feet in height shall include a map showing the other preexisting and approved Wireless Communications Facilities in Winchester and outside Winchester within one mile of its boundary.

8.4.26 Siting Filing Requirements Applicable to All Facilities; Vicinity Plan. The following one inch equals 40 feet (1”= 40’) or other suitable scale vicinity plan showing the following shall be included with an application for a special permit for all Wireless Communications Facilities:

1. Property lines for the subject property.

2. Proposed location of antenna, mount and equipment shelter(s).

3. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

4. Representations, dimensioned and to scale, of the proposed Mount, Antennas, Equipment Shelters, cable runs, parking areas and any other construction or development attendant to the Wireless Communications Facility.

5. Location of all conservation lands, easements and wetlands on the subject property and on all properties adjacent to the subject property.

8.4.27 Sight Lines and Photographs Filing Requirements Applicable to All Facilities. The following sight lines and photographs as described below shall be included with an application for a special permit for all Wireless Communications Facilities:

1. Sight line representation. A sight line drawn to the highest point of the Wireless Communications Facility representing the viewpoint (point from which view is taken) and visible point (point being viewed) shall be provided for any Scenic View Points as determined by the Board of Appeals. Each sight line shall be depicted in profile, drawn at a one-inch-equals-40-feet (1”=40’) scale. The profiles shall show all intervening trees and buildings.

2. Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen (1) from any public road and any residential building within 300 feet and (2) from the Scenic View Points.

3. Proposed (after condition) photographs. Each of the preexisting condition photographs shall have the proposed Wireless Communications Facility superimposed on it to show what will be seen (1) from public roads and any

residential building within 300 feet and from (2) from the Scenic View Points, if the proposed Wireless Communications Facility is built.

4. Siting elevations from the north, south, east and west for a 50-foot radius around the proposed Wireless Communications Facility plus from all existing public and private roads that serve the subject property. Section views shall be at either one-quarter inch equals one foot (0.25”=1’) or one-eighth inch equals one-foot scale (1/8” = 1”) and show the following:

   a. Antennas, Mounts and Equipment Shelter(s), with total Elevation and dimensions.

   b. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

8.4.28 Sight Lines and Photographs Filing Requirements Applicable to All Facilities. The following additional siting filing requirements shall be applicable to monopoles and other facilities in excess of 15 feet in height.

1. The vicinity plan required hereunder also shall include the following:

   a. Property lines of all properties within 300 feet of the proposed location.

   b. Tree cover on the subject property and all properties directly abutting the subject property, by dominant species and average height, as measured by or available from a verifiable source.

   c. Outline of all existing buildings, include purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all properties adjacent to the subject property.

   d. Proposed Security Barrier, indicating type and extent as well as point of controlled entry.

   e. Location of all roads, public and private, on the subject property and on all properties adjacent to the subject property, including driveways proposed to serve the Wireless Communications Facility.

   f. Contours at each two (2) foot intervals based on the North American Vertical Datum of 1988 (NAVD88).

1. In addition to the siting elevation requirements hereunder, siting elevations submitted with an application for a special permit in connection with a Monopole shall include the following:

   a. If the Security Barrier will block views of the Wireless Communications Facility, the barrier drawing shall be cut away to show the view behind the barrier.

b. Any and all structures on the subject property.

c. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours.

8.4.29 Design Filing Requirements Applicable to All Facilities. The following shall be included with an application for a special permit for all Wireless Communications Facilities:

1. Equipment brochures for the proposed Wireless Communications Facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, Equipment Shelters, cables as well as cable runs, and Security Barrier, if any.

2. Materials of the proposed Wireless Communications Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These specifications shall be provided for the Antennas, Mounts, Equipment Shelters, cables as well as cable runs, and Security Barrier, if any.

3. Colors of the proposed Wireless Communications Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, Equipment Shelters, cables as well as cable runs, and Security Barrier, if any.

4. Dimensions of the Wireless Communications Facility specified for all three dimensions: height, width, and breadth. These shall be provided for the Antennas, Mounts, Equipment Shelters and Security Barrier, if any.

5. Appearance shown by at least two photographic superimpositions of the Wireless Communications Facility within the subject property. The photographic superimpositions shall be provided for the Antennas, Mounts, Equipment Shelters, cables as well as cable runs, and Security Barrier, if any, for the total height, width and breadth.

6. Site Justification Statement including a description of the narrowing process that eliminated other potential sites, including identification of such other sites.

8.4.30 Design Filing Requirements Applicable to Monopoles and Other Facilities in Excess of 15 Feet in Height. In addition to the design filing requirements hereunder, applications for a special permit in connection with a Monopole or other Facility in excess of 15 feet in height shall include:

1. Landscape plan including preexisting trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

2. During the application process the applicant shall schedule with the Board of Appeals a balloon or crane test at the proposed site, at the expense of the applicant, to illustrate the height of the proposed Facility. The date, time and

location of such test shall be advertised, at the expense of the applicant, in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.

3. If lighting of the site is proposed, the applicant shall submit a manufacturer's computer generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and 25 feet beyond property lines. The printout shall include the locations and types of luminaries proposed.

8.4.31 Employment of Telecommunications Specialists. A fee, to be determined by the Planning Board, or Zoning Board of Appeal, shall be required of applicants for Wireless Communications Facilities, to allow it, if it deems necessary, to hire a telecommunications specialist to aid in the evaluation, review or inspection of a specific Wireless Communications proposal or facility. Such fee shall be paid into an account established by the municipal treasurer. Any such account established by the municipal treasurer in the municipal treasury shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the authorized board of authority as permitted by General Laws Chapter 44, Section 53G, without further appropriation; provided, however, that such funds are to be expended by it only in connection with the carrying out of its responsibilities under the law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest. For purposes of the foregoing, a telecommunications specialist shall mean a qualified professional with expertise in monitoring of electromagnetic fields and telecommunications engineering who has a record of service to municipalities. The telecommunications specialist shall be subject to a selection process and have qualifications in accordance with General Laws Chapter 44, Section 53G.

8.4.32 Co-location

1. Licensed Carriers shall share Wireless Communications Facilities and sites where feasible and appropriate, thereby reducing the number of Wireless Communications Facilities that are stand-alone Facilities. All applicants for a special permit for a Wireless Communications Facility shall demonstrate a good faith effort to co-locate with other Carriers. Such good faith effort includes:

   a. A survey of all existing structures that may be feasible sites for co-locating Wireless Communications Facilities;

   b. Contact with all other Licensed Carriers for Personal Communications Services operating in cities and towns bordering on Winchester; and

   c. Providing information necessary to determine if Co-location is feasible under the design configuration most accommodating to Co-location.

2. An Applicant shall demonstrate to the Board of Appeals that it has made a good faith effort to co-locate its Facility upon an existing Facility. The Board of Appeals may require the applicant to retain a technical expert in the field of RF

engineering and/or a structural engineer to verify and certify to the Board of Appeals whether Co-location at the site is not feasible or is feasible given the design configuration most accommodating to Co-location. The cost for such a technical expert will be at the expense of the applicant. The Board of Appeals may deny a special permit to an applicant who has not demonstrated a good faith effort to provide for Co-location.

3. If the applicant does intend to co-locate or to permit Co-location, the Board of Appeals shall request drawings and studies which show the ultimate appearance and operation of the Wireless Communications Facility at full build-out.

4. If the Board of Appeal approves Co-location for a Wireless Communications Facility site, the special permit shall indicate, based on information provided by the applicant, how many facilities of what type shall be permitted on that site.

5. A Wireless Communications Facility may locate as of right on any Monopole for which a special permit issued under this Bylaw is in effect, provided that the new Facility shall not exceed the terms and conditions of the special permit in effect for the existing facility on which it is to be located.

8.4.33 Monitoring and Maintenance

1. After the Facility is in operation, the applicant shall submit to the Zoning Enforcement Officer, within 90 days of beginning operations, current RFR measurements. Such measurements shall be signed and certified by an RF Engineer, stating that RFR measurements are accurate and are in compliance or how the measurements fail to comply with all applicable FCC Guidelines as specified herein. The measurements shall be submitted for both the applicant and all co-locators.

2. The applicant and co-applicant shall maintain the Wireless Communications Facility. Such maintenance shall include, but shall not be limited to, painting, structural integrity and landscaping.

8.4.34 Change of Ownership, Abandonment or Discontinuation of Use

1. At such time that (1) any applicant or co-applicant transfers its legal or beneficial interest in the Facility or (2) a Licensed Carrier plans to abandon or discontinue operation of a Wireless Communications Facility, such applicant, co-applicant or Carrier will notify the Zoning Enforcement Officer by certified US mail of the proposed date of transfer of ownership or abandonment or discontinuation of operations, such notice shall be given no less than 30 days prior to transfer of ownership or abandonment or discontinuation of operations. Without limitation of Section 8.4.19d noted above, as to abandonment or discontinuation of operations, if a Licensed Carrier fails to give such notice, the Wireless Communications Facility shall be considered abandoned upon discontinuation of operations.

2. Upon abandonment or discontinuation of use, the Licensed Carrier shall physically remove the Wireless Communications Facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

    a. Removal of antennas, mount, Equipment Shelters and Security Barriers from the subject property;

    b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations; and

    c. Restoring the location of the Wireless Communications Facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

3. As a condition of any special permit for the placement, construction, installation or modification of a Monopole or other Facilities in excess of 15 feet in height, the Board of Appeals shall require a performance bond prior to the issuance of a building permit to cover the costs of removing the Facility from the subject property; the Board of Appeals may require or waive said bonding requirement in connection with a special permit for any other Facility.

4. A Facility shall be deemed to be abandoned or discontinued if the FCC license for the Facility has expired or has been terminated or if it has not been used for the purpose for which it was originally constructed for a period of six (6) months or more. Once abandonment or discontinuance has occurred, the applicant or co-applicant shall remove the Facility from the subject property within 90 days. In the event that the applicant or co-applicant fails to remove the Facility, the Town may, upon 30 days' notice to the applicant or co-applicant remove the Facility at the sole cost and expense of the applicant or co-applicant. Nothing contained herein shall be deemed to create any obligation on the part of the Town to remove or cause others to remove the Facility. The applicant or co-applicant shall authorize and, as necessary, shall obtain the authorization of the owner of the property to allow the Town to enter upon the subject property to remove the Facility, if the applicant or co-applicant fails to remove the Facility when it has been abandoned or discontinued.

8.4.35 Reconstruction or Replacement of Preexisting Nonconforming Wireless communications Facilities. Wireless Communications Facilities that were lawfully in existence at the time of adoption of this Bylaw may be reconstructed, altered, extended or replaced by special permit, provided that the Board of Appeals finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the preexisting, nonconforming structure. In making such a determination, the Board of Appeals shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for Co-location, improvements in public safety, and/or reduction in visual and environmental impacts.

8.4.36 Performance Guarantees. Insurance in a reasonable amount determined and approved by the Board of Appeals after consultation at the expense of the applicant with one (1) or more insurance companies shall be in force to cover damage from the structure, damage from transmissions and other site liabilities. Annual proof of said insurance shall be filed with the Zoning Enforcement Officer.

8.4.37 Term of Special Permit. A special permit issued for any Wireless Communications Facility shall be good for five (5) years and the special permit may be renewed under the same criteria as the original special permit, provided that the application for renewal of the special permit is made prior to the expiration date of the original or any renewed special permit. Additional measures governing the administration of the special permit are found in this Bylaw, Section 9, Administration and Enforcement.

8.4.38 SCI District Structures. Whereas the purpose of the SCI District established under this Bylaw was to create a district to preserve and enhance the unique characteristics of land and structures which are predominantly for conservation of natural conditions, wildlife and open spaces, education and for private and public institutional and recreational uses, and in the creation of said District, it was a purpose of the Town to minimize visual and other impacts on land and structures that may derogate from and be incompatible with such unique conservation, education, institutional and recreational uses; therefore the Town hereby extends, in a measured and deliberate manner, authorization of Wireless Communications Facilities, by special permit procedure, and subject to uniform structural and physical criteria herein, within said unique SCI District, except that based on certain structural or physical criteria herein set forth, said authorization does not extend to the Town forest(s), Town park(s), Town cemetery, conservation lands and certain SCI lands and structures as set forth herein.

1. Regulations. Subject to the requirements otherwise applicable to Wireless Communications Facilities pursuant to Section 8.4, applicants may apply for a Special Permit for Wireless Communications Facilities within the SCI District. Any such Facilities shall be subject to the following additional uniform structural or physical criteria:

a. To reduce visual and other impacts on land and structures, the placement, construction, Installation, modification or operation of Wireless Communications Facilities may be on or within structures with a ground level floor area of not less than 40,000 square feet. For purposes of this Section, floor area shall mean the aggregate horizontal area on the ground level floor of the principal building, exclusive of auxiliary structures used for storage or for service incidental to the operation of such principal building.

b. Notwithstanding the foregoing, because of visual and other impacts on lands and structures, Wireless Communications Facilities shall not be placed on lands, nor the structures therein, within the Conservancy-Institutional District, if the lands have the following physical characteristics: (1) a predominance of natural and open space and the physical attributes of forests, woodlands, wetlands, conservation land, parks or outdoor recreational land; (2) tombstones and cemetery structures; (3) school or library lands or structures.

