

Chapter 300

ZONING

Part 1
General Provisions

ARTICLE I
Purpose

§ 300-1.1. Authority, adoption and title.

For the purpose of promoting the health, safety, convenience, morals and welfare of its present and future inhabitants, the Town of Sturbridge, pursuant to the provisions of MGL c. 40A, §§ 1 through 17, as amended, hereby adopts this bylaw, which shall be known as and cited as the "Zoning Bylaw of the Town of Sturbridge."

§ 300-1.2. Purpose.

Further purposes of this bylaw are to lessen the congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate air and light, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, open space and other public requirements, so as to increase the amenities of the municipality.

§ 300-1.3. Intent.

The use, construction, repair, alteration and height of buildings and structures and the use of land in the Town of Sturbridge are hereby restricted and regulated as hereinafter provided.

ARTICLE II
Definitions

§ 300-2.1. Word usage.

For the purpose of this bylaw, certain terms or words used herein shall be interpreted or defined as follows: The present tense includes the future, the singular includes the plural; the word "person" includes corporations as well as individuals; the words "used" or "occupied" shall be construed to include the words "intended," "arranged" or "designed to be used or occupied"; the term "shall" is mandatory.

§ 300-2.2. Terms defined.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this bylaw, have the meanings herein given:

ACCESSORY USE — The subordinate use of a building or premises for a purpose customarily incidental to a main or principal use permitted in the district in which it is located.

ADULT DAY CARE — An establishment providing for the care, supervision and protection of individuals over the age of 18 who are in need of such care.

ARTIST STUDIO — A place of work for an artist, artisan or craftsperson, including persons engaged in the application, teaching or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture and writing, and may include the dwelling of the artist.

ARTS CENTER — A structure or complex of structures for the visual and performing arts.

BANNER — A flexible substrate on which copy or graphics may be displayed.

BED-AND-BREAKFAST — A dwelling in which the primary resident provides overnight accommodations and meals for no more than four rooms for compensation.

BOARDINGHOUSE — Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed to be a boardinghouse.

BOUTIQUE — A small retail shop that specializes in gifts, fashionable clothes, accessories or food, for example.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel. The word "building" shall be construed, where the context allows, as though followed by the words "or parts thereof".

BUILDING SIGN — A sign that is applied or affixed to a building.

BUSINESS — The transacting or carrying on of a trade or commercial enterprise, not manufacturing, with a view to profit or for a livelihood.

BUSINESS SUPPORT SERVICES — An establishment within a building that is oriented toward providing services to other businesses, although it may also serve the general public. Examples of these services include but may not be limited to

blueprinting, copying and printing services, mailing and mailbox services, security system services, soils and materials testing laboratories and other similar services.

CAMPGROUND — A parcel of land used or intended to be used, let or rented for temporary short-term occupancy (not to exceed 90 days) by campers or transient tourists utilizing tents, recreational vehicles or other types of movable or temporary shelter.

CAR WASH — A structure containing facilities for washing automobiles with automatic or semi-automatic application of cleaners, brushes, rinse water and heat for drying.

CHANGEABLE SIGN — A sign with the capability of content change by means of manual input.

CHILD DAY-CARE CENTER — A commercial or nonprofit child day-care facility designed and approved to accommodate 15 or more children. This may include infant centers, preschools and school-age child day-care facilities.

CONTINUOUS BUILDABLE AREA — That portion of a lot comprised exclusively of connected upland and consisting of such upland square footage/acreage equal to or greater than the minimum lot size requirement for the zoning district in which the lot is situated; said upland shall exclude any freshwater wetland as delineated per Chapter 286, Wetlands, of the Town bylaws and any pond or stream.

CORNER LOT — A lot bounded on two or more sides by intersecting streets or ways.

CRAFT BEVERAGE BUSINESS WITH TASTING ROOM — A facility licensed under the relevant state and federal statutes for the production and distribution of malt, spirituous or vinous beverages. Such establishment may include on-site sampling, the sale of permitted beverages produced on the premises to consumers for off-site consumption, and the sale of commercial goods branded by the establishment. A tasting room, not to exceed 50% of the building's gross square footage, that allows patrons to sample or consume beverages that are produced on premises is permitted as an accessory use. The establishment may also host marketing events, special events and/or factory tours. May include facilities for customers to brew on-premises for personal consumption off-site as an accessory use.

CRAFT MARIJUANA CULTIVATOR COOPERATIVE — A marijuana cultivator comprised of residents of the commonwealth organized as a limited-liability company or limited-liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to consumers.

DIRECTIONAL SIGN — Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DRIVE-THRU MENU SIGN — A sign associated with drive-thru windows or kiosks and directed to drive-thru traffic only.

DRIVEWAY — A means of access and egress to the principal area of development of a lot, terminating at the lot line providing legal frontage on an approved way, and contained totally within the perimeter of said lot.

DWELLING — A building designed or used as the living quarters for one or more

families. The terms "dwelling," "one-family dwelling," "two-family dwelling," "multifamily dwelling" or "dwelling group" shall not be deemed to include a trailer coach, mobile home, house trailer or any similar term used in the business of selling trailers, trailer coach parks, tourist home or boardinghouse.

EQUIPMENT SALES AND RENTAL FACILITIES — Retail and service establishments which may offer a wide variety of materials and equipment for sale and/or rental.

FAMILY — One or more persons who live together in one dwelling unit and maintain a common household. It may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. It may also include domestic servants and gratuitous guests.

FARMER'S MARKET — The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products and similar agricultural products in a designated area, where the vendors are the individuals who have raised the produce or taken the same on consignment for retail sale.

FAST CASUAL RESTAURANT — An establishment that is at least 4,000 square feet in area, which serves food or beverages for immediate consumption either on the premises or to be taken out for consumption elsewhere. A fast casual restaurant is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required prior to consumption and seating or other physical accommodations for on-premises customer dining, with limited or no table service (no waiters or waitresses), is provided (or that does not offer full table service, but promises a higher quality of food with fewer frozen or processed ingredients than other fast-food restaurants). Examples of this type of facility may include, but are not limited to, establishments selling sandwiches, salads, soups, fresh baked breads and other freshly prepared dishes. May include a drive-thru window either by special permit or by right as noted elsewhere in this bylaw.

FAST-FOOD ESTABLISHMENT — An establishment where the principal method of operating includes: (1) sale of prepared, ready-to-consume food and beverages in paper, plastic or other disposable containers; or (2) service of food and beverages directly to a customer in a motor vehicle. Bakeries, delicatessens, confectioneries and other similar, retail establishments, which incidentally sell retail food and beverages in disposable containers for off-site consumption, are not fast-food establishments. A fast-food establishment may have a drive-thru window subject to the standards outlined in this bylaw.

FENCE — A man-made construction used to define an area, boundary or line of demarcation.

FLEA MARKET — A commercial enterprise conducted on a temporary or occasional basis at which antiques, used goods, curios, works of art, rummage or similar items are displayed and sold during less than, or other than, usual business hours and at which such items and the furniture, fixtures or equipment used to display them are typically, but not necessarily, removed from the place of display and sale at the close of each business day; provided that the words "flea market" shall not include the sale of such items by a:

- A. Natural person at his residence if he owns such items and did not acquire them for resale.

B. Civic or religious group.

FLOOR AREA (GROSS) — The total floor area of all floors of a building, including basement and mezzanines (measured to the interior walls thereof), stairwells, corridors and covered porches.

FLOOR AREA (HABITABLE) — That finished area within a dwelling which has a minimum headroom of seven feet. Above the first floor, such space shall be counted only if it is connected to the floor below by a permanent inside stairway. Porches, verandahs, unfinished basement rooms, garages or any form of attached accessory structure shall not be counted.

FREESTANDING SIGN — A sign principally supported by one or more columns, poles or braces placed in or upon the ground. May also be referenced as a "ground" or "monument sign."

FRONTAGE — The horizontal distance measured along the front street lot line between the points of intersection of the side lot lines with the front lot line, which provides safe, convenient and meaningful vehicular access to the building portion of the lot. Frontage for the purpose of this bylaw shall be continuous frontage and in the case of corner lots shall be measured on the front lot line. This will be the street address for the property. Calculation of the frontage dimensional requirements shall be in conformance with Part 4, Article XIV, Intensity Regulations.

GARAGE (PRIVATE) — An accessory building used only for storage of motor vehicles.

GARAGE (PUBLIC) — A building, other than a private garage, available to the public and operated for gain, and which is used for the storage, repair, rental, lubrication, washing, servicing, adjusting or equipping of motor vehicles.

GOLF COURSE — A minimum 120-acre tract of land with at least 60 upland acres laid out for at least nine holes for playing the game of golf. Accessory uses shall be limited to: a clubhouse, a restaurant with a maximum 200 seating capacity, pro shop, instruction areas, driving range and groundskeeper facilities. There shall be a minimum 100-foot buffer from all lot lines to the rough of the course and a minimum 300-foot buffer from all lot lines to any structure in excess of 100 square feet.

HEALTH AND FITNESS CENTER — An establishment wherein are located health and fitness training activities: artificial tanning, weight training, aerobics, running, jogging, racquetball, handball, tennis, squash, martial arts, massage when performed by a licensed massage therapist, bathing, whether in swimming pools, hot tubs, Jacuzzis, whirlpools or vapor baths.

HEIGHT OF BUILDING — The vertical distance of the highest point of the roof above the mean finished grade adjoining the building, excluding penthouses, bulkheads and other permitted superstructures above the roof.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a clinic, hospital, barber shop, beauty shop, tea room, tourist home, animal hospital or any similar use shall not be deemed to be a home occupation.

HOSPITAL — An institution providing primary health services and medical or surgical

care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

HOTEL/MOTEL/INN — Facilities with guest rooms or suites provided with or without kitchen facilities, rented to the general public for transient lodging (less than 30 days). Hotels provide access to most guest rooms from an interior walkway, and typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Inns are commonly distinguished from a hotel or motel by their size and purportedly more personal atmosphere. Inns are often contained in whole or in part in buildings that were previously private residences. May include accessory guest facilities such as swimming pools, tennis courts, indoor athletic/fitness facilities and accessory retail uses.

IMPERVIOUS SURFACE — Includes all areas covered by buildings, sidewalks, driveways and parking areas and any other areas that prevent absorption of stormwater into the ground at a rate less than 120 minutes per inch, but not including retention or detention ponds.

INDOOR COMMERCIAL RECREATION FACILITY — Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity. Uses may include but are not limited to arcade, arena, art gallery, art studio, art center, assembly hall, athletic and health clubs and facilities, auditorium, bowling alley, exhibit hall, gymnasium, museum, performance theater, pool or billiard hall, skating rink, swimming pools, tennis facilities, trampoline parks and other similar uses. Such facility may also provide other regular organized or franchised events, such as children's amusements, dance studios and instruction, music schools and instruction, martial arts studios and instruction and other similar type uses. May include accessory uses such as snack bar, restaurant, retail sales or related sports, health or fitness items and other support facilities.

INDOOR FAMILY AMUSEMENT CENTERS — A facility located within a building that focuses on entertainment and experiences in a family atmosphere and may include games, billiards, experiential activities, play zones, sports simulators or other similar activities.

INFORMATION PROCESSING FACILITIES — Office-type facilities characterized by high employee densities, and occupied by businesses engaged in information processing, and other computer-dependent and/or telecommunications-based activities. Examples of these include:

- A. Computer software and hardware design and development.
- B. Consumer credit reporting.
- C. Data processing services.
- D. Health management organization (HMO) office where no medical services are provided.
- E. Insurance claim processing.

F. Mail order and electronic commerce transaction processing.

G. Telemarketing.

JUNKYARD — A lot, parcel of land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LABORATORIES FOR RESEARCH AND DEVELOPMENT — Scientific laboratories for research and development which may pertain to medical/scientific research and/or product development.

LARGE SOLAR ENERGY FACILITY — A commercial solar facility whose primary purpose is electrical generation for the wholesale electricity market. It includes service and access roads, equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power with a rated nameplate capacity of greater than 100 kW/0.1 MW.

LONG-TERM CARE FACILITY — Any institution, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of providing three or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries, sanitariums and assisted-living facilities.

LOT — A single tract of land held in identical ownership throughout, and which is bound by streets, ponds, waterways or by land of other owners. A "corner lot" is a lot at the junction of, and fronting on, two or more intersecting streets.

LOT COVERAGE — The amount of the lot covered by the principal buildings and structures and those accessory buildings and structures which are clearly and necessarily associated with the principal use, excluding decorative or ornamental features as well as drives and parking areas not contained within a parking structure.

LOT LINE — The dividing line between lots.

MARIJUANA — All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinol as defined in MGL c. 94C, § 1; provided, however, that "marijuana" shall not include:

- A. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- B. Hemp; or
- C. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package

marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers. A craft marijuana cultivator cooperative is a type of marijuana cultivator.

MARIJUANA ESTABLISHMENT — A marijuana cultivator, independent testing laboratory, marijuana research facility, marijuana manufacturer, marijuana retailer or any other type of licensed marijuana-related business, except a registered marijuana dispensary and off-site medical marijuana dispensary.

MARIJUANA INDEPENDENT TESTING LABORATORY — A laboratory that is licensed by the Cannabis Control Commission and is:

- A. Accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission;
- B. Independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and
- C. Qualified to test marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, § 34.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

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

MARIJUANA RESEARCH FACILITY — An entity licensed to engage in research projects by the Cannabis Control Commission.

MARIJUANA RETAILER — An entity licensed to purchase and transport cannabis or marijuana product from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and to consumers.

MARIJUANA TRANSPORTER — An entity, not otherwise licensed by the Cannabis Control Commission, that is licensed to purchase, obtain and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, not for sale to consumers.

MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD) — All land as portrayed on the Town of Sturbridge Medical Marijuana Overlay District Map, dated February 12, 2014, an overlay map to the official Sturbridge Zoning Map. As an overlay district, all requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded per the Medical Marijuana Overlay District Bylaw.¹ If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD

1. Editor's Note: See Art. VII, Medical Marijuana Overlay District, of this bylaw.

conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

MEDICAL TREATMENT BUILDING — A building that contains establishments dispensing health services.

MICROBREWERY — Within the Rural Residential District, this shall mean an establishment operating under a farmer-brewery license as provided for in MGL c. 138, § 19C, not to exceed 5,000 barrels annually. Such use shall only be permitted on parcels containing a minimum of 20 acres. Within any Commercial District where such use is permitted, a microbrewery shall be defined as a facility that prepares handcrafted beer intended for retail and/or on-premises tasting and consumption.

MICROBUSINESS — A co-located marijuana establishment that can be either a Tier 1 marijuana cultivator or product manufacturer or both pursuant to state regulations, in compliance with the operating procedures for each license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

MOBILE HOME — See "trailer coach."

MOTEL — See "hotel/motel/inn."

MULTIFAMILY DWELLING — A building containing three or more dwelling units, including units that are located over one another.

MULTIPLE DWELLING — A dwelling used or occupied by three or more families, including apartment houses, and condominiums.

MULTIPLE-TENANT PROPERTY — A property owned by an individual, partnership, corporation, trust or other such entity, with a portion or all of said property subdivided into individual areas and/or buildings rented to others for the purpose of conducting independent business.

MUSEUM — Public or quasi-public facilities, including aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums and planetariums, with no retail sales activities other than an accessory gift/book shop and accessory food sales. Does not include retail art galleries where artworks on display may be purchased by patrons.

NONPROFIT CLUB — A club conducted for a common purpose to pursue common goals, interests or activities, usually characterized by certain membership qualifications, payment of dues, regular meetings, a constitution and bylaws and not intending or intended to earn a profit.

NONCONFORMING USES — Uses legally existing at the adoption of this bylaw or any amendment thereto, but which do not conform to the requirements for the zone in which they are located.

OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD) — A registered marijuana dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 935 CMR 501, or such other state regulation, as the case may be.

OFF-STREET PARKING SPACE — A space not less than 200 square feet in a structure or on a lot for the parking of a motor vehicle, including necessary access.

OUTDOOR COMMERCIAL RECREATION FACILITY — A recreational facility conducted for commercial purposes and primarily outside of a building with any of the uses included in commercial indoor recreation and also including uses such as athletic fields, miniature golf, batting cages, equestrian centers and other similar uses. May include accessory uses such as snack bar, restaurant, retail sales or related sports, health or fitness items and other support facilities. Shall not include motorsports, go-carts or other motorized commercial activities or firing ranges or similar uses.

PARKING AREA — Any public or private area, under or outside a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways and legally designated areas of public streets.

PERSONAL SERVICE ESTABLISHMENTS — Those which administer personal services, including nail salons, tanning salons, day spas, tattoo shops, piercing, aromatherapy, skin clinics, medical spas, pet grooming, tailoring, shoe repair and other similar uses.

PROFESSIONAL OFFICE — Professional offices, including facilities occupied by businesses that provide professional services and/or are engaged in the production of intellectual property. Examples of these include: accounting, auditing and bookkeeping services; advertising agencies; attorneys; commercial art and design services; counseling services; design services, including architecture, engineering, landscape architecture, urban planning; education, scientific and research organizations; financial management and investment counseling; management and public relations services; media postproduction services; news services; photographers and photography studios; secretarial, stenographic, word processing and temporary clerical employee services; security and commodity brokers; and writers and artists offices.

PUBLIC RECREATIONAL FACILITIES — A recreational facility open to the general public, owned and operated by a governmental agency.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a "nameplate" on the equipment.

REGISTERED MARIJUANA DISPENSARY — Also known as a "medical marijuana treatment center," means an entity registered under 935 CMR 501.050, or such other state regulation, as the case may be, that acquires, cultivates, possesses, processes [including development of related products such as edible marijuana-infused products ("MIPs"), tinctures, aerosols, oils or ointments], transfers, transports, sells, distributes, dispenses or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation and preparation of marijuana.

RESTAURANT — An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. A full-service restaurant is characterized as an establishment in which food is cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining with table service (waiters or waitresses). A full-

service restaurant does not contain a drive-thru window.

SANITARIUM — An establishment for the recuperation or treatment of invalid or convalescent persons.