8.5 VILLAGE CENTER OVERLAY DISTRICT (VCOD)

8.5.1 Purpose. The Village Center Overlay District (VCOD) is intended to provide a focal point for intensive pedestrian-oriented retail activity at key locations within the General Business Districts.

8.5.2 Overlay District. The Village Center Overlay District (VCOD) is herein established as an overlay district within the General Business Districts. The VCOD is intended to provide a focal point for intensive pedestrian-oriented retail activity at key locations. The application of the VCOD shall not restrict the uses allowed by right or special permit in the underlying zone.

8.5.3 Dimensional Requirements. The dimensional requirements shall be identical to those in the GBD-2 and GBD-3 with the following exceptions:

1. No minimum front yard setback is required.

2. Maximum front yard setback shall be five feet to encourage active pedestrian-oriented uses.

8.5.4 Permitted Uses. All uses permitted in GBD-2 and GBD-3 shall be permitted in the VCOD. The application of the VCOD shall not restrict the uses allowed by right or special permit in the underlying zone, nor shall it confer by right status where a special permit would otherwise be required.

8.5.5 Parking Requirements. For the following permitted uses, the parking requirement in the VCOD shall be identical to that for the corresponding use in the CBD.

1. Group I – Residential Uses #7 and #8 for the business portion of the use, but not the residential portion of that use;

2. Group IV – Commercial Uses #1 (retail store), #2 (personal service establishment), #3 (lunchroom, restaurant, cafeteria or similar), #8 (general service establishment), #10 (bank or business office) and #13 (business or professional office).

For other permitted uses in the VCOD, the parking requirements of GBD-2.0 and GBD-3 shall apply. If the use is not permitted in GBD-2 and GBD-3 but is permitted in the underlying zone, the parking requirements of the underlying zone shall apply.

8.6 PLANNED RESIDENTIAL DEVELOPMENT DISTRICT (PRD)

8.6.1 Purpose. In order to permit maximum flexibility in employing the latest techniques for developing land for multiple family dwelling units, tracts of land consisting of 20 acres or more within the RDA-20 district and 10 acres or more in the RDB-10 district may be rezoned by the Winchester Town Meeting for a Planned Residential District (PRD). To afford the Town of Winchester ample assurance that such developments will not tend to degrade the amenities of the neighborhoods in which they occur, or of the town as a whole, and to insure that objectionable congestion and density of traffic is not created, a Planned Residential Development (PRD) may only be constructed after rezoning and under a special permit granted by the Board of Appeals as hereinafter defined and limited.

8.6.2 Procedure. The owner or owners of a parcel of land which has been zoned for a Planned Residential District shall submit to the Board of Appeals an application for a special permit, together with plans and a filing fee in accordance with the provisions for Site Plan Review in Section 9.5 of this Bylaw and in accordance with the additional provisions of this Section 8.6.

8.6.3 Planning Board Review. The Planning Board shall review all Planned Residential Development applications submitted to it by the Board of Appeals. The Planning Board shall report its recommendations for approval or disapproval, together with reasons therefore and any additional requirements, to the Board of Appeals within 30 days of receipt of the application and plan. Reasonable requirements may be recommended to the Board of Appeals by the Planning Board for the protection of adjoining residential property. The Planning Board shall recommend approval of the Planned Residential Development application and plan only if it finds the Planned Residential Development satisfies all of the standards set forth below.

8.6.4 Standards; Uses. The permitted uses in the Planned Residential Development (PRD) may include single-family homes, garden apartments and town houses, of three stories (40 feet) or less, open space, private recreational facilities for the exclusive use of the occupants of the Planned Residential Development (PRD) and their guests, and related off-street parking and landscaping.

8.6.5 General Standards. The Planned Residential Development (PRD) shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas. The Planned Residential

Development (PRD) shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

1. More than one building is permitted on tracts of lots held by one owner or in common ownership.

2. The uniqueness of each proposal for a Planned Residential Development (PRD) requires that the specifications for the width and surfaces of streets, ways for public utilities, for curbs gutters, sidewalks, street lights, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established in the Rules and Regulations Governing the Subdivision of Land in the Town of Winchester, Massachusetts and as amended from time to time. The Planning Board may recommend that the specifications otherwise applicable for a particular public facility may be waived or modified (provided that such modification shall not apply to the material of said construction and shall not produce construction of inferior quality to that required in the Rules and Regulations Governing Subdivision) when such waiver or modification is not inconsistent with generally approved design standards.

3. The Planning Board shall recommend the installation or the furnishing of a performance guarantee in lieu thereof, of all or any of the following improvements it may deem to be necessary or appropriate: street grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, landscaping, surveyor's monuments, water mains, culverts, bridges, storm sewers, sanitary sewers or other means of sewage disposal, drainage facilities or structures and other improvements as the Planning Board may require or deem necessary in the public interest.

4. The Planning Board may recommend phases for the completion of improvements in sections of the Planned Residential Development (PRD) and recommend minimum improvement completion requirements necessary for the issuance of Certificates of Zoning Compliance in any section.

8.6.6 Design Standards. All buildings in the layout and design shall be in integral part of the development and have convenient access to and from adjacent uses and roadways.

1. Except to the extent regulated by the provisions of the state building code, individual buildings shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development.

2. Buildings shall be separated by a minimum of 20 feet or 0.75 percent of the building height times its length whichever is greater.

3. Treatment of the sides and rear of all buildings within the Planned Residential Development shall be comparable in amenities and appearance to the treatment given to street frontages of these same buildings.

4. All buildings walls shall be so oriented as to insure adequate light and air exposures to the rooms within.

5. All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented so as to preserve visual and audible privacy between adjacent buildings.

6. All buildings shall be arranged as to be accessible to emergency vehicles.

7. All utilities shall be placed underground.

8.6.7 Landscape Design Standards. Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.

1. Primary landscape treatment shall consist of shrubs, ground cover and trees, and shall be combined with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the local growing conditions.

2. Whenever appropriate, existing trees shall be preserved and integrated into the landscape design plan.

3. All streets contained within and bordering the project area shall be planted at appropriate intervals with street trees. Cul-de-sacs shall have landscaped islands.

4. Whenever possible the existing terrain shall be preserved and land moving shall be kept to a minimum.

8.6.8 Circulation System Design Standards. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, driveways, roadways, off-street parking and loading spaces.

1. Roads, pedestrian walks, and open space shall be designed as an integral part of the overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.

2. There shall be an adequate amount, in a suitable location, of pedestrian walks, malls, and landscaped spaces in order to discourage pedestrian use of vehicular ways and parking and loading spaces; and to separate pedestrian walks, malls and public transportation loading spaces from general vehicular circulation facilities.

3. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

4. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.

5. The location and design of pedestrian walks should emphasize desirable views of new and existing development in the area.

6. The maximum separation of private automobiles and service vehicles shall be provided through the use of separate service lanes.

7. Materials and design of paving, lighting fixtures, retaining walls, bulkheads, fences, curbs, benches, etc., shall be of good appearance easily maintained and indicative of their function.

8.6.9 Parking and Loading Design Standards. Off-street parking and loading facilities shall conform to the provisions of Section 5.1 and 5.2 of this Bylaw.

1. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and the monotony of parked vehicles.

2. Pedestrian connection between parking areas and buildings shall be via special pedestrian walkways and/or elevators.

3. Parking facilities shall be designed with careful regard to arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.

4. Any above grade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.

8.6.10 Common Open Space. A minimum of 25 percent of a Planned Residential Development (PRD) site area shall be developed as open space, including walkways, plazas, landscaped areas, recreation areas, tennis courts, pools and fountains. Parking areas and vehicle access facilities shall not be considered in calculating open space.

1. A maximum of 40 percent of the Planned Residential Development (PRD) site area shall be covered by impervious waterproof surface.

2. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements in the common open space must be appropriate to the uses which are authorized for the common open space.

3. The development schedule must coordinate the improvement of the common open space and the construction of residential dwellings.

4. All land shown on that site plan as common open space shall be subject to covenants approved by the Board of Appeals, which covenants shall include, without limitation, restrictions prohibiting (a) the use of the common open space for uses other than those specified on the site plan and (b) the development of the common open space for residential use or accessory uses such as parking or roads, such portion to be kept in an open or natural state. The restrictions contained in subsection (c) shall be enforceable by and be for the sole benefit of the Town of Winchester and may be modified or released by Town Meeting. Further, in addition to requiring the imposition of such covenants, title to the common open space shall be conveyed either to a nonprofit organization, the principal purpose of which is the conservation of open space or to a corporation or trust owned or to be owned by the owners of the lots within the Planned Residential Development, provided the interest of the individual lot owner in such corporation or trust is appurtenant to the owner's interest in the lot and passes with title to the individual lot. In lieu of a conveyance to such a nonprofit organization or such a corporation or trust, title to the common open space may be conveyed to the Town of Winchester, provided the Board of Appeals recommends the acceptance of such conveyance and the same is accepted by Town Meeting, in which event the restrictions otherwise mandated by this section shall not be applicable.

8.6.11 Buffer Zone Standards. A buffer zone within 50 feet of all external lot lines of a designated Planned Residential Development shall be provided except that portion which fronts upon an existing external street or roadway. Said buffer zone shall be kept in its natural state where wooded, and, when its natural vegetation is sparse or nonexistent, the landowner may be required to provide a year-round visual screen as recommended by the Planning Board.

1. Within said buffer zone, no principal or accessory structure, nor any off-street parking or loading areas or other use shall be permitted. Within said buffer zone, utility easements and streets may be provided if necessary to insure continuity with adjoining properties, subject to the recommendations of the Planning Board.

2. Said buffer zone area may be utilized for the purpose of computing the planned residential development open space requirements of this Section.

3. The requirements of this paragraph may be modified or eliminated where two planned residential unit developments abut or adjoin one another.

8.6.12 Setbacks. A minimum setback from all external lot lines of a Planned Residential Development from all existing streets and thoroughfares for all buildings, structures and uses of no less than 75 feet or a distance equal to twice the height of any structure or building within the development, whichever is greater, shall be provided.

8.6.13 Setbacks. The minimum lot frontage of a Planned Residential Development PRD) shall be 200 feet. The minimum lot width shall be 200 feet.

8.7 ATTACHED RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY DISTRICT (ARCDOD)

8.7.1 Purpose. The intent of this Attached Residential Cluster Development Overlay District (ARCDOD) is

1. To promote more sensitive siting of buildings and better overall site planning by offering an alternative to standard subdivision development that protects and enhances the value of real property;

2. To encourage the preservation of open land for its scenic beauty and environmental benefits, and to enhance agricultural, open space, forestry, and recreational use;

3. To protect the natural environment, including the Town's wetlands and water resources;

4. To preserve historical and archeological resources, and to perpetuate, where deemed appropriate, the appearance of the Town's traditional New England landscape;

5. To control flooding and drainage and promote good stormwater management practices;

6. To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and

7. To provide affordable housing opportunities for low- and moderate-income households.

8.7.2 Definitions. See Section 10.0 – "Attached Residential Cluster Development Overlay District."

8.7.3 Overlay District. The ARCDOD is herein established and shall be construed as an overlay district. Within the ARCDOD, the requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements herein are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements herein shall supersede the underlying zoning regulations. The application of the ARCDOD to the Zoning Map shall not restrict the uses allowed by right or special permit in the underlying zones. Properties designated within the ARCDOD may apply for an Attached Residential Cluster Development Comprehensive Plan approval and a Special Permit consistent with Section 8.7.4 of this Bylaw. No property shall be designated as within the ARCDOD unless such property has an area of at least ten acres located entirely within the Town of Winchester. In the event that no application for a special permit is submitted to the Zoning Board of Appeals within three (3) years following the date of designation of any such property in the ARCDOD, the provisions of the ARCDOD shall expire and the provisions of the underlying zoning shall exclusively govern such property.

8.7.4 Procedures. An Attached Residential Cluster Development (ARCD) shall be developed in the ARCDOD in accordance with the following procedures:

Step 1. Obtain Approval of the Attached Residential Cluster Development Comprehensive Plan from the Planning Board

The Attached Residential Cluster Development (ARCD) shall be developed in accordance with an Attached Residential Cluster Development Comprehensive Plan, approved by the Planning Board. Twenty (20) copies of such proposed Attached Residential Cluster Development Comprehensive Plan shall be submitted to the Planning Board. The Planning Board shall have 90 days to conduct its review and approve the Attached Residential Cluster Development Comprehensive Plan. A positive majority vote of the Planning Board shall constitute approval of an Attached Residential Cluster Development Comprehensive Plan. Failure to act within such ninety-day period shall be deemed to constitute a lack of opposition thereto. The time for Planning Board action may be extended at the written request of the Applicant prior to the expiration of the review period. In making its determination, the Planning Board shall be guided by the purposes set forth in Section 8.7.1, above, the submission requirements set forth below, and the criteria for the issuance of special permits set forth in Section 9.4.