SETBACK — The minimum distance from the street line or property line that a structure and parking area must be set except as regulated under Part 4, Article XVII, and § 300-19.6 of this bylaw.

SIGN — Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

SINGLE-FAMILY ATTACHED DWELLING — A building where three or more individual dwelling units are physically connected to like dwellings for at least a portion of one or more of their exterior walls and therefore have no side yard. Single-family attached dwellings may include townhouses in traditional row or other configuration or shape; or individual single-family units meeting at a common lot line. A single-family attached dwelling shall not include any building where any dwelling unit is located above or below any other dwelling unit.

SINGLE-FAMILY DETACHED DWELLING — A detached building designed for or occupied exclusively by one family.

SMALL SOLAR ENERGY FACILITY — A solar facility that has a total rated nameplate capacity of not more than 100 kW/0.1 MW. It includes the equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power.

SPECIAL PERMIT — A permit allowing an exception to this bylaw provided by § 300-18.2, Zoning Board of Appeals, Subsection B(2).

STORY — That portion of a building between any floor and the floor or roof next above. For the purpose of this bylaw, where a building is not divided into stories, a story shall be considered to be 15 feet in height, provided that steeples, penthouses, cupolas, stage lofts, etc., shall not be considered as additional stories. A basement or cellar, the ceiling of which extends more than 4 1/2 feet above the average finished grade, shall be a story within the meaning of this bylaw.

STREET —

- A. An improved public way;
- B. A way shown on a plan heretofore approved by the Planning Board in accordance with the Subdivision Control Law; or
- C. A way in existence when the Subdivision Control Law became effective in the Town of Sturbridge, 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.

STREET LINE — The line separating a street from a lot as determined by deeds and plans recorded at the Registry of Deeds.

STRUCTURE — A combination of materials, assembled at a fixed location to give

support or shelter, such as a building, framework, retaining wall, reviewing stand, platform, bin, swimming pool, sign, flagpole, mast for radio and television antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or parts thereof".

TEMPORARY SIGN — A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

TOURIST HOME — A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

TRAILER COACH — Any vehicle or object on wheels and having no motive power of its own, but which is drawn by or used in connection with a motor vehicle and which is so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundation, and shall include the type of vehicle commonly known as a "mobile home," and specifically excludes the type of vehicle commonly known as a "camping or tenting trailer."

TRAILER COACH PARK — Any lot or tract of land upon which three or more trailer coaches, occupied for dwelling purposes, are located, including any buildings, structures, fixtures and equipment used in connection with trailer coaches.

TRUCK STOP —

A. For the purpose of this bylaw a truck stop is:

- (1) A facility devoted, in whole or in part, to the sale of fuel and/or oil and/or services for transient trucks and/or where the trucks are allowed to park while the operator or any other person sleeps or rests in the cab.
- (2) A facility which, in addition to providing fuel and/or oil and/or services to trucks and/or their operators, also provides on-premises facilities for any, all or some of the following elements: overnight accommodations primarily for truck drivers; shower facilities; laundry facilities; or lounges or recreation rooms.
- (3) Any property where more than one truck is allowed to park, on a more or less regular basis, for periods of time longer than are necessary for obtaining fuel and/or services for truck or driver.
- (4) Any property, except a state-provided parking area, where more than one truck is allowed to park on a more or less regular basis, and no work is being performed and no services for truck or driver are required.

B. "Truck" for the purpose of this bylaw shall mean: a transient tractor-trailer as a combined unit or as either unit singly or a transient truck with three or more axles.

TWO-FAMILY DWELLING — A building containing two dwelling units.

VARIANCE — A modification to the terms of this bylaw which may be granted by the Zoning Board of Appeals in an individual case in accordance with § 300-18.2B(3).

WALK-UP ESTABLISHMENT — An establishment such as an ice cream or sandwich shop that by design of its physical facilities, service or packaging allows pedestrians to receive a service or obtain a product without entering the establishment.

WIDTH — The minimum distance between side lot lines as measured parallel to frontage and at the point of minimum setback from the street line as specified in this bylaw.

WINDOW SIGN — A sign affixed to the surface of a window with its message intended to be visible to the exterior environment.

YOUTH CENTER — A nonprofit establishment intended for youths, characterized by indoor/outdoor recreational activities such as basketball, skating, billiards, card games, arcade games, etc. and/or by support services such as tutoring and counseling.

**Part 2
District Regulations**

**ARTICLE III
Establishment of Districts**

§ 300-3.1. Types of districts.

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

RURAL RESIDENTIAL	(RR)
SUBURBAN RESIDENTIAL	(SR)
COMMERCIAL	(C)
COMMERCIAL II	(C2)
GENERAL INDUSTRIAL	(GI)
INDUSTRIAL PARK	(IP)
COMMERCIAL/TOURIST	(CT)
HISTORIC COMMERCIAL	(HC)
SPECIAL USE	(SU)
VILLAGE GATEWAY DISTRICT	(VGD)
WIRELESS COMMUNICATION OVERLAY	(WC)
MEDICAL MARIJUANA OVERLAY DISTRICT	(MMOD)
FLOODPLAIN DISTRICT	(FP)

§ 300-3.2. Location of districts; Zoning Map.

Said districts are hereby located and bounded as shown on a map entitled "Zoning Map of Sturbridge, Massachusetts," and the "Town of Sturbridge - Overlay District Map," as most recently revised and on file in the Town offices. Said maps and explanatory matter are hereby declared to be a part of this bylaw.

§ 300-3.3. District boundaries.

The location of the boundary lines of the districts shown on the Zoning Map shall be determined as follows:

- A. District boundary lines on ways. Where the said boundary lines are shown on said map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.
- B. District boundary lines on lot lines. Where the said boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of figures, then the property or lot lines shall be the boundary lines.

- C. District boundary lines outside of street lines. In the absence of specific dimensions, the distance of the boundary back from the street lines (and running parallel to the street) is assumed to be the distance which, when multiplied by the frontage requirement for the district, will produce the minimum lot size allowed for the district.
- D. District boundary lines on waterways. Where said boundary lines follow a waterway, the said boundary line shall be as shown on the Zoning Map and shall be deemed to be at the limit of the jurisdiction of the Town, in those cases where the Zoning District boundary line is also a Town boundary line.
- E. Location of district boundary lines. In cases which are not governed by other provisions of this section, the location of said boundary lines shall be determined by the distances in feet, if given, from other lines upon said map, or, if the distances are not given, then by the scale of the map.
- F. Determination of district boundary lines. Whenever any uncertainty exists as to the exact location of a district boundary line, the location of such lines shall be determined by the Board of Selectmen; provided, however, that any person aggrieved by their decision may appeal to the Zoning Board of Appeals.

§ 300-3.4. Floodplain District.

A Floodplain District is hereby established as an overlay district to all other districts.

- A. Floodplain District definitions. Where not expressly defined in the Zoning Bylaws, terms used in this section shall be interpreted as defined below:

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59; also Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

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

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

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

REGULATORY FLOODWAY — See "floodway."

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

START OF CONSTRUCTION —

- (1) The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is

within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

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

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

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

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

- B. The purpose of the Floodplain Overlay District is to:
- (1) Ensure public safety through reducing the threats to life and personal injury.
 - (2) Eliminate new hazards to emergency response officials.
 - (3) Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding.
 - (4) Avoid the loss of utility services, which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
 - (5) Eliminate costs associated with the response and cleanup of flooding

conditions.

- (6) Reduce damage to public and private property resulting from flooding waters.
- C. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Sturbridge designated as Zone A, AE, AH, AO or A99 on the Worcester County Flood Insurance Rate Map (FIRM) dated July 16, 2014, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the one-percent-chance base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Director of Inspections, and the Conservation Commission.
 - D. Within Zone A, where the 100-year flood elevation is not provided on the FIRM, the applicant shall obtain any existing flood elevation data, and it shall be reviewed by the Planning Board. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw and the State Building Code.
 - E. The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplain as well as the DEP Wetlands Protection Regulations, DEP Inland Restriction, DEP Coastal Wetlands Restriction and the DEP Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.
 - (1) Designation of community floodplain administrator. The Town of Sturbridge hereby designates the position of Town Planner to be the official floodplain administrator for the Town.
 - (2) Permits are required for all proposed development in the Floodplain Overlay District. A permit is required for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
 - (3) Assure that all necessary permits are obtained. Sturbridge's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the Floodplain Overlay District. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.
 - (4) Variances to Building Code floodplain standards.
 - (a) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

- (b) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing, over the signature of a community official that:
 - [1] The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - [2] Such construction below the base flood level increases risks to life and property.
- (c) Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.
- (5) Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from these floodplain bylaws must meet the requirements set out by state law, and may only be granted if:
 - (a) Good and sufficient cause and exceptional nonfinancial hardship exist;
 - (b) The variance will not result in additional threats to public safety, extraordinary public expense or fraud or victimization of the public; and
 - (c) The variance is the minimum action necessary to afford relief.
- F. The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:
 - (1) Agricultural uses.
 - (2) Forestry and nursery uses.
 - (3) Outdoor recreational uses.
 - (4) Conservation and wildlife management areas.
 - (5) Temporary, nonresidential structures used in connection with growing, harvesting, storage or sale of crops raised on the premises.
 - (6) Buildings lawfully existing prior to the adoption of these provisions.
- G. No structure or building shall be erected, constructed, substantially improved, moved, or otherwise created; no earth or other materials dumped, filled, evacuated, or transferred unless a special permit is granted by the Planning Board. Said Board may issue a special permit hereunder (subject to the applicable provisions of this Bylaw) if the application is compliant with the following provisions:
 - (1) The proposed use shall comply in all respects with the provisions of the underlying district.
 - (2) Review and reports.

- (a) Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to each of the following:
 - [1] Board of Health;
 - [2] Town Engineer/DPW Director;
 - [3] Conservation Commission;
 - [4] Director of Inspections; and, if concerned
 - [5] Fire Chief;
 - [6] Police Chief;
 - [7] Board of Selectmen.
 - (b) Final action shall not be taken until reports have been received from the above boards or 35 days have elapsed and a properly published and posted public hearing has been held.
- (3) Watercourses with or without designated regulatory floodways.
 - (a) In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (b) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Sturbridge FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (4) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.
 - (5) No building, development or substantial improvement shall be allowed in a floodway.
 - (6) The flood-carrying capacity shall be maintained within any altered or relocated portion of any watercourse.
 - (7) A minimum of 98% of the natural surface and underground flood storage volume of the site shall be maintained.
 - (8) Safe and permanent access shall be maintained by the owner from the nearest public way to any proposed building in the floodplain.
 - (9) All new or reconstructed water, sewer, drainage and other utilities shall be designed and located to avoid their impairment, promote safety and minimize flood damage. Approval of the Board of Health shall be required for sewer and drainage systems.

- (10) If the structure has been floodproofed, the Director of Inspections shall be furnished with the elevation to which the structure has been floodproofed.
 - (11) All buildings and structures as defined in 780 CMR 120.G201 (State Board of Building Regulations and Standards), including new or replacement manufactured homes erected or substantially improved in Flood Hazard Zones (A Zones), shall be designed and constructed in accordance with 780 CMR 120.G501 (as may from time to time be amended).
 - (12) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.
 - (13) Subdivision proposals. All subdivision proposals and development proposals in the Floodplain Overlay District shall be reviewed to assure that:
 - (a) Such proposals minimize flood damage.
 - (b) Public utilities and facilities are located and constructed so as to minimize flood damage.
 - (c) Adequate drainage is provided.
 - (14) Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state or other source as criteria for requiring new construction, substantial improvements or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level and for prohibiting encroachments in floodways.
 - (15) AO and AH Zone drainage requirements. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
 - (16) When floodproofing is used, it shall be certified by a registered professional engineer and registered architect to be adequate to withstand the forces associated with the base flood, and to be essentially watertight with walls substantially impermeable to the passage of water.
- H. Trailer coach and mobile home parks; recreational vehicles.
- (1) No trailer coach parks or mobile home parks will be permitted in the Floodplain District.
 - (2) Recreational vehicles. In A1-30, AH and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- I. Notification of watercourse alteration. The following parties must be notified in the case of any alteration or relocation of a watercourse:

- (1) Adjacent communities.
- (2) Bordering states (optional).
- (3) FIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 800
Boston, MA 02114-2104

- (4) NFIP Program Specialist

Federal Emergency Management Agency, Region 1
99 High Street, 6th Floor
Boston, MA 02110

J. Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA-mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s).

- (1) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High Street, 6th Floor, Boston, MA 02110

- (2) And copy of notification to:

Massachusetts NFIP State Coordinator
MA Department of Conservation and Recreation
251 Causeway Street, Boston, MA 02114

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

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

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

ARTICLE IV
Use Regulations

§ 300-4.1. General provisions.

- A. No building or structure shall be constructed, and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for one of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district and so authorized. All uses, other than a single-family dwelling and two-family dwelling, nursery, farm, in-home professional office, and accessory uses customarily incidental to these uses, shall be subject to site plan review as detailed in Part 5, Article XIX, of this bylaw.
- B. No building or structure shall be constructed unless a building permit is first secured. A special permit shall also be required in some cases as defined in the following sections.
- C. Further:
- (1) No building permit or certificate of occupancy shall be issued for any new construction on a lot which has a regularity factor of less than 0.40. The regularity factor shall be determined by the formula:

$$R = \frac{16A}{P^2}$$

Where:

R = Regularity Factor

A = Land Area in Square Feet

P = Perimeter in Feet
 - (2) That part of the lot area in excess of the required lot area may be excluded from the regularity formula in determining the regularity factor. The perimeter containing the excess area shall not include the required frontage.
 - (3) The regularity formula shall not apply to lots of record as of the date of adoption of this section, April 29, 1985.
- D. No lot shall be considered buildable unless the building(s), and/or Town water and sewer, well and septic system are located in the contiguous upland acreage equal in size to at least 90% of the minimum required lot size, or 40,000 square feet, whichever is less, for the zoning district where the lot is located.
- E. No soil removal or grade alterations on slopes in excess of 8% shall be permitted within 500 feet of any area subject to protection under the Massachusetts Wetland Protection Act without prior Conservation Commission reviewing and issuing of an order of conditions.
- F. Mixed use. Any use permitted within a district may be combined with any other use, provided all the requirements of the bylaw are met.

§ 300-4.2. Rural Residential District (RR).

- A. Permitted uses. The following uses are permitted uses in the RR District:
- (1) Single-family detached dwelling.
 - (2) Nursery, including display and sale of natural products.
 - (3) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (4) Tree farm.
 - (5) Veterinarian.
 - (6) In-home professional office, where office and residence of the professional are both located in the same building. This use shall be restricted to 25% of total floor area of residence or 500 square feet, whichever is smaller. There shall be no more than two employees other than the professional allowed.
 - (7) Religious, educational or governmental use.
 - (8) Accessory uses customarily incidental to any of the above permitted uses, including customary home occupations when located in the same building as the main use.
 - (9) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
 - (10) Microbrewery.
 - (11) Adult day care.
- B. Exceptions which may be allowed in the RR District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Private club not conducted for profit, provided that adequate off-street parking is provided and that clubhouse facilities are at least 100 feet from any residence.
 - (2) Campground as defined in Part 1, Article II, of this bylaw.
 - (3) Conversion of a one-family dwelling existing at the time of adoption of this bylaw into a two-family dwelling.
 - (4) Trailer coach park, provided that the proposed park conforms in all respects to the requirements of this bylaw and of the Trailer Park Bylaw.²
 - (5) Multifamily dwelling, provided that:

2. Editor's Note: See Ch. 199, Manufactured Housing Communities.

- (a) It does not exceed four dwelling units.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
 - (c) Adequate provision is made for off-street parking.
 - (d) An environmental suitability study shows that the site is capable of sustaining this type of construction.
- (6) Hospital or long-term care facility, in accordance with a site plan indicating layout of buildings on property, parking areas, access and egress, drainage provisions and other site improvements approved by the Planning Board.
 - (7) The removal of sand, gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII, of this bylaw.
 - (8) Golf course, boat livery and riding stables, provided that such uses are to be carried out on property of adequate size.
 - (9) Housing for the elderly. A special permit may be granted by the Planning Board for housing designed and equipped for the elderly and physically handicapped, provided that the project and the location have the approval of the Board of Selectmen. The project may be exempted from the requirements of § 300-4.2B(5) and/or § 300-4.3B(2). An environmental suitability study shall be required. The Planning Board may impose conditions and safeguards. "Elderly" for the purposes of this bylaw shall be persons 55 years of age or older.
 - (10) Two-family residence, provided there is not less than 20,000 square feet of lot area per dwelling unit.
 - (11) Bed-and-breakfast (Planning Board acting as SPGA).
 - (12) Accessory dwelling unit.
 - (13) Single-family attached dwelling, provided that:
 - (a) It is located within an Open Space Residential Development and meets the requirements outlined in Part 3, Article VIII, Open Space Residential Development.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
- C. The following regulations shall be applicable in the Rural Residential District (RR):
- (1) Site plan. See Part 5, Article XIX.

§ 300-4.3. Suburban Residential District (SR).

- A. Permitted uses. The following uses are permitted uses in the SR District:
- (1) Single-family detached dwelling.
 - (2) Religious, educational or governmental use.

- (3) In-home professional office, where office and residence of the professional are both located in the same building. This use shall be restricted to 25% of total floor area of the residence or 500 square feet, whichever is smaller. There shall be no more than two employees other than the professional allowed.
 - (4) Accessory uses customarily incidental to main use on the same premises.
 - (5) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
 - (6) Farm, including agriculture, horticulture, and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (7) Adult day care.
- B. Exceptions which may be allowed in the SR District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Two-family dwelling, provided that there is not less than 20,000 square feet of lot area per dwelling unit.
 - (2) Multifamily dwelling, provided that:
 - (a) It does not exceed four dwelling units.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
 - (c) Adequate provision is made for off-street parking.
 - (d) An environmental suitability study shows that the site is capable of sustaining this type of construction.
 - (3) The removal of sand and gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII of this bylaw.
 - (4) Housing for the elderly. A special permit may be granted by the Planning Board for housing designed and equipped for the elderly and physically handicapped, provided that the project and the location have the approval of the Board of Selectmen. The project may be exempted from the requirements of § 300-4.2B(5) and/or § 300-4.3B(2). An environmental suitability study shall be required. The Planning Board may impose conditions and safeguards. "Elderly" for the purpose of this bylaw shall be persons 55 years of age or older.
 - (5) Bed-and-breakfast (Planning Board acting as SPGA).
 - (6) Golf course and accessory uses customarily incidental thereto.
 - (7) Accessory dwelling unit.
 - (8) Single-family attached dwelling, provided that:

- (a) It is located within an Open Space Residential Development and meets the requirements outlined in Part 3, Article VIII, Open Space Residential Development.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
- C. The following regulation shall be applicable in the Suburban Residential District. (SR):
- (1) Site plan. See Part 5, Article XIX.