Attached Residential Cluster Development Comprehensive Plan Submission Requirements. The following documents and plans shall be submitted to the Planning Board for review and approval, unless waived by the Planning Board:

a. Comprehensive Plan Narrative summarizing the purposes and intents of the project, the planned uses, and the development phasing strategy.

b. Existing Conditions Plan, stamped by a registered land surveyor who is licensed in the state of Massachusetts, showing the site and including the location of surveyed property line boundaries and property ownership, division of the land into lots, easements, curb cut locations, utility information, delineated wetlands boundaries as approved by the Conservation Commission, topography at two-foot contour intervals, 100-year flood plain contour, River Protection Act and Wetlands Act buffer zone boundaries, existing plant vegetation, and footprints of existing buildings, structures and paved or otherwise previously developed areas. The scale shall be 1 inch = 40 feet. In addition, unless waived by the Planning Board after consultation with the Town Engineer, this Plan shall show surrounding context within at least 400 feet of the site including property line boundaries, property ownership, and topography at two-foot contour intervals. (The maximum scale for which shall be 1 inch = 100 feet.)

c. Site Development Plan, stamped by a registered professional engineer licensed in the Commonwealth of Massachusetts, illustrating proposed buildings, parking facilities, roadways, driveways, easements, bikeways, walkways, sidewalks, access ways, required setbacks, site grading at two-foot contour intervals, finished floor elevations, parking, landscaping, open space areas and calculations, off-site improvements, delineated wetland boundaries, and

Riverfront Protection Act and Wetlands Protection Act buffer zones. The maximum scale shall be 1 inch = 40 feet.

d. Building Development Program describing the buildings and their square footage by use and by phase.

e. Preliminary Visual Plans providing illustrations of –

Conceptual Ground Floor Architectural Plan for major buildings and parking facilities. (Scale: 1/8 inch = 1 feet.);

Preliminary Building Elevations for major buildings and parking structure/s (Scale: 1/8 inch = 1 feet.);

Three-Dimensional Bird's-Eye View(s) showing approximate massing, bulk, and height of buildings, including surrounding context; and

Eye-Level Perspective View(s) showing site and buildings as seen from major public vantage points such as adjacent major public streets and abutting neighborhoods.

f. Preliminary Landscaping Plan consistent with Section 8.7.5.8 herein.

g. Preliminary Traffic, Circulation, and Parking Plan describing anticipated traffic demand and flows generated and attracted by the project, outlining traffic safety and management issues and proposed solutions, and showing the proposed locations and alignments of drives, drop-offs, curb cuts, parking, signage, pedestrian paths and sidewalks, bike paths, and easements for public access.

h. Preliminary Open Space, Conservation Lands, and Natural Resources Plan showing the location of open space, conservation lands, and natural resources and describing plans to add, change, or preserve open space, conservation lands, and natural resources.

i. Preliminary Historic Conservation and Preservation Plan showing the location of existing historic properties and resources and describing plans to tear down, move, modify, repair, maintain, or reuse historic properties and resources.

j. Preliminary Utilities Plan showing the location of proposed utilities and describing their capacity to meet or exceed applicable standards. The maximum scale shall be 1 inch = 40 feet.

k. Preliminary Storm Water Management Plan showing anticipated drainage patterns and storm water management facilities and describing their capacity to meet or exceed applicable standards. The maximum scale shall be 1 inch = 40 feet.

l. Preliminary Assessment of Community Benefits and Costs describing anticipated tax revenues or payments in lieu of taxes, anticipated number of

school-age children, an affordable housing plan, if applicable, and specialized services provided to the Town or required of the Town.

Step 2: Obtain Special Permit from the Zoning Board of Appeals (ZBA)

An ARCD shall require the grant of a Special Permit by the Zoning Board of Appeals (ZBA). Such Special Permit shall be in compliance with the provisions of this section. No Special Permit shall be granted by the ZBA unless in substantial conformance with said Attached Residential Cluster Development Comprehensive Plan as previously approved by the Planning Board. The ZBA shall also consider the recommendations of the Design Review Committee, Conservation Commission, Historic Commission, Housing Partnership Board, Town Engineer, Department of Public Works, Board of Health, Fire Chief and Police Chief.

Step 3: Subsequent Changes/Amendments

If the Applicant wishes to modify the record plans approved as a condition of any special permit, it shall submit proposed modifications in accordance with the provisions of this paragraph. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for an Attached Residential Cluster Development Comprehensive Plan and a special permit shall apply to such modification and a public hearing shall be required by the ZBA; provided, however, that the ZBA, in consultation with the appropriate departments and Boards, may determine that a proposed modification is insubstantial and approve the same without a public hearing. In making such determination, the following shall be presumed to constitute substantial modifications:

1. Changes in the location of buildings, roadways, parking areas, drainage and stormwater management facilities, and other accessory structures that decrease the building setbacks from adjoining residential areas indicated in the record documents;

2. Changes that result in a net reduction of open space or net increase in lot coverage indicated in the record documents;

3. Changes to the buildings or grading that increase a building's height beyond that shown on the record documents; and

4. Changes to the architectural character of the buildings shown in the record documents, including approved exterior building materials.

Authorization to modify the Record Plans shall be obtained prior to any substantial modification in the field. If required, the applicant is responsible for obtaining independent approval from the Conservation Commission of any modifications to the approved plans.

8.7.5 Special Permit; Minimum Requirements. No special permit shall be granted for an ARCD unless the project conforms to all of the following requirements:

1. The subject property shall contain at least ten (10) contiguous acres and be located entirely within the Town of Winchester.

2. The ARCD may propose a subdivision or a division of land pursuant to Subdivision Control Act; provided, however, that an ARCD may also be permitted where intended as a condominium on land not so subdivided. The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. All subdivision of land must, however, be approved by the Planning Board outside of the Special Permit/Site Plan Review process as a preliminary/definitive subdivision or as a plan where Approval is Not Required (ANR).

3. The permitted uses in the ARCDOD may include attached or detached residential homes, open space, private recreation facilities for the exclusive use of the occupants and their guests and related off-street parking and parking garages.

4. Not more than four (4) dwelling units shall be contained in any single building; provided, however, that not more than 12 dwelling units may be contained in any single building where the attached residential cluster development is subject to an age restriction consistent with the Fair Housing Act, 42 USC Section 3607(b), as amended, the regulations promulgated thereunder, 24 CFR Subtitle b, Chapter 1, Section 100.300 et seq., and G.L. Chapter 151b, Section 4. Such age restriction shall be approved as to form by Town Counsel.

5. Design Standards. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and roadways. Except to the extent regulated by the provisions of the state building code, individual buildings shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development. The following design standards may be waived by the ZBA where strict compliance would be deemed to conflict with the purposes of this Bylaw as set forth in Section 8.7.1 above:

   a. Treatment of the sides and rear of all buildings shall be comparable in amenities and appearance to the treatment given to street frontages of these same buildings.

   b. All buildings shall be sited as to insure adequate light and air exposures to the rooms within.

   c. All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented so as to preserve visual and audible privacy between adjacent buildings.

d. All buildings shall be accessible to emergency vehicles.

e. All utilities shall be placed underground.

f. The proposed development shall ensure safe interior circulation within its site by accommodating and separating pedestrian, bike ways, and vehicular traffic and ensure safe access to all users of the buildings.

g. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements: (a) All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the Planning Board; (b) Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries; (c) Sidewalks, crosswalks, walkways, bikeways or other pedestrian access shall be provided to allow connections to existing crosswalks, walkways, and bikeways.

h. New construction should contribute to the existing streetscapes, by facing the main roadway or by facing an open greensward that opens onto the existing street.

6. Internal roadways intended for dedication to the Town shall comply with the standards set forth in Regulations. Internal roadways not intended for such dedication shall comply with applicable guidelines of AASHTO, unless waived by the ZBA after consultation with the Town Engineer.

7. Roadway Design Standards. Adequate access shall be provided to all buildings for fire, police and emergency vehicles. The ZBA shall submit the plan of the proposed ARCD to the Chief of Police and the Fire Chief for their recommendations.

8. Landscape Design Standards. Landscape treatment for roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.

a. Primary landscape treatment shall consist of shrubs, ground cover and trees, and shall be combined with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the local growing conditions.

b. Whenever appropriate, existing trees shall be preserved and integrated into the landscape design plan.

c. All streets contained within and bordering the project area shall be planted at appropriate intervals with street trees.

d. Whenever possible the existing terrain shall be preserved and land moving shall be kept to a minimum.

9. Parking and Loading Design Standards. Off-street parking and loading facilities shall conform to the provisions of Section 5.1 and 5.2 of this Bylaw for single-family dwellings. The use of pervious stone or block treatment for the construction of parking facilities shall be permitted and shall not qualify as impervious surface areas.

10. Affordable Housing. Affordable housing shall be provided, consistent with the definition of affordable housing under state and federal statute and regulations.

8.7.6 Dimensional Requirements

1. Minimum Lot Frontage: Twenty (20) feet.

2. Minimum Distance Between Structures: Fifteen (15) feet.

3. Maximum Building Height: Three (3) stories or thirty-six (36) feet; provided, however, that no building located within 40 feet of any property line not abutting the right of way of a public way shall exceed 32 feet in height.

4. Maximum Density: One dwelling unit per 7,500 square feet.

5. Impervious Surface Coverage (roofs and asphalt): Not more than 40 percent of the overlay district.

6. Setback from Wetlands Resource Areas: No disturbance of any kind within 20 feet, unless waived by the ZBA. Any disturbance within 20 feet of a resource area may require a permit from the Conservation Commission.

8.7.7 Open Space. A minimum of 40 percent of the development site shall be developed or preserved as open space. Not more than 50 percent of the required open space shall be wetlands resource area, as defined by G.L. c. 131. Such open space shall be, in the opinion of the ZBA, usable for recreational or other purposes. Open Space may include unpaved walkways, landscaped areas, recreational areas, wetlands, buffer zones (as further defined), and related structures, as may be determined by the ZBA. Paved surfaces, such as parking areas and vehicular access facilities, and structures, such as pools, tennis courts or fountains, shall not be considered in calculating open space.

As a component of the Open Space, the Applicant may designate a Preservation Area, which may consist of agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands which are worthy of preservation. Upon the mutual agreement of the Applicant and the ZBA, the Preservation Area may be preserved by:

1. Conveyance to the Town or its Conservation Commission with the approval of the Conservation Commission if land is to be conveyed to the Town for conservation purposes.

2. Conveyance to a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.

3. Conveyance to a corporation or trust owned jointly or in common by the owners of lots within the ARCD. If such conveyance is used, the open space shall be defined in any special permit, indicating the exact area to be preserved as open space and the uses that may be conducted thereupon, or such open space shall be subject to a preservation or conservation restriction pursuant to statute. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide 14 days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the ZBA for approval, and shall thereafter be recorded.

8.7.8 Buffer Zone Requirements. The project design shall include a 20 foot buffer zone from all external lot lines. Where the ZBA deems appropriate, such buffer zone shall be kept in its natural state where evergreen or year round screening exists, but no structure may be erected therein. Furthermore, where natural vegetation is sparse or nonexistent, the developer may propose to provide evergreen or year-round visual screening or appropriate decorative fencing. Within said buffer zone surface parking areas, decks and/or ground level patios may be constructed but no principal structure shall be permitted. Additionally, within said buffer zone, utility easements, roadways and surface parking areas may be provided, if necessary, to ensure continuity with the site design.

8.7.9 Signage. Signs in the ARCDOD shall comply with the Town's Sign Bylaw, Chapter 9 of the Winchester Code of Bylaws, as it applies to residential districts. Notwithstanding such provisions, one (1) two-sided monument sign not to exceed 12 square feet in area on each side shall also be permitted for identification purposes.

8.8 HEALTH SERVICES OVERLAY DISTRICT (HSOD)

8.8.1 Purpose. The intent of the Health Services Overlay District (HSOD) is:

1. To promote the development of a Medical Center in a Health Services Facility, both as defined herein;

2. To promote, in conjunction with such Health Services Facility, the creation of compatible Ancillary Medical Center Uses, as defined herein;

3. To promote the design of the Health Services Facility with architectural features compatible with public buildings in the Town and in locations and with design features intended to mitigate the impacts of the Health Services Facility on adjacent residential properties;

4. To promote the development of a Health Services Facility that minimizes impacts on the environment, traffic and pedestrian safety, light and noise intrusion, and neighborhood character;

5. To promote the generation of additional jobs, business revenues and revenues to the Town of Winchester;

6. To promote the redevelopment of land adjacent to significant natural features in a manner compatible with such features so as to encourage pedestrian and bicycle access as an integral part of such use; and

7. To mitigate the impact of the Health Services Facility on the flood control capacity of land within the HSOD, adjacent and downstream properties, and adjacent and downstream public roadways.

8.8.2 Definitions. See Section 10 - "Health Services Overlay District."

8.8.3 Overlay District. The HSOD is established as an overlay district. Where the HSOD authorizes uses not allowed in the underlying zoning district or establishes different standards or procedures from those otherwise set forth in this Zoning Bylaw, the provisions of the HSOD shall control, provided however in the absence of an application under this Bylaw, the schedule of uses in the underlying district shall remain unchanged. Following the issuance of any special permit for development in the HSOD and the commencement of construction, the HSOD shall be subject to the requirements of this Section 8.8 and the uses permitted in the underlying zoning district, except to the extent permitted in the HSOD, will no longer be permitted.

8.8.4 Procedures. The development of a Health Services Facility shall be authorized only in conformance with the following procedures:

Step 1: Obtain Approval of the Health Services Facility Area Comprehensive Plan from the Planning Board

The Health Services Facility shall be developed in accordance with a Health Services Facility Area Comprehensive Plan, (hereinafter "Comprehensive Plan") approved by the Planning Board. The Planning Board shall conduct a public hearing in accordance with the procedures set forth in G.L. c. 40A, ss. 9 and 11. The Health Services Facility Area Comprehensive Plan shall show the proposed buildout of the entire Health Services Facility. Twenty (20) copies of such proposed

Health Services Facility Area Comprehensive Plan shall be submitted to the Planning Board.

The Planning Board shall have 90 days to conduct its review and approve the Health Services Facility Area Comprehensive Plan. An affirmative majority vote of the Planning Board shall constitute approval of a Health Services Facility Area Comprehensive Plan. Failure to act within such ninety-day period shall be deemed to constitute a lack of opposition thereto. The time for Planning Board action may be extended at the written request of the Applicant prior to the expiration of the review period. In making its determination, the Planning Board shall be guided by the purposes set forth in Section 8.8.1, above, and shall ensure that the design of the proposed Health Services Facility is generally consistent with the standards of Section 8.8.5 to 8.8.12 of this Bylaw.

The following documents and plans shall be submitted to the Planning Board for review and approval. Such documents and plans shall be preliminary in nature but shall be sufficient to enable the Planning Board to make the determination required above.

Health Services Facility Area Comprehensive Plan Narrative summarizing the purposes and intents of the project, the planned uses, and the development phasing strategy.

Existing Conditions Plan, stamped by a registered land surveyor who is licensed in the Commonwealth of Massachusetts, showing the site and including the location of surveyed property line boundaries and property ownership, division of the land into lots, easements, curb cut locations, utility information, delineated wetlands boundaries as approved by the Conservation Commission, topography at two-foot contour intervals, 100-year floodplain contour, River Protection Act and Wetlands Protection Act buffer zone boundaries, general location of vegetated areas, and footprints of existing buildings, structures and paved or otherwise previously developed areas. The scale shall be 1 inch = 40 feet. The Applicant shall also show, by means acceptable to the Planning Board, surrounding context within at least 400 feet of the site including property line boundaries, property ownership, footprints of existing buildings, and topography at two-foot contour intervals.

Site Development Plan illustrating proposed buildings, parking facilities, roadways, driveways, easements, bikeways, walkways, sidewalks, access ways, required setbacks, site grading at two-foot contour intervals, finished floor elevations, parking, landscaping, open space areas and calculations, off-site improvements, delineated wetland boundaries, and land subject to the Riverfront Protection Act and Wetlands Protection Act. The scale shall be 1 inch = 40 feet.

Building Development Program describing the buildings and their square footage by total Medical Center Use and total Ancillary Medical Center Use, the phasing of such uses, and the parking facilities and parking space counts devoted to such uses.

Phasing Plan identifying the general scope and location of the individual phases to be developed within the HSOD.

Visual Plans providing illustrations of:

- *Conceptual Ground Floor Architectural Plan* for major buildings and parking facilities. (Scale: 1/8 inch = 1 foot);

- *Building Elevations* for major buildings and parking structure(s) (Scale: 1/8 inch = 1 foot);

- *Three-Dimensional Bird's-Eye View(s)* showing approximate massing, bulk, and height of buildings, including surrounding context; and

- *Eye-Level Perspective View(s)* showing site and buildings as seen from major public vantage points such as adjacent major public streets and abutting neighborhoods.

Traffic, Circulation, Parking, and Transportation Demand Management Plan describing (1) anticipated traffic demand and flows generated and attracted by the project; proposed locations and alignments of drives, drop-offs, curb cuts, parking, signage, pedestrian paths, sidewalks, bike paths, and easements for public access; (2) identifying impacted intersections, existing and projected levels of service and a summary of proposed mitigation, including off-site improvements; and (3) a Transportation Demand Management Plan including parking management policy, car and/or van pool programs, staffing shifts and flex hours, shuttle bus program, pedestrian access between Winchester Hospital and the HSOD, and bikeway access and bike parking provisions.

Open Space, Conservation Lands, and Natural Resources Plan showing the location of open space, conservation lands, and natural resources and describing plans to add, change, or preserve open space, conservation lands, and natural resources.

Historic Conservation and Preservation Plan showing the location of existing historic properties and resources and describing plans to tear down, move, modify, repair, maintain, or reuse historic properties and resources.

Utilities Plan showing the location of proposed utilities and describing their capacity to meet or exceed applicable standards. The maximum scale shall be 1 inch = 40 feet.

Stormwater Management and Flood Mitigation Plan showing anticipated drainage patterns; storm water management facilities; flood mitigation measures; and a description of the plan's ability to meet or exceed applicable standards, including a calculation of required and proposed compensatory flood storage. The maximum scale shall be 1 inch = 40 feet.

Landscaping Plan consistent with Section 8.8.10, herein.

Assessment of Community Benefits and Costs. For the original Health Services Facility Area Comprehensive Plan review, the Development Agreement, if any, shall be evidence of such benefits and costs. For any subsequent application for

Health Services Facility Area Comprehensive Plan approval after the issuance of the first Special Permit for a Health Services Facility, the Applicant shall describe anticipated tax revenues or payments in lieu of taxes, fees, costs, and specialized services provided to the Town or required of the Town.

Step 2: Obtain Special Permit and Site Plan Approval from the Zoning Board of Appeals (ZBA)

The development of a Health Services Facility shall require the grant of a special permit by the Zoning Board of Appeals (ZBA); however, one or more phases of the Health Services Facility may be authorized by separate special permits. An application shall be submitted to the ZBA in accordance with its rules and regulations governing special permits. No special permit for a Health Services Facility or any phase thereof shall be granted by the ZBA unless in substantial conformance with the Health Services Facility Comprehensive Plan as previously approved by the Planning Board. The ZBA shall also consider the recommendations of the Design Review Committee, Conservation Commission, Historic Commission, Housing Partnership Board, Town Engineer, Department of Public Works, Board of Health, Fire Chief and Police Chief. Where the special permit authorizes only one phase of the Health Services Facility, only the phase authorized under such a special permit may be constructed.

If the Zoning Board of Appeals determines that an application for any phase of the Health Services Facility is not in substantial conformance with the Health Services Facility Area Comprehensive Plan as previously approved by the Planning Board, the Applicant may request the Planning Board to amend the Health Services Facility Area Comprehensive Plan. In no event shall the Zoning Board of Appeals grant a special permit for a Health Services Facility or any phase thereof until and unless the application is in substantial conformance with the Health Services Facility Area Comprehensive Plan.

The development of a Health Services Facility shall require site plan approval from the Zoning Board of Appeals. The Zoning Board of Appeals shall conduct a site plan review under Section 9.5 simultaneously with its review of an application for a special permit.

Once a special permit authorizes a Health Services Facility or any phase thereof, Medical Center services and Ancillary Medical Center Uses may be relocated within the authorized Facility or phase thereof without modification of the special permit, provided that the gross floor area of Ancillary Medical Center Uses (excluding parking structures) shall not exceed 25 percent of the gross floor area of the Health Services Facility or phase thereof, and that Ancillary Medical Center Uses shall comply with the provisions of Subsection 8.8.6, regarding location.

Step 3: Subsequent Changes/Amendments

Proposed modifications to the plans which were approved by the Zoning Board of Appeals as a condition of any special permit shall be submitted to the ZBA in accordance with the provisions of this paragraph. If there is any inconsistency

between the plans for the special permit and plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to the Zoning Board of Appeals and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another. Where such modification is deemed substantial by the ZBA, the same standards and procedures applicable to an original application for a Health Services Facility Area Comprehensive Plan and a special permit shall apply to such modification and a public hearing shall be required by the Zoning Board of Appeals; provided, however, that the Zoning Board of Appeals, in consultation with the appropriate departments and Boards, may determine that a proposed modification is insubstantial and approve the same without a public hearing. In making such determination, the following changes shall be deemed, without limitation, to constitute substantial modifications:

1. Changes in the location of buildings, roadways, parking areas, drainage and storm water management facilities, and other accessory structures that decrease the building setbacks from adjoining properties or public ways;

2. Changes that result in a net reduction of open space or net increase in lot coverage;

3. Changes to the buildings or grading that increase a building's height;

4. Substantial changes to the architectural character of the building;

5. Changes in the maximum amount of development and parking indicated in the Building Development Program;

6. Substantial changes to the public access to Ancillary Medical Center Uses on the ground floor of buildings;

7. Changes to the building size or location, site grading, or other site features that may result in a modification to proposed flood mitigation measures or the compensatory flood storage requirements; and

8. Changes in any aspect of either vehicular access or any traffic mitigation required as a condition of the special permit or in the site plan review.

ZBA authorization to modify the previously approved plans shall be obtained prior to any substantial modification in the field. To the extent required under applicable law, the applicant shall be responsible for obtaining independent approval from the Conservation Commission of any modifications to the approved plans.

8.8.5 Dimensional Requirements. The maximum development size, dimensions, appearance, and locations of all aspects of the Health Services Facility within the HSOD shall be governed exclusively by the provisions of this Section 8.8.5.

1. Maximum Development Size. The maximum aggregate development size of the Health Services Facility shall not exceed 240,000 gross square feet, exclusive of structured parking facilities.

2. Height. No building shall exceed 80 feet in height nor more than five (5) stories. No parking structure(s) shall exceed 75 feet in height.

   No building or parking structure within 75 feet of the Washington Street property line shall exceed 65 feet in height and in the case of a building, no more than four (4) stories. No portion of a building or parking structure within 35 feet of the Washington Street property line shall exceed 35 feet in height and in the case of a building, no more than two (2) stories.

   For purposes of the application of these standards, the height of buildings shall be defined in accordance with the definition in Section 10 of the Zoning Bylaw, except that roof embellishments and tower elements (including parapets or screens intended to shield mechanical units, shafts and vents) shall be excluded in the computation of the height and number of stories of a building. Roof embellishments, tower elements, parapets, and mechanical screens shall not exceed ten (10) feet in height beyond the maximum heights stated above.

   All measurements of height shall be from existing grades as shown on a plan entitled, "Existing Conditions – 620 Washington Street, Winchester, MA". Scale 1 inch = 80 feet. Dated April 27, 2007. Prepared for the Winchester Hospital. Prepared by Allen & Major Associates, Inc.

3. Lot Frontage. Minimum of twenty (20) feet.

4. Front Yard Setback. All buildings or parking structures must be set back a minimum of 20 feet from the Washington Street property line. No parking shall be allowed within the front yard setback.

5. Open Space. A minimum of 48 percent of the land shown within the Health Services Facility Area Comprehensive Plan shall be open space. Open space need not be located on contiguous parcels.

6. Impervious Area. A maximum of 42 percent of the land shown within the Health Services Facility Area Comprehensive Plan shall be impervious area. The calculation of Impervious Area need not be based on land contained in contiguous parcels.

8.8.6 Location of Structures and Features. Within the HSOD, more than a single building may be located on a lot. Accessory buildings may be attached to the principal buildings to which they are accessory, but need not be located on the same lot as the structures they serve.

1. Location of Ground Floor Ancillary Medical Center Uses. Ancillary Medical Center Uses shall be located on the ground floor of any building or buildings immediately adjacent to the Washington Street frontage. A minimum of fifty (50) percent of the length of the ground-floor frontage of any building immediately adjoining Washington Street shall be devoted to such Ancillary Medical Center Uses. Ancillary Medical Center Uses adjoining Washington Street shall each have at least one entry door accessible from the exterior.

2. Any cafeteria, lunchroom or restaurant shall be located on the ground floor of a building directly adjacent to or visible from either: (1) the Aberjona River and the proposed regional bikeway/greenway, and/or (2) Washington Street. Such cafeteria, lunchroom or restaurant shall be open to the general public.

8.8.7 Parking and Loading

1. Parking serving a building within the HSOD shall not be required to be located on the same lot as long as a cross-easement agreement, granting the owner of the building intended to be served by such parking, is recorded with the Middlesex County Registry of Deeds and evidence of such recording is provided to the Building Inspector prior to the issuance of certificate of occupancy for structure.

2. In the determination of the number of parking spaces required for buildings in the HSOD, in lieu of the Table of Off-Street Parking Space Requirements provided in Section 5.1 of the Zoning Bylaw, parking shall be provided at the ratio of one space per 250 square feet of gross building area. Portions of buildings devoted to parking shall be excluded from the computation of gross building area. A lesser parking ratio may be sought by the Applicant by means of implementing various Transportation Demand Management (TDM) techniques.

   The dimensions of parking spaces within a parking structure shall be eight (8) feet nine (9) inches by seventeen (17) feet six (6) inches, except for larger dimensions as appropriate for handicapped spaces and van accessible spaces. The dimensions and layout of outdoor surface parking spaces shall be governed by Section 5.1 of the Zoning Bylaw.

3. Loading and service areas shall be located at the rear of buildings and shall be hidden or screened from public view along Washington Street, the Aberjona River edge of the development, and adjoining neighborhoods.

4. Except as expressly modified above, all the provisions of Sections 5.1.3, 5.1.6 to 5.1.9 inclusive, and 5.2 of the Zoning Bylaw shall be applicable. However, the Zoning Board of Appeals shall have the authority in granting any special permit

under Section 8.8.4 to permit the design and layout of parking spaces and access aisles to deviate from the requirements said Sections.