§ 300-4.4. Commercial District (C).

A. Permitted uses. The following uses are permitted uses in the C District:

- (1) Single-family dwelling. Also, apartments accessory to a commercial building (not to exceed two dwelling units per building).
- (2) Office, bank, newspaper or job-printing establishment.
- (3) Retail store or shop, barber shop, beauty salon, personal service establishments, shop for the repair of personal or household items, laundromat, health and fitness center, artisan's or craftsman's shop, livery or taxi service licensed by the Board of Selectmen, wholesale and retail sales not involving manufacture on the premises except of products the major portion of which are sold on the premises by the producer.
- (4) Automobile service station.
- (5) Religious, educational or governmental use.
- (6) Nonprofit club.
- (7) Restaurants, including bakery and confectionery.
- (8) A multi-specialty physician office building wherein physicians and non-physician providers and support staff provide diagnostic and treatment services to ambulatory and outpatients, with the assistance and support of laboratory, radiology, physical therapy, pharmacy, mental health and other related personnel and equipment.
- (9) Accessory uses customarily incidental to a permitted main use on the premises.
- (10) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing and snow shoeing through the establishment of trails.
- (11) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
- (12) Fast-food establishment.
- (13) Walk-up establishment.

- (14) Fast casual restaurant.
 - (15) Craft beverage business with tasting room.
 - (16) Urgent care facility.
- B. Exceptions which may be allowed in the C District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Indoor recreation facilities.
 - (2) Outdoor recreation facilities.
 - (3) Indoor family amusement centers.
 - (4) Hotel, inn or motel.
 - (5) The removal of sand, gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII, of this bylaw.
 - (6) Multifamily dwelling, provided that:
 - (a) It does not exceed four dwelling units.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
 - (c) Adequate provision is made for off-street parking.
 - (d) An environmental suitability study shows that the site is capable of sustaining this type of construction and use.
 - (e) The entire multifamily dwelling and its necessary area requirements are located entirely in the Commercial District; or in a less restrictive district.
 - (7) Two-family residence, provided there is not less than 20,000 square feet of lot area per dwelling unit.
 - (8) Car wash (Planning Board acting as SPGA).
 - (9) Youth center.
 - (10) Building heights greater than 35 feet or three stories, pursuant to a determination of the special permit granting authority that the design, siting and scale of the proposed building are consistent with the location, scale and characteristics of the uses of the site and are in harmony with the surrounding properties and land uses.
- C. The following regulations shall be applicable in the Commercial District C:
- (1) Site plan. See Part 5, Article XIX.
 - (2) In addition, applicants shall note the following:
 - (a) Design review is required for new structures, and exterior renovation or alteration of existing structures, in the Commercial District C, as set forth

in Chapter 142, Design Review, of the Town bylaws.

- (b) Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
- (c) Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
- (d) Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.5. Commercial Tourist District (CT).

The Commercial Tourist District is intended to be an attractive neighborhood and commercial center that is pedestrian-friendly, caters to residents and tourists alike and provides a variety of shopping opportunities, restaurants and inns, as well as establishments offering family entertainment during the day and night.

A. Permitted uses. The following uses are permitted uses in the CT District:

- (1) Single-family dwelling.
- (2) Dwelling units located within a structure which is primarily used for a permitted use in this district and secondarily used as a residence.
- (3) Hotels, motels and inns.
- (4) Specialty shopping facilities such as gift shops, apparel shops, antique shops, bookstores, galleries, banks, professional and business services, newsstands, furniture, drapery, music and video, pharmacy, sporting goods, bicycle shops, jewelry, hobby, toy and game stores, camera and photo supplies, luggage and leather, sewing, needlework and piece goods, florists, photographic studios, art dealers and places for display or sale of handicrafts, provided all displays are within the building. Areas for the production of goods are to be limited to no more than 35% of total floor areas. Total area shall not exceed 7,500 square feet per shop.
- (5) Restaurants, bakeries, delicatessens, candy, nut and confectionery stores, dairy, and specialty foods and/or beverage stores and places serving food and/or beverages for consumption on the premises. Total floor area shall not exceed 7,500 square feet per place.
- (6) Microbrewery. Total floor area shall not exceed 7,500 square feet unless located within buildings existing at the time of adoption of this amendment.
- (7) Walk-up establishments.
- (8) Indoor family amusement centers located within buildings existing at the time of adoption of this amendment.
- (9) Professional offices, including facilities occupied by businesses that provide

professional services and/or are engaged in the production of intellectual property. Total floor area shall not exceed 6,000 square feet per structure. Examples of these include: accounting, auditing and bookkeeping services; advertising agencies; attorneys; commercial art and design services; counseling services; design services, including architecture, engineering, landscape architecture, urban planning; education, scientific and research organizations; financial management and investment counseling; management and public relations services; media postproduction services; news services; photographers and photography studios; secretarial, stenographic, word processing, and temporary clerical employee services; travel offices; security and commodity brokers; and writers and artists offices.

- (10) Beauty salons and barber shops and other personal services.
 - (11) Dry cleaning and laundromat. Total floor area shall not exceed 4,000 square feet.
 - (12) Artist studio.
 - (13) Arts center.
 - (14) Accessory uses customarily incidental to a permitted main use on the same premises.
 - (15) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
 - (16) Rental shops for the hourly or daily rental of bicycles, kayaks, canoes, snow shoes, cross country skis, and other similar sporting apparatus.
 - (17) Farm, including agriculture, horticulture, and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (18) Farmer's market.
 - (19) Religious, educational or governmental use.
 - (20) Craft beverage business with tasting room.
- B. Exceptions which may be allowed in the CT District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Lodging houses or tourist homes.
 - (2) Dramatic or motion-picture theaters.
 - (3) Bed-and-breakfast (Planning Board acting as SPGA).
 - (4) Youth center.
 - (5) Building heights of greater than 35 feet or three stories may be allowed (Planning Board acting as SPGA) when it is determined that the location, scale

and characteristics of the proposed land uses on the site; the design, siting and scale of structures are in harmony with the surrounding properties and land uses.

- C. The following regulations shall be applicable in the Commercial/Tourist District (CT):
- (1) Site plan review. See Part 5, Article XIX.
 - (2) In addition, applicants shall note the following:
 - (a) Design review is required for new structures, and exterior renovation or alteration of existing structures, in the Commercial Tourist District (CT), as set forth in Chapter 142, Design Review, of the Town bylaws.
 - (b) Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
 - (c) Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
 - (d) Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.6. General Industrial District (GI).

- A. Permitted uses. The following uses are permitted uses in the GI District:
- (1) Wholesale warehouse and storage facilities.
 - (2) Hotel, inn or motel.
 - (3) Any manufacturing or industrial use, including processing, fabrication and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire.
 - (4) Automobile repair shop, automobile storage garage, automobile salesroom or lot not to exceed 40 vehicles for sale.
 - (5) Accessory uses customarily incidental to a permitted main use on the same premises.
 - (6) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
 - (7) Farm, including agriculture, horticulture, and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.

- (8) Office, bank, newspaper or job printing establishment.
 - (9) Religious, educational or governmental use.
- B. Exceptions which may be allowed in the GI District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) The removal of sand, gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII of this bylaw.
 - (2) Building heights greater than 35 feet or three stories, pursuant to a determination of the special permit granting authority that the design, siting and scale of the proposed building are consistent with the location, scale and characteristics of the uses of the site and are in harmony with the surrounding properties and land uses.
- C. The following regulations shall be applicable in the General Industrial District (GI):
- (1) Site plan. See Part 5, Article XIX.
 - (2) In addition, applicants shall note the following:
 - (a) Design review is required for new structures, and exterior renovation or alteration of existing structures, in the General Industrial District (GI), as set forth in Chapter 142, Design Review, of the Town bylaws.
 - (b) Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
 - (c) Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
 - (d) Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.7. Industrial Park District (IP).

- A. Permitted uses. The following uses are permitted uses in the IP District:
- (1) Animal clinic or hospital, including animal rescue.
 - (2) Business support services.
 - (3) Child day-care center.
 - (4) Equipment sales and rental facilities.
 - (5) Handcraft industries, including retail sales of the product produced on the premises.
 - (6) Health and fitness facilities.