8.8.8 Architectural Design Standards

1. Any building or structure shall have a façade composed vertically in three parts: base, middle, and top.

2. Above the second-story level of a building or structure immediately adjacent to the length of Washington Street, the upper floors shall be set back horizontally from the first and second floors below by a minimum of 15 feet.

3. Any portion of the front façade of a building immediately adjacent to either Washington Street or the Aberjona River shall not exceed 100 feet in horizontal length without an interruption in the continuity of that facade, or, incorporate other architectural features such as recesses, bays, or balconies that serve to break up the visual continuity of that building façade.

4. The storefront façade of ground floor Ancillary Medical Center Uses adjoining both Washington Street and/or the Aberjona River shall be at least 75 percent glazed.

5. Exterior cladding, roofing, and glazing materials shall preferably be of the following palette of materials: brick, stone, precast stone, simulated slate, architectural standing seam metal, and nonreflective glazing.

6. Screening of Rooftop Equipment and Satellite Dishes. Rooftop mechanical units, shafts, and vents; and satellite dishes must be visually screened or hidden from view.

8.8.9 Building and Site Signage. Signage shall be governed by Section 9 of the Town of Winchester Code of Bylaws.

8.8.10 Site Improvement and Landscaping Standards

1. Any on-site storm water management facilities or other flood mitigation structures shall be landscaped, designed and integrally incorporated as a part of the natural landscape plan for the site.

2. Street trees shall be planted along the Washington Street edge of the site at 30 foot on-center intervals.

3. Wherever reasonably possible, existing trees shall be preserved and incorporated into the landscape design plan.

8.8.11 Lighting Standards

1. Outdoor lighting shall be governed by the lighting standards set forth in Section 5.4 of the Zoning Bylaw. Such standards shall be deemed applicable to the HSOD.

3. Lighting within parking structure(s) shall not allow light overspill or glare onto adjacent properties. Within parking structure(s), mercury vapor, quartz lamps, and neon lights are prohibited light sources. The lighting standards of Sections 5.4.8 through 5.4.9 of the Zoning Bylaw shall be deemed applicable to lighting within parking structure(s), except however, the requirements of these standards shall not apply to light fixtures using an incandescent lamp or lamps of 150 watts or less or non incandescent lamps of 50 total watts or less.

8.8.12 Relation to Other Requirements. The Health Services Facility may propose a subdivision or a division of land pursuant to Subdivision Control Act. The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. All subdivision of land must, however, be approved by the Planning Board outside of the Special Permit or Site Plan Review process as a preliminary/definitive subdivision or as a plan where Approval is Not Required (ANR), or take any other action in relation thereto.

8.9 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION OVERLAY DISTRICT (SOL-D)

8.9.1 Purpose. The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

8.9.2 Applicability. This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

8.9.3 Definitions. See Section 10 – Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District.

8.9.4 Overlay District. The Large–Scale Ground-Mounted Solar Photovoltaic Installation Overlay District is established as an overlay district. Within the overlay district, the requirements of the underlying zoning district shall remain in full force and effect, except where the requirements herein are more restrictive and provide for uses or structures not otherwise available in the underlying district. In such cases, the requirements herein shall not supersede the underlying zoning requirements. The application of this overlay district shall not restrict the uses allowed by right or special permit in the underlying zones.

8.9.5 General Requirements for all Large-Scale Solar Power Generation

Installations. The following requirements are common to all solar photovoltaic installations:

1. Compliance with Laws, Ordinances and Regulations. The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code, as amended.

2. Building Permit and Building Inspection. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3. Fees. The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit. A site plan review fee is required to be submitted with a site plan review application.

4. Site Plan Review. Large-scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review. Said review shall be as conducted and specified in Section 9.5 of this bylaw, except as herein specified by the Site Plan Review Authority prior to construction, installation or modification as provided in this section. In case of conflict between Sections 9.5 and 8.9 of this bylaw, Section 8.9 controls.

5. Site Plan Review Authority. The Site Plan Review Authority for large-scale ground-mounted solar photovoltaic installations with 250-kW or larger of rated nameplate capacity shall be the Winchester Zoning Board of Appeals, hereinafter referred to as the Site Plan Review Authority.

8.9.6 General Standards for Site Plan Review. In the review of any site plan conducted under this Section, the Site Plan Review Authority shall determine that reasonably adequate provisions have been made by the applicant for the following:

1. Traffic circulation and access.

2. Pedestrian safety and access.

3. Emergency vehicle access.

4. Storm water drainage based upon a professional engineering report, utilizing on-site infiltration.

5. Flood control mitigation based upon a professional engineering report.

6. Screening, including the use of natural land features, plantings and erosion control.

7. Protection and preservation of existing natural features, historic structures and vistas.

8. Signage and exterior lighting.

9. Visual impact of parking, storage and other outside service areas.

10. Consistency with character and scale of surrounding buildings.

8.9.7 Submission Procedure.

1. Application. Anyone seeking approval of a site plan shall obtain an application, fee schedule and checklist from the Site Plan Review Authority office. Prior to submitting the application, the owner of the subject property, or his or her agent, is encouraged to meet informally with the town staff (Town Engineer, Town Planner and, as applicable, other departments) to review the application and checklist. The Site Plan Review Authority may provide a set of guidelines to assist the applicant in meeting the site plan, architectural and landscaping objectives, as applicable.

   The applicant shall submit a completed application and fee to the Site Plan Review Authority, a copy of which application shall forthwith be filed by the applicant with the Town Clerk. Within five (5) business days of receipt by the Site Plan Review Authority or its designee, the Site Plan Review Authority shall distribute copies of the completed application and accompanying documentation to all appropriate Town Boards, Departments And Commissions, including the Board of Health and the Conservation Commission. Any comment by such Boards, Departments or Commissions shall be filed with the Site Plan Review Authority within twenty (20) days of its receipt.

2. Public Hearing. The Site Plan Review Authority shall hold a public hearing on the application within thirty (30) days of its receipt. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two consecutive weeks, the first publication to be not less than fourteen (14) days before the date of hearing, and by posting such notice in a conspicuous location in the Town Hall for a period of not less than fourteen (14) days before the day of the hearing. In addition, notice of said hearing shall be sent by mail, postage prepaid, to all parties in interest as specified in MGL, Chapter 40A, Section 11. All costs for publication and notice of the public hearing shall be borne by the applicant.

3. Decision. Within one-hundred-twenty (120) days of the date of filing of the completed application with the Town Clerk, the Site Plan Review Authority shall approve or disapprove the site plan. The applicant and the Site Plan Review Authority may mutually agree upon an extension of time to render a decision, as agreed to in writing, and recorded with the office of the Town Clerk. If the Site Plan Review Authority does not approve the site plan within

this period, or a period extended up to three hundred and sixty-five (365) days from the date of filing of the completed application with the Town Clerk, the site plan shall be deemed approved. If the Site Plan Review Authority votes to disapprove where necessary to protect the public health, safety, or welfare as set forth in GL. C. 40A, s. 3, the applicant shall be notified in writing and the specific reasons for disapproval shall be stated within the decision.

Site Plan Approval shall be granted only upon determination by the Site Plan Review Authority that the plan meets the following standards. The Site Plan Review Authority may impose reasonable conditions at the expense of the applicant to implement these standards.

New building construction and other site alterations shall be designed, after considering the qualities of the specific location, the proposed land use, the design of the buildings, grading, egress points, and other aspects of the development, so as to:

a. Maximize pedestrian and vehicular safety both on the site including ingress and egress;

b. Provide adequate access to each structure for fire and emergency service equipment;

c. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

e. Minimize the volume of cut and fill, the number of removed trees six inches in caliper or larger, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution;

f. Provide adequate storm water management and other utilities consistent with the functional requirements of the Planning Board Subdivision Rules and Regulations, Department of Environmental Protection, Management Storm Water Management Handbook;

g. Minimize obstruction of scenic views from publicly accessible locations;

h. Minimize glare from headlights and lighting intrusion;

i. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places; and

j. Ensure compliance with the provisions of this Zoning Bylaw, including parking, signs, landscaping, and environmental standards.

8.9.8 Submission Requirements. A formal application for site plan review shall contain at a minimum the following exhibits and information:

1. Application. A fully executed and signed application. In the event that the applicant is not the owner of the property, the property owner's signature shall be included.

2. Installation Plan. Ten (10) full-sized copies of the installation plan, signed and stamped by a professional engineer licensed to practice in the Commonwealth of Massachusetts, and providing the information described further below.

3. Site Plan. Ten (10) full-sized copies of the site plan, signed and stamped by a registered professional engineer and surveyor and drawn at a scale sufficient to allow review of the items listed under the proceeding general standards, and showing the information described further below. In addition, ten (10) 11" by 17" copies of the site plan shall be provided, as well as electronic files of the application.

8.9.9 Installation Plan Submission Requirements. The Installation Plan shall contain at a minimum the following information and exhibits:

1. Ownership.

   a. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; and

   b. The name, contact information and signature of any agents representing the project proponent.

2. Installation.

   a. Proposed layout of the system and any potential shading from nearby structures;

   b. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;

   c. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;

   d. Name, address, and contact information for proposed system installer; and

   e. Proof of liability insurance.

3. Operation & Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe

access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

4. Utility Notification. No large-scale ground–mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

5. Dimension and Density Requirements. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

   a. Front yard. The front yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Conservancy- Institutional (SCI) or Residential district, the front yard shall not be less than 50 feet;

   b. Side yard. Each side yard shall have a depth at least 30 feet; provided, however, that where the lot abuts a Conservancy-Institutional (SCI) or Residential district, the side yard shall not be less than 50 feet; and

   c. Rear yard. The rear yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Conservancy-Institutional or Residential district, the rear yard shall not be less than 50 feet.

6. Appurtenant Structures. All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to the dimensional regulations of the district in which the structure is located. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

7. Signage. Signs on large- scale ground-mounted solar photovoltaic installations shall comply with the Town of Winchester sign bylaw. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

8. Utility Connections. Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

9. Safety and Emergency Services. The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical

schematic, and site plan to the local public safety officials. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

10. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

11. Installation Conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local public safety officials. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way or under Town of Winchester ownership and/or jurisdiction.

12. Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

13. Removal Requirements. Any large- scale ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with provisions of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

    a. Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site;

    b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and

    c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

14. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large- scale ground-mounted solar photovoltaic installation fails to

remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

15. Financial Surety. Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bank passbook, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority. The proponents shall provide a security sufficient to cover the costs of removal for the first 10-year period. Every five years thereafter, the proponent shall return to the Site Plan Review Authority to renew this surety, with the Site Plan Review Authority requiring that the surety be sufficient to cover the costs of removal of the facility by the end of that time. The amount shall include a mechanism for calculating increased removal costs due to inflation.

    Such surety may not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer.

8.9.10 Site Plan Submission Requirements.

1. General Information.

    a. Date and Revisions. Date of site plan. All revisions shall be noted and dated;

    b. Development Name and Ownership. Title of development, north arrow, scale, block and lot number, name and address of record owner, name, address and license number and seal of person preparing the site plan. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application;

    c. Scale. A scale of 1”= 20’, 1”=40’ or 1”=80’ whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to the nearest ten seconds. The error of closure shall not exceed one to ten thousand. A locus map showing general location of the site within the town shall also be shown;

    d. Zoning. Zoning classification(s) of the property and location of zoning district boundaries if the property is located in more than one zoning district(s). Adjacent zoning districts within three hundred (300) feet shall also be indicated. Such features shall be shown on a separate map or key map on the detail map itself;

    e. Acreage. Acreage of tract to nearest tenth of an acre;

    f. Boundaries. Boundary of the entire parcel held in common ownership by the Applicant regardless of whether all or part is being developed at this

time. Existing streets, lots, reservations easements and areas dedicated to public use, including grants, restrictions and rights-of-way shall be shown;

g. Bearings and Distances. Bearings and distances or curve data of all existing street lines, ways, easements, and lot lines and location of all permanent bounds shall be shown;

h. Abutting Property Owners. Names and addresses of all abutting property owners and parties of interest within three hundred (300) feet of the property line;

i. Compliance Information. All calculations necessary to determine conformance to bylaw regulations and any such information as may be required to show that the details of the site plan are in accordance with applicable requirements and, as applicable, in compliance with the policies and procedures of the Winchester Board of Selectmen, Town Engineering Department, Department of Public Works, Fire Department, Police Department and other Town Departments concerning the design and installation of the proposed project facilities; and

j. Approvals. Place for signatures of the Site Plan Review Authority members. Signature blocks shall be placed on all plan sheets and/or documents.

2. Existing Conditions.

a. Existing and Proposed Contours. Existing and proposed contours provided at a minimum two-foot interval; one-foot contours and/or additional spot grades shall be provided in areas where the existing or proposed grades are one-percent or less. The plan survey datum shall be the National American Vertical Datum 1988 (NAVD88) and this reference shall be identified on the plan;

b. Existing Land Features. Location of existing rock outcrops, general soil types, high points, watercourses, depressions, ponds, marshes, wooded areas, and major trees and other significant existing features including the effective 100-year flood elevation.

c. c. Existing Buildings. Location of existing buildings that shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. with spot elevations of such structures. Structures to be removed shall be indicated by dashed lines; and

d. Adjacent Structures. All structures and topography within fifty (50) feet of the property lines.

3. Proposed Uses and Buildings.

a. Uses and Locations. The proposed use or uses of land and buildings and proposed location of buildings including proposed grades. Such features should be included on a separate drawing, with floor space of all buildings indicated;

b. Buildings. The location, building/housing type and density of land use to be allocated to parts of the site to be developed;

c. Building Layouts. Layout of proposed buildings or structures including plan elevations; and

d. Visual Impact. Sketches as appropriate to indicate the visual impact on the community.

4. Utilities and Stormwater Drainage.

a. Water and Sewer. The location of all proposed water lines, valves and hydrants and all sewer lines or alternative means to water, including irrigation of lawns, and sewage disposal, in compliance with the applicable standards and regulations of the Town of Winchester and for the appropriate utility company. Water and sewer systems shall be laid out to the satisfaction of the Water and Sewer Department;

b. Strom Drainage Structures and Utility Lines. Location of all existing storm drainage structures and utility lines whether publicly or privately owned with pipe sizes, grades and direction of flow, as well as locations of all above ground and underground utility lines;

c. Stormwater Drainage Calculations. The proposed stormwater drainage system shall conform with designs based on the 2, 10, 25 and 100-year storm events. Drainage calculations shall be provided for the 2, 10, 25 and 100-year storm event using 24-hour precipitation estimates published in the "Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada" from the Northeast Regional Climate Center at Cornell University (i.e. Cornell Precipitation Data), dated September 1993 (Publication No. RR93-5);

d. Underground Utilities. Proposed location of all underground utility lines;

e. Lighting. The proposed location, direction of illumination, intensity and time of proposed outdoor lighting. Access ways, parking areas and pedestrian walkways shall have adequate lighting for security and safety reasons. Lighting shall be energy-efficient and arranged and shielded so as to prevent glare from the site shining onto abutting properties;

f. Fire Alarms. Proposed location of conduit, fire alarm and terminal boxes with appurtenances in accordance with the standard specifications and as may be required by the Winchester Fire Department; and

g. Signs. Location, materials and details of any proposed signs.

5. Roadways and Access.

   a. Circulation. A circulation study both within the site and as it may affect the surrounding properties including estimates of total vehicle trips generated, peak hour demand, present and anticipated traffic volumes, existing street capacities and other elements which may influence and be influenced by the proposed development;

   b. Vehicular Access. All means of vehicular access for ingress and egress to and from the site onto the public streets. Plans should show the size and location of driveways and curb cuts, including the possible organization of traffic channels, acceleration and deceleration lanes, additional width and any other device necessary to prevent difficult traffic situations;

   c. Roadways. The profiles and proposed grading of all proposed streets or drives; cross-sections showing width of roadway, location and width of sidewalk according to Town standards. The information provided shall comply with the Special Provisions for the Construction of Roadways Including the Installation of Water, Sewer and Drains in the Town of Winchester, as amended;

   d. Parking. The location and design of any off-street parking areas or loading areas showing the size and location of bays, aisles, barriers and proposed plantings. The total ground coverage by structures and impervious surfaces shall be identified and calculated. Where appropriate, the Site Plan Review Authority encourages the use of pervious materials to increase infiltration within the site; and

   e. Private Roads. Copies of all existing and proposed agreements by which private roads shall be maintained and plowed, refuse collected and other supplementary services to be provided;

6. Landscaping. All proposed vegetative screening and/or fencing, landscaping and plant design, which landscape plan should include details of the types and sizes of plants materials. To the extent feasible or practicable, landscaping should be designed in an environmentally sensitive manner with non-invasive drought tolerant plants, so as to reduce irrigation needs and heating and cooling needs.

7. Easements. Copies of all proposed easements, covenants, restrictions and/or any other applicable document.

8.9.11 Waivers. The Site Plan Review Authority may waive, by an affirmative vote of the majority of the Site Plan Review Authority any of the preceding requirements if it believes that the strict compliance with this section, because of the size or special nature of the proposed building or structure, may not be in the public interest.

8.9.12 Compliance.

1. Lapse of Approval. Site plan approval granted under this section shall lapse within two years of the date of approval if a substantial use thereof has not commenced.

2. Occupancy Permits. Except as described below, no final occupancy permit shall be issued for any building or structure or portion thereof, until:

   a. The Building Inspector receives certification from a registered architect, engineer or land surveyor that all construction, including utilities, has been constructed in accordance with the approved site plan;

   b. The Building Inspector verifies that all conditions of the approved site plan have been met; and

   c. Occupancy permits or final inspections, as applicable and determined by the Building Commissioner, may be issued for a portion of any building or structure, if the only incomplete work shown on the site plan is landscaping and/or roadway top course, and surety in the amount approved by the Site Plan Review Authority is posted to ensure that the incomplete landscaping and/or roadway top course is completed within a reasonable time. The Site Plan Review Authority may allow surety to be posted for site work in addition to landscaping and the roadway top course, if an unusual or unexpected event prevents the applicant from completing the site work.

8.9.13 Modifications to Approved Site Plans. To request a modification to an approved site plan, an applicant shall submit to the Site Plan Review Authority a written description of the proposed modifications. Modified site plans will, in most instances, be subject to the same submittal, review and hearing procedures as the original filing. If the Site Plan Review Authority determines that a particular modification is not significant and is consistent with the previously approved site plan, the Site Plan Review Authority may determine that a new hearing on the modification may not be required.

8.9.14 Appeal. The decision of the Zoning Board of Appeals may be appealed to a court of competent jurisdiction as set forth in G.L. c 40A, s. 17.

SECTION 9.0 ADMINISTRATION AND ENFORCEMENT

9.1 ENFORCEMENT

9.1.1 Zoning Enforcement Officer. The Town Manager shall appoint an administrative official, hereinafter referred to as the "Zoning Enforcement Officer", who shall be responsible for the administration and enforcement of this Bylaw. The Zoning Enforcement Officer may be provided with the assistance of such other persons as the Town Manager determines to be required.

1. All questions of interpretation and enforcement shall be first presented to the Zoning Enforcement Officer. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the Zoning Enforcement Officer.

9.1.2 Powers. If the Zoning Enforcement Officer shall find that any of the provisions of this ordinance are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

9.1.3 Complaints. Whenever a violation of this Bylaw occurs or is alleged to have occurred, any person may file a signed written complaint with the Zoning Enforcement Officer who shall record properly such complaint, immediately investigate, and take appropriate action thereon.

1. If the Zoning Enforcement Officer shall determine that no enforcement action is required, he or she shall notify, in writing, the person who has filed such complaint of his determination not to take any action, and of the reasons therefore, within 14 days of receipt of such complaint.

2. If the Zoning Enforcement Officer shall find that any of the provisions of this Bylaw are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings, or structures: removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done: he or she shall also cause to be instituted civil or criminal actions to secure enforcement of the provisions of the zoning bylaws or shall take any other action authorized by this Bylaw to ensure, compliance with or to prevent violation of its provisions.

9.1.4 Penalties for Violation. Any person who violates this Bylaw or fails to comply with any of its requirements shall be subject to a fine of not more than $300.00 for each offense. Each day such violation continues shall be considered a separate

offense. The owner, tenant, occupant or person or persons in possession of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

9.1.5 Noncriminal Disposition. In addition to other remedies available under this section, any person violating any provision of this chapter, any of the conditions under which a permit is issued in accordance with this chapter, any rule or regulation of any permit granting authority subject to this chapter, or any decision rendered by the permit granting authority in accordance with this chapter may be fined by the Zoning Enforcement Officer, in accordance with this Bylaw and G.L. c. 40 § 21D, Noncriminal Disposition. The penalty for zoning violations, as set forth above shall be: $100.00. Each day that such violation continues after notification by the Zoning Enforcement Officer shall constitute a separate offense. The owner, tenant, occupant, or person or persons in possession of any building, structure, premises, or part thereof, and any architect, builder, contractor, engineer, agent, or other person who commits, participates in, assists in, or maintains such violation may each be fined in accordance with this section.

9.2 PERMITS

9.2.1 Building Permit. No building permit for erection, alteration, moving or repair of any structure shall be issued until an application has been made pursuant to the State Building Code. No building permit shall be issued for a lot in a subdivision, whether subdivision control is required or not, until a plan showing said subdivision has been recorded in the Registry of Deeds.

9.2.2 Certificate of Use and Occupancy. No building or land shall be used for any purpose until an application has been made for a certificate or use or occupancy pursuant to the State Building Code.

9.3 BOARD OF APPEALS

9.3.1 Appointment. The Board of Appeals, which shall be the Zoning Board of Appeals and which shall also be the Board of Appeal under the Building Laws shall have all the powers of a board of appeals under Chapter 40A of the General Laws and as authorized under this Bylaw. The Board of Appeals shall consist of three members, who shall be appointed by the Board of Selectmen, for terms of such length and so arranged that the term of one member shall expire each year. The Board of Selectmen shall appoint at least two, but no more than three, associate members for terms of such length and so arranged that the term of one associate member shall expire each year. Any vacancy shall be filled for the unexpired term as in the case of original appointments.

9.3.2 Organization. The Board of Appeals shall elect annually a chairman from its own number and a clerk. The chairman in addition to the powers granted to the chairman under the rules adopted by the Board of Appeals, shall have the power to designate one or more associate members to sit on the Board of Appeals in case of the

absence, inability to act or conflict of interest on the part of any member or members thereof, or in the event of a vacancy, until said vacancy is filled in the manner provided in this section.

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

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 9.4 or as otherwise specified.

2. To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances.

3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

9.3.4 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

9.3.5 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees pursuant to G.L. c. 44, s. 53G for petitions for variances, administrative appeals, and applications for comprehensive permits.

9.4 SPECIAL PERMITS

9.4.1 Special Permit Granting Authority. The Zoning Board of Appeals shall serve as Special Permit Granting Authority as may be designated for particular matters in this Bylaw.

9.4.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Community needs which are served by the proposal;

2. Traffic flow and safety, including parking and loading;

3. Adequacy of utilities and other public services;

4. Neighborhood character, including historic resources and social structures;

5. Adequacy of proposed screening and buffering;

6. Impacts on the natural environment; and

7. Potential fiscal impact, including impact on town services, tax base, and employment.

9.4.3 Procedures. Special permit applications shall be governed by the rules and regulations of the special permit granting authority. Whenever an application for a special permit is filed with a special permit granting authority, the applicant shall also file, within five (5) working days of the filing of the completed application with said authority, copies of the application, accompanying site plan, and other documentation, to the Planning Board, Board of Health, Town Engineer, Conservation Commission, Building Commissioner, Director of Public Works, Police Chief, Fire Chief, and Historical Commission for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant.

9.4.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

9.4.5 Plans. Unless otherwise specified herein, an applicant for a special permit shall submit a plan in substantial conformance with the requirements for a site plan as set forth in the rules and regulations of the Zoning Board of Appeals.

9.4.6 Regulations. The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

9.4.7 Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees pursuant to G.L. c. 44, s. 53G for applications for special permits.

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

9.5 SITE PLAN REVIEW

9.5.1 Applicability. The following uses indicated in the Table of Use Regulations as permitted ("Y") shall require Site Plan Approval from the Board of Appeals under any one of the following conditions:

1. New construction, changes of uses in existing buildings, new uses on vacant land, or expansion of floor space of existing buildings of 25 percent or more in a Limited Light Industrial (IL) District where the lot abuts a Residential District or a Conservancy Institutional District (SCI).

2. Any parcel within the General Business Districts GBD-1, GBD-2 and GBD-3 with a lot area equal to, or greater than, 15,000 square feet.

3. New construction, changes of uses in existing buildings, new uses on vacant land, or expansion of floor space of existing buildings of 25 percent or more in any district where the total number of parking spaces required will be 20 or more.

9.5.2 Procedures; Use is Permitted. When site plan approval is required, no building permit shall be issued and no area for roadways, parking, loading or open space shall be established or changed on land developed except in conformity with a site plan bearing the endorsement of approval of the Board of Appeals. No certificate of zoning compliance shall be issued for any such building or buildings, unless the same conforms in all respects to such site plan and unless all facilities included in the site plan have been installed in accordance therein.

9.5.3 Procedures; Use Requires Special Permit. The Board of Appeals shall review site plans prior to approval of applications for special permits as specified in the Table of Use Regulations. In such cases, the site plan shall serve as the plan of record for the proposed special permit; no separate site plan approval shall be required.

9.5.4 Application. A person applying for Site Plan Approval hereunder shall file with the Board of Appeals ten copies each of an application and a site plan and a filing fee. Such application and site plan shall include the information the Board of Appeals shall reasonably requires by rule or regulation. In subsequent applications concerning the same subject matter, the Board may waive the filing of plans and documents to the extent they duplicate those previously filed.