- (7) Information processing facilities.
- (8) Plumbing, heating and electrical warehouses, showrooms and manufacturers.
- (9) Laboratories for research and development.
- (10) Communications/Telecommunications offices, radio and television broadcasting studios and facilities.
- (11) Newspaper printing and job printing.
- (12) Any manufacturing or industrial use, including processing, fabrication, packaging and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire.
- (13) Food and beverage products manufacturing, including distilleries, breweries and co-packing and commercial kitchen space.
- (14) Wholesale warehouse or storage facilities, including self-storage facilities.
- (15) Automobile repair shop, automobile storage garage, automobile salesroom or lot not to exceed 40 vehicles for sale.
- (16) Accessory uses customarily incidental to a permitted main use on the same premises.
- (17) Professional offices and call centers.
- (18) Professional, scientific and technical services.
- (19) Hotel, inn or motel.
- (20) A multi-specialty physician office building wherein physicians and non-physician providers and support staff provide diagnostic and treatment services to ambulatory and outpatients, with the assistance and support of laboratory, radiology, physical therapy, pharmacy, mental health and other related personnel and equipment.
- (21) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
- (22) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
- (23) Bank.
- (24) Retail and wholesale fuel oil distribution and off-site heating service, oil storage and associated office and garage space for motor vehicles of the fuel oil operation.
- (25) Religious, educational or governmental use.

- B. Exceptions which may be allowed in the IP District by special permit from the special permit granting authority (SPGA) in accordance with the regulation appearing in § 300-18.2B(2) of this bylaw:
- (1) The removal of sand, gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII of this bylaw.
 - (2) Restaurant, including bakery and confectionery.
 - (3) Building heights greater than 35 feet or three stories, pursuant to a determination of the special permit granting authority that the design, siting and scale of the proposed building are consistent with the location, scale and characteristics of the uses of the site and are in harmony with the surrounding properties and land uses.
- C. The following regulations shall be applicable in the Industrial Park District (IP):
- (1) Site plan. See Part 5, Article XIX.
 - (2) In addition, applicants shall note the following:
 - (a) Design review is required for new structures, and exterior renovation or alteration of existing structures, in the Industrial Park District (IP), as set forth in Chapter 142, Design Review, of the Town bylaws.
 - (b) Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
 - (c) Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
 - (d) Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.8. Commercial II District (C2).

- A. Permitted uses. The following uses are permitted uses in the C2 District:
- (1) Single-family dwelling. Also, apartments accessory to a commercial building (not to exceed two dwelling units per building).
 - (2) Office, bank, newspaper or job printing establishment.
 - (3) Retail store or shop, barber shop, beauty salon, personal service establishments, shop for the repair of personal or household items, laundromat, health and fitness center, artisan's or craftsmen's shop, wholesale and retail sales not involving manufacture on the premises except of products the major portion of which are sold on the premises by the producer.
 - (4) Automobile service station.

- (5) Religious, educational or governmental use.
 - (6) Nonprofit club.
 - (7) Restaurants, including bakery and confectionery.
 - (8) A multi-specialty physician office building wherein physicians and non-physician providers and support staff provide diagnostic and treatment services to ambulatory and outpatients, with the assistance and support of laboratory, radiology, physical therapy, pharmacy, mental health and other related personnel and equipment.
 - (9) Accessory uses customarily incidental to a permitted main use on the premises.
 - (10) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing and snow shoeing through the establishment of trails.
 - (11) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (12) Fast-food establishment.
 - (13) Walk-up establishment.
 - (14) Fast casual restaurant.
 - (15) Craft beverage business with tasting room.
 - (16) Urgent care facility.
- B. Exceptions which may be allowed in the C2 District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Indoor recreation facilities.
 - (2) Outdoor recreation facilities.
 - (3) Indoor family amusement centers.
 - (4) Hotel, inn or motel
 - (5) The removal of sand, gravel, subsoil, topsoil or earth in accordance with Part 3, Article XII of this bylaw.
 - (6) Multifamily dwelling, provided that:
 - (a) It does not exceed four dwelling units.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
 - (c) Adequate provision is made for off-street parking.

- (d) An environmental suitability study shows that the site is capable of sustaining this type of construction and use.
 - (e) The entire multifamily dwelling and its necessary area requirements are located entirely in the Commercial District; or in a less restrictive district.
 - (7) Two-family residence, provided there is not less than 20,000 square feet of lot area per dwelling unit.
 - (8) Truck stop (Planning Board acting as SPGA).
 - (9) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (10) Building heights greater than 35 feet or three stories, pursuant to a determination of the special permit granting authority that the design, siting and scale of the proposed building are consistent with the location, scale and characteristics of the uses of the site and are in harmony with the surrounding properties and land uses.
- C. The following regulations shall be applicable in the Commercial II District (C2):
- (1) Site plan. See Part 5, Article XIX.
 - (2) In addition, applicants shall note the following:
 - (a) Design review is required for new structures, and exterior renovation or alteration of existing structures, in the Commercial II District (C2), as set forth in Chapter 142, Design Review, of the Town bylaws.
 - (b) Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
 - (c) Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
 - (d) Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.9. Historic Commercial District (HC).

The purpose of the Historic Commercial District (HC) is to allow for a mixture of residential and limited service, retail and cultural uses, while maintaining the integrity of the character of the nearby National Register Historic District (NRHD).³ The HC

3. **Note: The Sturbridge Town Common National Register Historic District is the historic civic, religious and commercial center of the Town of Sturbridge. This area is comprised of 138.15 acres, including the Town's original six-acre Town Common. It is further defined as the area along Main Street (Route 131) between Hall Road on the east and the I-84 overpass on the west, containing 47 public and privately owned properties. The area was designated a National Register Historic District in 1977.**

District is defined on the Sturbridge Zoning Map and contains properties both within and surrounding the NRHD. It is the goal of this section to preserve and protect the distinctive and/or historical characteristics of buildings and places through the maintenance and improvement of settings for such buildings and places and the encouragement of designs compatible therewith. Site layout and design should be done in a manner that respects the scale and design of existing neighborhoods and to fit into the streetscape.

A. Permitted uses. The following uses are permitted uses in the HC District:

- (1) Single-family dwelling.
- (2) General retail shops with a floor area of not greater than 6,000 square feet per structure, including antique shops; retail art galleries; art supply shops, including framing services; artisan shops; books, magazines and newspaper shops; camera and photographic supply shops; clothing, shoes and accessories shops; collectibles (cards, coins, stamps, comics, etc.); fabric and sewing supply shops; florists; gift and souvenir shops; hobby shops; handicraft shops; and other specialty boutiques, provided that such uses are conducted entirely within the building. Areas for the production of goods shall be limited to no more than 35% of total floor areas.
- (3) Restaurants; bakeries; delicatessens; candy, nut and confectionery stores; dairy and specialty food and/or beverage stores; and other places serving food for consumption on the premises. Total floor area shall not exceed 6,000 square feet per store.
- (4) Professional offices, including facilities occupied by businesses that provide professional services and/or are engaged in the production of intellectual property. Total floor area shall not exceed 6,000 square feet per structure. Examples of these include: accounting, auditing and bookkeeping services; advertising agencies; attorneys; commercial art and design services; counseling services; design services, including architecture, engineering, landscape architecture, urban planning; education, scientific and research organizations; financial management and investment counseling; management and public relations services; media postproduction services; news services; photographers and photography studios; secretarial, stenographic, word processing, and temporary clerical employee services; security and commodity brokers; and writers and artists offices.
- (5) Hotel, motel or inn not to exceed 125 rooms.
- (6) Libraries, museums, galleries.
- (7) Religious, educational or governmental use.
- (8) Walking, hiking, bicycling, roller skating, cross country skiing and snow shoeing through the establishment of trails and outdoor recreation, nature study, boating, fishing, swimming, hunting and picnicking where otherwise legally permitted.
- (9) Accessory uses customarily incidental to a permitted main use on the same

premises, including one or more accessory dwelling units located above the first story of the structure containing a primary use permitted herein under Subsection A(2), (3) or (5).

- (10) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, provided that said facilities comply with the requirements of MGL c. 40A, § 3.
- B. Exceptions which may be allowed in the HC District by special permit from the special permit granting authority (SPGA) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Bed-and-breakfast, not to exceed 4,000 square feet.
 - (2) Youth center, not to exceed 6,000 square feet unless constructed within a building existing at the time of adoption of this bylaw, in which case the youth center may occupy the entirety of the building.
- C. The following regulations shall be applicable in the Historic Commercial District (HC):
- (1) Guidelines for preservation and adaptive reuse of existing structures within the district for all projects requiring site plan review.
 - (a) Purpose. The purpose of this subsection is to provide standards to be applied through site plan review for change of use of any existing property or structure within the district ("adaptive reuse projects"). Structures shall be re-used whenever possible and/or practicable. In general, preservation and rehabilitation efforts for these structures shall aim towards protecting the essential architectural features of a structure that help identify its individual style and thereby further its contribution to the historic character of the surrounding neighborhood.
 - (b) Adaptive reuse projects within the Historic Commercial District shall retain a residential character, scale and style although the property is being utilized or is proposed to be utilized for commercial purposes and shall to the extent practicable follow the general rehabilitation principles below:
 - [1] The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided if possible.
 - [2] Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 - [3] Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