9.5.5 Review by Other Boards. The Board of Appeals shall within three days (Saturdays, Sundays and holidays excluded) of receipt of them transmit to the Conservation Commission and Planning Board two copies of the above application and site plan. The Planning Board and Conservation Commission shall consider the same and submit a final report thereon with recommendations to the Board of Appeals with a copy to the applicant. The Conservation Commission shall review the application with particular reference to the provisions of the Wetlands Protection Act - Chapter 131 - Section 40 and shall recommend as to the advisability of granting the special permit and as to any restrictions which should be imposed upon

the development as a condition of such permit. The Board of Appeals shall not make a finding and determination upon an application until it has received the final report of the Planning Board and/or Conservation Commission thereon or until 35 days shall have elapsed since the transmittal of said copies of the application and site plan to the Planning Board and Conservation Commission without such report being submitted. The failure to submit such a report with recommendations within such 35 day period shall be deemed a lack of opposition to the application by whichever of the Planning Board or the Conservation Commission fails to submit such report.

9.5.6 Public Hearing. The Board of Appeals shall hold a public hearing within 65 days of receiving the application and shall take final action within 90 days of such public hearing, it nonetheless being the intention of this Bylaw that the Board of Appeals shall act as expeditiously as is practical on such application.

9.5.7 Decision. Site Plan Approval shall be granted only upon determination by the Board that the plan meets the following standards. The Board may impose reasonable conditions at the expense of the applicant to implement these standards.

New building construction and other site alterations shall be designed, after considering the qualities of the specific location, the proposed land use, the design of the buildings, grading, egress points, and other aspects of the development, so as to:

1. Minimize the volume of cut and fill, the number of removed trees six inches in caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution;

2. Provide adequate stormwater management and other utilities consistent with the functional requirements of the Planning Board Subdivision Rules and Regulations;

3. Maximize pedestrian and vehicular safety both on the site and egressing from it;

4. Provide adequate access to each structure for fire and emergency service equipment;

5. Minimize obstruction of scenic views from publicly accessible locations;

6. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

7. Minimize glare from headlights and lighting intrusion;

8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;

9. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; and

10. Ensure compliance with the provisions of this Zoning Bylaw, including parking, signs, landscaping, and environmental standards.

9.5.8 Effect. In the event that the Board of Appeals approves a special permit under these provisions, any construction, reconstruction, substantial exterior alteration or addition shall be carried on only in conformity with any conditions, modifications and restrictions subject to which the Board shall have made its findings and determination, and only in conformity with the application and site plan on the basis of which the finding and determination are made.

9.5.9 Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

9.5.10 Regulations; Fees. The Board may adopt and, from time to time, amend reasonable regulations for the administration of these Site Plan guidelines. The Board may adopt reasonable administrative fees and technical review fees for site plan review.

9.5.11 Appeal. Any decision of the Board pursuant to this Section shall be appealed in accordance with the provisions of G.L. c. 40A, s. 17 to a court of competent jurisdiction.

SECTION 10.0 DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT USES. Any Adult Bookstore, Adult Motion Picture Theatre, Adult Paraphernalia Store, Adult Video store, or Establishment which displays live nudity for its patrons, or Body Art Establishment. The following definitions pertain to Adult Uses as set forth in Section 8.3:

Adult Bookstore. An establishment having, as a substantial or significant part of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31.

Adult Motion Picture Theatre. An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31.

Adult Paraphernalia Store. An establishment having as a substantial or significant part 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 General Laws, Chapter 272, Section 31.

Adult Video Store. An establishment having, as a substantial or significant part 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 General Laws, Chapter 272, Section 31.

Body Art Establishment. Any location, place, or business that has been granted a permit by the Board of Health whether public or private where the practices of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and

scarification, but not including practices that are considered medical procedures by the Board of Registration in Medicine.

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 General Laws, Chapter 272, Section 31.

AFFORDABLE HOUSING. Rental or ownership residences which are affordable to low, moderate and/or middle-income individuals and families as defined by state and federal statute or regulation.

AGRICULTURAL USE. An exempt use governed by the provisions of G.L. c. 40A, s. 3, paragraph 1.

APARTMENT. See "Dwelling Unit."

APARTMENT HOUSE. A multiple-family dwelling over three stories in height.

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

AS-OF-RIGHT SITING. As-of-right siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw

ASSISTED LIVING AND ELDERLY HOUSING. A multi-family residential development intended for individuals at least 62 years of age, regardless of physical or mental condition, which characteristically includes service, recreational, common and function areas intended for use by the residents and their visitors, as well as on-site medical services for residents only. Further, for purposes of this Bylaw, assisted living and elderly housing developments within the IEH Overlay Zoning District shall be for rental purposes only.

ATTACHED RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY DISTRICT. Within this Section, the following terms shall have the following meanings:

Applicant. The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Attached Residential Cluster Development (ARCD). A development designed and

permitted in accordance with Section 8.7.3.

Attached Residential Cluster Development Overlay District (ARCDOD). See Zoning Bylaw Section 8.7.3.

Dwelling Unit. A residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and shall contain a kitchen area or combination kitchen/living area.

Regulations. The rules and regulations of the Planning Board governing the subdivision of land.

BASEMENT. That part of a building partly underground but having more than one-half of its entire wall area above the level of the adjoining ground. A basement shall be counted as a floor or story if used for business or dwelling purposes.

BUILD FACTOR. A ratio of lot perimeter to lot area which limits the degree to which a lot may have an irregular shape according to the following formula:

$$\frac{\text{LOT PERIMETER SQUARED}}{\text{ACTUAL LOT AREA}} \div \frac{\text{ACTUAL LOT AREA}}{\text{REQUIRED LOT AREA}}$$

BUILDING. A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING AREA. The portion of a lot remaining after required yards have been provided.

BUILDING INSPECTOR. The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

BUILDING LENGTH. The length of the longest horizontal dimension through a building, or group of attached buildings, measured parallel to building walls and including all overhanging or projecting structures.

BUILDING PERMIT. A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

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

CELLAR. That part of a building having less than one-half of its entire wall area above the level of the adjoining ground. No cellar or portion thereof shall be used as a

dwelling unit. A cellar shall not be counted as a floor or story.

CHILD CARE CENTER. A day care center or school age child care program, as defined in G.L. c. 15D, s. 1A.

CLUB OR LODGE, PRIVATE. Facility operated for members or employees only, where the chief activity is not one customarily conducted for profit.

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

DWELLING, ATTACHED. A building designed or occupied as a residence and separated from another attached dwelling on one or more sides either by a shared common vertical firewall or firewalls or by a shared common contiguous wall or walls without side yards. In the case of side-by-side dwellings, the length of the shared common walls shall not be less that one-eighth of the building perimeter at grade of the smaller of the two attached dwellings.

DWELLING, DETACHED. A building designed or occupied as a residence and separated from another attached dwelling on one or both sides either by a shared common vertical party wall or walls or by a contiguous wall or walls without side yards.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-FAMILY. A detached residential building containing either (i) two dwelling units, attached to each other or (ii) two dwelling units within a single structure, in either such case designed for occupancy by not more than two families.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities. A dwelling unit shall have more than one-half of its floor-to-ceiling height above the average level of the adjoining ground. Each dwelling unit shall be occupied by not more than one family.

ERECTED. The word "erected" shall include the words "attached," "built," "constructed," "reconstructed," "altered," "enlarged" and "moved."

ESSENTIAL SERVICES. Public service corporations protected by G.L. c. 40A, s. 3, including, telephone exchange, transformer station, railroad or bus depot, or other public utility or communications use, but excluding any office storage or repair use unless otherwise allowed by the regulations of the district.

FAMILY. Any number of persons related to one another by blood, adoption, foster home placement, or marriage plus not more than two additional persons, all residing together as a single, integral housekeeping unit or where such persons are not related to one another by blood, adoption, foster home placement, or marriage, not more than three persons residing together as a single, integral housekeeping unit.

FAMILY DAY CARE HOME, LARGE. Any private residence operating a facility as defined in G.L. c. 15D, s. 1A.

FAMILY DAY CARE HOME, SMALL. Any private residence operating a facility as defined in G.L. c. 15D, s. 1A.

FIRE LANE. An open space in which no building or structure may be erected and in which no automotive vehicles may be parked, except that buildings may be interconnected by corridors or walkways if provision is made for access by fire apparatus to all outside walls. The open space shall be between a building and a line parallel to and fifteen feet equidistant from a building.

FLOODPLAIN OVERLAY DISTRICT. Area established as an overlay district as indicated on the Town of Winchester's Flood Insurance Rate Maps (FIRM) and the flood boundary and flood insurance maps developed by the Federal Emergency Management Agency (FEMA) and Federal Insurance Administration. The following definitions pertain to the Floodplain District:

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, grading, paving, excavation or drilling operations. The term "development" does not include the resurfacing of existing pavements by the Town of Winchester Public Works Department for maintenance and safety of roadways.

District means Floodplain Overlay District.

Flood Boundary and Floodway Map means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is including on the FIRM.)

Flood Hazard Boundary Map (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation, and determination of flood

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

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

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

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

One Hundred Year Flood. See Base Flood.

Regulatory Floodway. See Floodway.

Special Flood Hazard Area means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AE, A99, and AH.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation, or the placement of a manufactured home on a foundation. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed.

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

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

Zone AH and AO means the 100-year floodplain with flood depths of one to three feet.

Zone A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

Zones B, C, and X areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

FLOOR AREA. The aggregate horizontal area in square feet of all floors of a building or several buildings on the same lot measured from the exterior faces of walls enclosing each building, exclusive of garages, cellar and attic areas used only for storage or for service incidental to the operation or maintenance of such building or buildings.

FRONTAGE, LOT. The boundary between a lot and an abutting street between lot lines or, in the case of a corner lot, between a lot line and the intersection of street lines or of street lines extended.

FRONTAGE, STREET. A street which provides the required lot frontage for a building. When a lot is bounded by more than one street any one of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming an

interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

FUNERAL ESTABLISHMENT, UNDERTAKING. Facility for the conducting of funerals and related activities such as embalming.

GARDEN APARTMENT HOUSE. A multiple-family dwelling, not over three stories in height, and containing not less than 4 dwelling units.

GENERAL SERVICE ESTABLISHMENT. Repair shop for household appliances, radio and television sets, or office equipment; retail laundry or dry cleaning establishment; printer.

GROUP HOUSE. A row of not less than three (3) nor more than ten (10) attached dwelling units contained in one (1) building and separated by common or party walls. The words "Group House" and "Town House" are synonymous.

HALF STORY. See "Story, Half."

HEALTH SERVICES OVERLAY DISTRICT (HSOD). Within this Section, the following terms shall have the following meanings:

Ancillary Medical Center Uses. One or more of the following components of a Health Services Facility: Administrative Office; Bank (including ATM); Bicycle Shop; Gift Shop; Coffee Shop; Daycare Center; Lunchroom; Restaurant; Cafeteria (including takeout facilities); Parking Garage; Retail Pharmacy; and Satellite Dishes and/or other telecommunications facilities for the exclusive use of the Health Services Facility; provided, however, that the Zoning Board of Appeals may consider other uses not mentioned herein to be Ancillary Medical Center Uses where the Applicant demonstrates that such uses are incidental to, consistent with and complimentary to the operation of the proposed Medical Center.

Applicant. The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act, or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Health Services Facility. Shall consist of a Medical Center and may also include one or more Ancillary Medical Center Uses as authorized by special permit.

Medical Center. One or more facilities providing services such as health maintenance, the diagnosis or treatment of human disease, pain, injury, deformity or physical condition, public health center, diagnostic center, treatment center, physical therapy, out-patient clinic, pharmacy, home health-care agency, professional offices (medical and dental), and administrative offices associated with any such services and parking garage, provided, however, that the Zoning Board of Appeals may consider other services not mentioned herein to be Medical Center services where the Applicant demonstrates that such are consistent with and complimentary to the operation of a

Medical Center. Such facilities shall not include in-patient facilities where patients are in residence for one or more nights nor facilities which accept patients transported by ambulance (other than on an extraordinary basis or incident to a scheduled treatment program).

Open Space. Open space appropriate for conservation or passive or active recreational purposes in the opinion of the Zoning Board of Appeals. Open Space may include unpaved walkways, landscaped areas, woodlands, wetlands, and buffer zones as defined under the Wetlands Protection Act. Impervious surfaces, parking areas and impervious vehicular access facilities shall not be considered in calculating open space. As a component of the Open Space, the Applicant may designate a Preservation Area, which may consist of forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands which are worthy of preservation.

Regulations. The rules and regulations of the Planning Board governing the subdivision of land.

HEIGHT OF A BUILDING. The height of a building is the vertical distance measured from the mean grade of the existing ground level adjoining the building at each exterior wall to the highest point of the roof. Mean grade is to be determined by measuring the elevation at the major exterior corners of a structure and then dividing the total elevation by the number of points of measurement. The maximum height of a building shall not exceed the distance in feet or the number of stories, whichever is less, as set forth in the Table of Dimensional Requirements for the district in which the building is located.

HOME OCCUPATION. An occupation conducted in a dwelling unit, as set forth in Section 3.2.1.

IMPERVIOUS SURFACE. Any surface which sheds water rather than absorbing it, such as paved surfaces or rooftops.

KENNEL, COMMERCIAL. A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION OVERLAY DISTRICT. Within this Section, the following terms shall have the following meanings:

Designated Location. The locations designated by Winchester Town Meeting, in accordance with Massachusetts General Laws Chapter 40A, Section 5, where ground-mounted large-scale solar photovoltaic installations may be sited as-of right. Said locations are shown on the Winchester Zoning Map, as created and amended pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

Large-Scale ground-Mounted Solar Photovoltaic Installation. A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC. Said installation may be owned and

operated by the property owner or by a lessee of the property owner .

On-Site Solar Photovoltaic Installation. A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Rated Nameplate Capacity. The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

Solar Photovoltaic Array. An arrangement of solar photovoltaic panels.

LIGHTING. The following definitions pertain to Section 5.4, Lighting:

Color Rendering Index (CRI). A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light.

Color Temperature. Color Temperature or Chromaticity refers to the color appearance of the light that comes from a light source, also referred to as Correlated Color Temperature (CCT). The apparent color of a light source is measured in degrees Kelvin or "K". A low color temperature corresponds to 'Warm.' Incandescent lamps are in the range of 2700 degrees K. 'Cool' light comes from sources such as cool white fluorescent lamps operating at 4100 degrees K. Lights appear bluer above 4100 degrees K.

Cutoff Angle. The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

Direct Light. Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Efficacy. Efficacy is the rate at which a lamp is able to convert electrical power (watts) into light (lumens), expressed in terms of lumens per watt.

Filtered. When referring to an outdoor light fixture means that the fixture is to be fitted with a glass, acrylic, or other translucent enclosure of the light source.

Fixture. The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

Fully-Shielded Luminaire. A lamp and fixture assembly designed with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.

Glare. Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

Height of Luminaire. The vertical distance from the finished grade of the ground directly below to the lowest direct light emitting part of the luminaire.

Indirect Light. Direct light that has been reflected off other surfaces.

Lamp. The component of a luminaire that produces the actual light.

Light Trespass. The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

Lumen. A measure of light energy generated by a light source. One-foot candle is one lumen per square foot. For purposes of this Bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

Luminaire. A complete lighting system, including a lamp or lamps and a fixture.

Shielded. When referring to an outdoor light fixture means that the fixture allows no up-light.

Up-Light. Means direct light emitted by an outdoor light fixture above a horizontal plane through the fixture's lowest light emitting part.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

LOT. An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan.

LOT AREA. Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee to such street is in the owner of the lot, except that if a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect the area may be computed as if such boundary lines were so extended.

All lots created or shown on a plan presented to the Planning Board must have at least 80 percent of the lot area required for zoning compliance consisting of land other than areas under any body of water including water courses, or land consisting of a bog, swamp, wet meadow, fresh water wetland, or marsh as defined in M.G.L. c. 131, Section 40. All plans submitted to the Planning Board or Building Inspector shall identify those areas defined as a body of water, water course, bog, swamp, wet meadow, or marsh, or if not applicable, contain a statement that "No land lies within a wetland area as defined in M.G.L. c. 131, Section 40."

LOT, CORNER. A lot bounded by more than one street which has an interior angle of 135 degrees or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded

by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form or would form if extended, an interior angle of 105 degrees or less.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

LOT FRONTAGE. See "Frontage, Lot."

LOT, INTERIOR. A lot other than a corner lot with only one frontage on a street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

LOT, REVERSED FRONTAGE. A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

LOT WIDTH. The distance between opposite side lines through that part of the dwelling where the lot is narrowest. At no point between said dwelling and the street frontage shall the lot be narrower than the minimum lot frontage as specified in Section 4.0. In the case of a corner lot, the shorter street frontage may be considered the side line except that in this case the minimum rear yard requirement shall be no less than the side yard requirement.

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

MEDICAL OR DENTAL CENTER. A building designed and used as a clinic for the diagnosis and treatment of human patients that does not include overnight care facilities.

MOTOR VEHICLE FUELING FACILITY. Buildings and premises where gasoline, oil, grease, batteries, tires, and other accessories may be supplied and dispensed at retail, and where the services set forth in Section 6.1.5 may be rendered.

MULTIPLE USE DEVELOPMENT. Development of an area of land in the CBD district as a single entity, in which a mixture of residential, open space and commercial users, and a variety of building types and designs, are determined to be sufficiently advantageous to the community to render it appropriate to grant a special permit to depart from the normal requirements of the district in which the project is to be located, to the extent authorized by the Zoning Bylaw.

MUNICIPAL. The word "municipal" means the Town of Winchester.

NONCONFORMING USE or STRUCTURE. A lawfully existing use or structure which does not conform to the regulations for the district in which such use or structure exists.

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

OPEN AREA, PERCENTAGE. That percentage of the lot area which is not occupied by any structure.

PARKING SPACE. An area in a building or on a lot available for parking one motor vehicle, having a width of not less than nine feet and an area of not less than 200 square feet, exclusive of passageways and driveways appurtenant thereto and with free and unimpeded access to a street over unobstructed passageways or driveways.

PERSON. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

PERSONAL SERVICE ESTABLISHMENT. Barber or beauty shop; shoe repair shop; self-service dry cleaning or laundry; Photographer's studio and the like.

PUBLIC. The word "public" means the Town of Winchester, Commonwealth of Massachusetts, United States Government or an agency thereof.

REAR LINE OF A LOT. A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the street frontage.

RECORDED. The due recording in the Middlesex County South District Registry of Deeds, or, as to registered land, the due filing in the Middlesex County South District Land Registration Office.

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

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

RESTAURANT, DRIVE-IN/DRIVE-UP/DRIVE-THRU. Any establishment offering prepared food and/or beverages in a ready-to-consume state, at a drive-in/drive-thru or drive-up window facility, ordering or payment station, or otherwise, to persons in motor vehicles.

RESTAURANT, FAST FOOD. Any establishment offering prepared food and/or beverages in a ready-to-consume state, for consumption within or off-premises, which has a customer seating capacity in excess of 30 seats, and whose principal method of operation is the sale of foods and/or beverages in paper, plastic or other disposable containers.

RESTAURANT PLAY AREA. Any portion of a restaurant or its lot which is used as a recreation or play area.

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

ROADSIDE STAND. Premises for sale of edible farm products, flowers, fireplace wood, preserves and similar products, all of which have been produced or grown within Winchester on land owned by the owner of the stand; no goods except plants, flowers and fireplace wood shall be stored or offered for sale outdoors.

SANITARY SEWER. A public sanitary sewer of the Town of Winchester.

SATELLITE RECEIVING ANTENNAS. An antenna whose principal feature is for receiving signals from an earth orbiting satellite.

SIDE LINE OF A LOT. A line separating a lot from other lots or from land in different ownership, other than a street line or a rear lot line.

SIGN. The word "sign" shall include any letter, word, symbol, drawing, picture, design, device, article and object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction, provided however that the following shall not be included in the application of the regulations of the Sign Bylaw.

a. Flags and insignia of any government, except when displayed in connection with commercial promotion;

b. Legal notices, identification, informational or directional signs erected or required by governmental bodies;

c. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights; and

d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SITE PLAN REVIEW. Review by the Site Plan Review Authority to determine conformance with local site plan regulations, as outlined in specific provisions of the Zoning Bylaw of the Town of Winchester, Massachusetts.

SPECIAL PERMIT. A use authorized by special permit is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special permits, if specific provision for such special permits is made in this Zoning Bylaw.

STORY. That portion of a building contained between any floor and the floor or roof next above it; it does not include either the lowest portion so contained if more than one-half

of such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

STORY, HALF. A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

STREET, ROAD, OR WAY. An area of land dedicated, approved by the Planning Board, or legally open for public travel under at least one of the following classifications:

a. A public way duly laid out by the Town of Winchester, the Middlesex County Commissioners, the Metropolitan District Commission or the Commonwealth of Massachusetts, or a way which the Winchester Town Clerk certifies is maintained by public authority and used as a public way excluding, however, limited access highway; or

b. A way shown on a definitive plan approved and endorsed in accordance with the subdivision Control Law; or

c. A way in existence prior to said Subdivision Control Law having become effective in the Town of Winchester (August 31, 1953), having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular 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 to be erected thereon.

A public or private way as stated above shall not be deemed to be a “street” as to any lot of land that does not have right of access to or passage over said way.

STREET LINE. The right-of-way line of a street.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards and poster panels.

STRUCTURE, TEMPORARY. Tent, construction shanty, or similarly portable or demountable structure intended for continuous use for not longer than one year.

SWIMMING POOL. Any pool having a depth of at least 24 inches or a water surface area of at least 250 square feet.

TOWN HOUSE. A row of not less than three (3) nor more than ten (10) attached dwelling units contained in one (1) building and separated by common or party walls. The words “Group House” and “Town House” are synonymous.

TRADE SHOP. Shop of a bicycle repairman, builder, carpenter, caterer, electrician, lawnmower serviceman, mason, painter, plumber, or roofer, provided that all work and storage (including the regular parking of commercial vehicles) shall be conducted

within a building.

USE, TEMPORARY. Use, operation or occupancy of a parcel of land, building or structure for a period not to exceed one calendar year.

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

WAY. See "Street, Road or Way."

WIRELESS COMMUNICATIONS FACILITY OVERLAY DISTRICT. See Section 8.4. The following definitions shall apply:

Antenna. The surface from which wireless radio signals are sent and received by a Wireless Communications Facility, including, but not limited to, cross-polarized (or dual polarized) antenna, omnidirectional (whip) antenna and panel antenna.

Camouflaged. A Wireless Communications Facility that is disguised, hidden, or is part of an existing or proposed structure in a visually unobtrusive manner is considered "camouflaged".

Carrier. A company that provides Wireless Communications.

Co-Location. The use of a single mount on the ground by more than one Carrier (vertical Co-location) and/or several mounts on a building by more than one Carrier.

Cross-Polarized (or Dual-Polarized) Antenna. A low mount that has three panels flush mounted or attached very close to the shaft.

Elevation. The measurement of height above mean sea level, based upon North American Vertical Datum of 1988 (NAVD 88).

Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a Wireless Communications Facility is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

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

Height. The height of a Facility is the vertical distance measured from the highest point of the Facility to the base of the Facility; as to a ground mounted Facility, the "base of the Facility" shall be at the point of its intersection with the ground; as to a roof mounted Facility, the "base of the Facility" shall be at the point of its installation to the roof.

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

Licensed Carrier. A company authorized by the FCC or other agency of lawful and competent jurisdiction to construct and operate a commercial mobile radio service system.

Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for antennas.

Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts: (1) roof mounted: mounted on the roof of a building; (2) side-mounted: mounted on the side of a building; (3) ground-mounted: mounted on the ground; (4) structure-mounted: mounted on a structure other than a building.

Omnidirectional (Whip) Antenna. A thin rod that beams and receives a signal in all directions.

Panel Antenna. A flat surface antenna, usually developed in multiples.

Personal Communications Services (PCS). These are broadband radio wave systems that operate at radio frequencies authorized by the Federal Communications Act of 1996, as amended (the "Telecommunications Act").

Radiofrequency (RF) Engineer. An engineer specializing in electric or microwave engineering, especially the study of radio frequencies.

Radiofrequency Radiation (RFR). The emissions from Wireless Communications Facilities.

Scenic View Points. Site lines of scenic, historic, environmental and natural or man-made resources as designated from time to time filed by the Board of Appeals as being of particular importance to the preservation of the character and appearance of the Town; from time to time, the Board of Appeals shall file a then current list of the Scenic View Points with the Zoning Enforcement Officer.

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

Utility. A system of wires or conductors and supporting structures that functions in the transmission of electrical energy or communication services (both audio and video) between generating stations, sub-stations, and transmission lines or other utility services.

Wireless Communications. Wireless telecommunications services regulated by the Federal Communications Commission ("FCC") and defined as "Personal Wireless Services" in Section 704 or other sections of the Telecommunications Act: by way of example, but not limitation, commercial mobile radio services, unlicensed wireless services, and common Carrier wireless exchange access services.

WIRELESS COMMUNICATIONS FACILITY (FACILITIES). Any structure, antenna, tower, or other device used for commercial and noncommercial purposes and

which is used to provide wireless communications services including, but not limited to: Personal Wireless Services, mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (EMSR), personal communications services (PCS), common carrier wireless exchange access services, and any other wireless communications service that may not be specifically named herein but which utilizes wireless facilities, structures, and devices that are functionally similar to those used in services named herein and which may be lawfully subject to local regulation in accordance with this Bylaw and other applicable laws.

WIRELESS COMMUNICATIONS SERVICE (SERVICES). The provision of any of the following services: Personal Wireless Services, mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (EMSR), personal communications services (PCS), common carrier wireless exchange access services, and any other wireless communications service that may not be specifically named herein but which utilizes Wireless Communications Facilities, structures and devices that are functionally similar to those used in the services named herein and which may be lawfully subject to local regulation in accordance with this Bylaw and other applicable laws.

YARD. An open space unoccupied and unobstructed by any structure or portion of a structure, provided however that fences, freestanding walls, poles, posts and other customary yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. Eaves, gutters, chimneys, cornices, platforms, and other similar small appendages to permitted structures shall not be regarded in computation to the extent that they do not intrude into the setback area by more than 20 percent.

YARD, FRONT. A yard extending between lot side lines across the lot adjacent to each street it abuts.

YARD, REAR. A yard extending between the side lines of a lot adjacent to the rear line of the lot.

YARD, SIDE. A yard extending along each side line of a lot between front and rear yards.

ZONING ENFORCEMENT AUTHORITY. The person or board charged with enforcing the Zoning Bylaw of the Town of Winchester, Massachusetts.