- [4] Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- (2) Guidelines for additions to existing structures for all projects requiring site plan review.
- (a) Purpose. The purpose of this subsection is to provide standards to be applied through site plan review for the reuse of structures within the district and the incorporation of alterations and/or the construction of additions to those structures. Additions to historically valuable structures may be necessary to ensure their continued use. Modifications (e.g., additions, new entrances and exits, parking facilities, handicap facilities and other code improvements) shall be made with care so as not to compromise a structure's historically valuable features, finishes or materials. As with the adaptive reuse section [see Subsection C(1)], it is preferred that structures having potential historical value within the Town be re-used whenever possible and/or practicable and that any additions to these structures be done in a manner that minimizes changes in the appearance of the structure from the public right-of-way. In general, preservation and rehabilitation efforts for these structures shall aim towards protecting the essential architectural features of a structure that help identify its individual style and thereby further its contribution to the historic character of the surrounding neighborhood.
- (b) Projects that include the reuse of existing structures including the incorporation of additions and or modifications within the Historic Commercial District shall retain a residential character, scale and style although the property is being utilized or is proposed to be utilized for commercial purposes and shall to the extent practicable follow the general principles below:
- [1] Additions shall be carefully placed to minimize changes in the appearance of the structure from the public right-of-way. Whenever possible, additions should be placed to the side or rear of the structure and should not obstruct the appearance of the structure from the public right-of-way.
- [2] New additions, exterior alterations or related new construction shall not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- [3] Additions to structures should incorporate the distinctive architectural features of the original structures, including:
- [a] Door and window shape, size and type;

- [b] Exterior materials;
 - [c] Roof material, pitch and style; and
 - [d] Trim and decoration.
- [4] Second-story additions will always change a structure's proportions; therefore, such additions shall be carefully designed to follow similar two-story examples of the particular style that may be found in the surrounding neighborhood.
- [5] Integrating a new second-story addition into the original design of the structure may be easier if the addition is set back from the front facade so that it is less noticeable from the public right-of-way.
- [6] New additions and adjacent or related new construction will be undertaken in a manner that, if removed in the future, would not impair the essential form and integrity of the historic property or its environment.
- (3) Guidelines for infill development for all projects requiring site plan review.
- (a) Purpose. The purpose of this subsection is to provide standards to be applied through site plan review for the construction of new structures within the Historic Commercial District. These guidelines are intended to encourage new infill development within the district that is compatible in scale and treatment with the existing, older development and to maintain the overall historic character and integrity of the area. At the same time, these guidelines are intended to promote the visual variety that is characteristic of Sturbridge and to provide for reasonable flexibility in accommodating personal style and preferences of applicants proposing new construction.
 - (b) Projects that include the construction of new structures within the Historic Commercial District shall retain a residential character, scale and style although the property is proposed to be utilized for commercial purposes and shall to the extent practicable follow the general principles below:
 - [1] New structures should support the distinctive architectural characteristics of development within the existing Historic Commercial District and nearby NRHD, including building mass, scale, proportion, decoration/detail, door and window spacing, exterior materials, porches and roof pitch and style.
 - [2] The height of new structures should be considered within the context of their surroundings. Structures with greater height should consider providing greater setbacks at the second story level, to reduce impacts (e.g., blocking or screening of air and light, privacy, etc.) on adjoining story structures.
 - [3] The incorporation of design elements that break up large facades and add human scale to the structures is encouraged.

[4] The proper use of building materials can enhance desired neighborhood qualities (e.g., compatibility, continuity, harmony, etc). The design of new structures should incorporate an appropriate mixture of the predominant materials in the surrounding neighborhood whenever possible.

[5] Building forms that reduce energy may be much different than traditional architectural types. Careful design is required to insure that such modern and commonly used features are integrated within the design. Solar panels and other sustainable construction features should be fully integrated into the design of new construction, rather than applied at the conclusion of the design process.

D. The following shall be applicable in the Historic Commercial District:

- (1) All parking, loading and service areas shall be located to the rear of the principal structure wherever possible.
- (2) Site plan review. See Part 5, Article XIX.
- (3) Design review.
 - (a) Design review pursuant to Chapter 142, Design Review, of the Town bylaws shall be required for all adaptive reuse projects, additions to existing structures and infill development.
 - (b) With respect to design review, applicants shall note the following:
 - [1] Per the Planning Board's direction, design review shall take place prior to or concurrently with the site plan review process in the Town of Sturbridge, and shall inform that process.
 - [2] Property owners and designers shall use the Design Review Guidelines when applying for and undergoing the design review process, which may include architectural review and/or sign review.
 - [3] Applicants are encouraged to discuss their projects with the Planning Department if they have any questions regarding the Design Review Guidelines.

§ 300-4.10. Special Use District (SU).

A. Permitted uses. The following uses are permitted uses in the SU District:

- (1) Single-family detached dwelling.
- (2) Nursery, including display and sale of natural products.
- (3) Religious, educational or governmental use.
- (4) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing, through the establishment of trails and other amenities.
- (5) Accessory uses customarily incidental to main use on the same premises.

- (6) Farm, including agriculture, horticulture and viticulture, provided that the lot is not less than five acres, including facilities for the sale of produce, wine and dairy products, insofar as the majority of such products for sale have been produced by the owner of the land on which the facility is located.
 - (7) Professional and medical offices.
 - (8) Laboratories for research and development.
- B. Exceptions which may be allowed in the SU District by special permit from the special permit granting authority (SPGA) (Unless otherwise noted, the Planning Board is the SPGA.) in accordance with the regulations appearing in § 300-18.2B(2) of this bylaw:
- (1) Campgrounds.
 - (2) Manufactured home community for persons over the age of 55.
 - (3) Bed-and-breakfast.
 - (4) Hospital or medical treatment building.
 - (5) Indoor recreational facilities.
 - (6) Outdoor recreational facilities.
 - (7) Craft beverage business with tasting room.
 - (8) Microbrewery.
 - (9) Indoor family amusement centers.
 - (10) Building heights greater than 35 feet or three stories, pursuant to a determination of the special permit granting authority that the design, siting and scale of the proposed building are consistent with the location, scale and characteristics of the uses of the site and are in harmony with the surrounding properties and land uses.
 - (11) Accessory dwelling unit (ZBA acting as SPGA).
 - (12) Single-family attached dwelling, provided that:
 - (a) It is located within an open space residential development and meets the requirements outlined in Part 3, Article VIII, Open Space Residential Development.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.
 - (13) Two-family dwelling, provided that:
 - (a) It is located within an open space residential development and meets the requirements outlined in Part 3, Article VIII, Open Space Residential Development.
 - (b) There is not less than 20,000 square feet of lot area per dwelling unit.

(14) Multifamily dwelling, provided that:

(a) It is located within an open space residential development and meets the requirements outlined in Part 3, Article VIII, Open Space Residential Development.

(b) There is not less than 20,000 square feet of lot area per dwelling unit.

C. The following regulation shall be applicable in the Special Use District (SU):

(1) Site plan review. See Part 5, Article XIX.

D. Signage. With the approval of the Board of Selectmen, one sign that conforms to all requirements of the Zoning Bylaw shall be allowed to be located within the Town right-of-way for an approved nonresidential use in the Special Use District. Minimal clearing will be allowed to provide visual access to the sign. Sign design and details shall be approved by the Design Review Committee.

ARTICLE V
Groundwater Protection District

§ 300-5.1. Purpose.

The purpose of this Groundwater Protection District is to:

- A. Promote the health, safety and general welfare of this community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Sturbridge.
- B. Preserve and protect existing and potential sources of drinking water supplies.
- C. Conserve the natural resources of the Town.
- D. Prevent temporary and permanent contamination of the environment.

§ 300-5.2. Scope of authority.

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

§ 300-5.3. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

AQUIFER — A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

GROUNDWATER PROTECTION DISTRICT — The zoning district defined to overlay other zoning districts in the Town of Sturbridge. The Groundwater Protection District may include specifically designated recharge areas.

IMPERVIOUS SURFACE — Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

MINING — The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores or bedrock.

RECHARGE AREAS — Areas that collect precipitation of surface water and carry it to aquifers. Recharged areas may include areas designated as Zone I, Zone II or Zone III.

TOXIC OR HAZARDOUS MATERIAL — Any substance or mixture of physical, chemical or infectious characteristic, posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Sturbridge. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis and all substances defined as toxic or hazardous under MGL c. 21C and c. 21E and 310 CMR 30.00, and also include

such products as solvents and thinners in quantities greater than normal household use.

§ 300-5.4. Establishment and delineation of aquifers and recharge areas.

For the purposes of this district, there is hereby established within the Town a Groundwater Protection District, consisting of aquifers or recharge areas which are delineated on a map entitled "Town of Sturbridge, Massachusetts, Groundwater Protection District, November 2008." This map is hereby made a part of this bylaw and is on file in the office of the Town Clerk, Board of Selectmen, Town Planner and Public Works Department.

§ 300-5.5. District boundary disputes.

- A. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.
- B. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a professional engineer (civil or sanitary), hydrologist, geologist or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

§ 300-5.6. Use regulations.

In the Groundwater Protection District the following use regulations shall apply:

- A. Permitted uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:
 - (1) Conservation of soil, water, plants and wildlife.
 - (2) Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
 - (3) Foot, bicycle and/or horse paths and bridges.
 - (4) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control supply and conservation devices.
 - (5) Maintenance, repair and enlargement of any existing structure subject to Subsection B (prohibited uses) and Subsection C (special permitted uses).
 - (6) Residential development subject to Subsection B (prohibited uses) and Subsection C (special permitted uses).
 - (7) Farming, gardening, nursery, conservation, forestry, harvesting and grazing subject to Subsection B (prohibited uses) and Subsection C (special permitted uses).

- (8) Construction, maintenance, repair and enlargement of drinking water supply related facilities, such as but not limited to wells, pipelines, aqueducts and tunnels. Underground storage tanks related to these activities are not categorically permitted.
 - (9) All other allowed uses within the zoning district boundary provided under the Town of Sturbridge Zoning Bylaws.
- B. Prohibited uses. The following uses are prohibited:
- (1) Landfills and open dumps as defined in 310 CMR 19.006.
 - (2) Storage of liquid petroleum products, except the following:
 - (a) Normal household use, outdoor maintenance and heating of a structure;
 - (b) Waste oil retention facilities required by statute, rule or regulation;
 - (c) Emergency generators required by statute, rule or regulation;
 - (d) Treatment works approved under 314 CMR 5.00 for treatment of groundwater or surface waters; provided that storage, listed in Subsection B(2)(a) through (d) above, is in freestanding containers within buildings or aboveground with secondary containment adequate to contain a spill the size of the container's total storage capacity.
 - (3) Landfilling of sludge or septage as defined in 310 CMR 32.05.
 - (4) Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
 - (5) Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design. The required area shall consist of continuous buildable area (CBA) as defined in Article II of this bylaw.
 - (6) Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
 - (7) Storage of animal manure unless covered or contained.
 - (8) Earth removal consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within six feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works.
 - (9) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21C and 310 CMR 30.00, except the following:

- (a) Very small quantity generators as defined under 310 CMR 30.00.
 - (b) Household hazardous waste collection centers and events under 310 CMR 30.
 - (c) Waste oil retention facilities required by MGL c. 21, § 52A.
 - (d) Water remediation treatment works approved under 314 CMR 5.00.
- (10) Automobile graveyards and junkyards as defined in MGL c. 140B, § 1.
- (11) Treatment works that are subject to 314 CMR 5.00, including privately owned sewage treatment facilities, except the following:
- (a) The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing works.
 - (b) The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
 - (c) Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
- (12) Storage of liquid hazardous materials, as defined in MGL c. 21E, unless in a freestanding container within a building or aboveground with secondary containment adequate to contain a spill the size of the container's total storage capacity.
- (13) Industrial and commercial uses which discharge process wastewater on site.
- (14) Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district.
- (15) Storage of commercial fertilizers and soil conditioners, as defined in MGL c. 128, § 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate.
- (16) The use of septic system cleaners which contain toxic or hazardous chemicals.
- C. Uses and activities requiring a special permit. The following uses and activities are permitted only upon the issuance of a special permit by the special permit granting authority (SPGA) under such conditions as it may require:
- (1) Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District.
 - (2) The application of pesticides, including herbicide, insecticides, fungicides and rodenticides, for nondomestic or nonagricultural uses in accordance with state and federal standards. The special permit shall be granted if such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations

under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00.

- (3) Application of fertilizers for nondomestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation.
- (4) Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Subsection B). Such activities shall require a special permit to prevent contamination of groundwater.
- (5) The construction of dams or other water control devices, ponds, pools or other changes in water bodies or watercourses, created for swimming, fishing or other recreational uses, agricultural uses or drainage improvements. Such activities shall not adversely affect water quality or quantity.
- (6) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are not feasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

§ 300-5.7. Procedures for issuance of special permit.

- A. The special permit granting authority (SPGA) under this article shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Public Works Director, Board of Health, the Conservation Commission and Board of Selectmen, acting as Water Commissioners, that the intent of this article, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this article unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this article. The SPGA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.
- B. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Public Works Director, Board of Health, the Conservation Commission and Board of Selectmen, acting as Water Commissioners, for their written recommendations. Failure to respond in writing within 45 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
- C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in § 300-5.6 of this

bylaw and any regulations or guidelines adopted by the SPGA. The proposed use must:

- (1) In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District.
 - (2) Be designed to avoid substantial disturbance of the soils, topographic drainage, vegetation and other water-related natural characteristics of the site to be developed.
- D. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Planning Board.⁴
- E. The applicant shall file six copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
- (1) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
 - (2) For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief and Board of Health. The plan shall include:
 - (a) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures.
 - (b) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - (c) Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
 - (3) Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- F. The SPGA shall hold a hearing, in conformity with the provision of MGL c. 40A, § 9, within 65 days after the filing of the application and after the review by the Town boards, departments and commissions. Notice of the public hearing shall be given by publication and posting and by first class mailings to "parties of interest" as defined in MGL c. 40A, § 11. The decision of the SPGA and any extension, modification or renewal thereof shall be filed with the SPGA and Town Clerk

4. Editor's Note: See Ch. 350, Subdivision Regulations.

within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as granting of the permit. However, no work shall commence until a certification is recorded as required by MGL c. 40A, § 11.

- G. Written notice of any violations of this article shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted by the Building Inspector to the Board of Health, Conservation Commission and Director of Public Works and Board of Selectmen, acting as Water Commissioners. The cost of containment, cleanup or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Sturbridge, the Building Inspector, the Board of Health or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Sturbridge, the Building Inspector, the Board of Health or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

§ 300-5.8. Severability.

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

ARTICLE VI
Village Gateway District

§ 300-6.1. Purpose.

- A. The Village Gateway District (VG) is intended to guide development, redevelopment and changes in land use to provide a "Gateway" to Sturbridge. The purpose of the Village Gateway District is to assure that the use of land, buildings and other structures and site development within its boundaries are conducted in a manner that promotes the establishment of development nodes, discourages the establishment of strip development, and promotes community character, and high-quality architecture and landscaping while maintaining the environmental integrity of the district. The Village Gateway District provides a higher standard of appearance for corridors that serve as the main entrances to the community.
- B. This district is primarily intended for small to mid-sized business uses serving both residents and visitors, and/or tourism-based uses developed in a manner that:
- (1) Helps create a visually appealing Gateway to the Village/Commercial Tourist District by requiring specific landscaping and architectural standards to insure a consistent high level of design quality as you enter the district;
 - (2) Provides a transition between the larger commercial uses commonly found within the Commercial District and small shops generally found in the Commercial Tourist District by encouraging the development of small to mid-sized businesses within the VG;
 - (3) Helps implement pertinent recommendations of the Master Plan and Commercial Tourist District Revitalization Plan;
 - (4) Encourages redevelopment and infill in developed areas;
 - (5) Avoids creation of traffic congestion or hazards within the Route 20 corridor;
 - (6) Creates more walkable areas within the district; and
 - (7) Demonstrates excellence in building and site design.

§ 300-6.2. Establishment.

The Village Gateway District is hereby established and consists of the area(s) shown on a map entitled "Zoning Map of Sturbridge, Massachusetts" on file with the Town Clerk, as may from time to time be amended.

§ 300-6.3. Authority.

The Planning Board shall act as the special permit granting authority (SPGA) and the administering authority for site plan approval pursuant to Part 5, Article XIX, of the Town of Sturbridge Zoning Bylaw for all uses within this district. The Planning Board shall also serve as the SPGA for any use that requires a special permit in the underlying district, any use requiring a special permit pursuant to § 300-6.4B of this chapter, and any application for special permit subject to § 300-6.5C of this chapter. Where standards or other requirements listed as part of this district may conflict with others in the bylaws,

the provisions for this district shall apply.

§ 300-6.4. Use regulations.

- A. The following uses are permitted by right subject to the site plan review requirements of Part 5, Article XIX, of this bylaw, and all applicable density and design provisions of this bylaw:
- (1) Hotels, motels and inns.
 - (2) General retail shops with a floor area of not greater than 7,500 square feet per structure, including antique shops; retail art galleries; art supply shops, including framing services; artisan shops; books, magazines and newspaper shops; camera and photographic supply shops; clothing, shoes and accessories shops; collectibles (cards, coins, stamps, comics, etc.); fabric and sewing supply shops; florists; gift and souvenir shops; hobby shops; handicraft shops; furniture, drapery, music and video, pharmacy, sporting goods, bicycle shops, jewelry, hobby, toy and game stores, camera and photo supplies, luggage and leather, sewing needlework and piece goods, photographic studios, art dealers and places for display or sale of handicrafts, provided all displays are within the building, and other specialty boutiques, provided that such uses are conducted entirely within the building.
 - (3) Personal service establishments with a floor area of not greater than 7,500 square feet per structure.
 - (4) Professional offices, including facilities occupied by businesses that provide professional services and/or are engaged in the production of intellectual property. Total floor area shall not exceed 7,500 square feet per structure. Examples of these include: accounting, auditing and bookkeeping services; advertising agencies; attorneys; commercial art and design services; counseling services; design services, including architecture, engineering, landscape architecture, urban planning; education, scientific and research organizations; financial management and investment counseling; management and public relations services; media postproduction services; news services; photographers and photography studios; secretarial, stenographic, word processing, and temporary clerical employee services; security and commodity brokers; and writers and artists offices.
 - (5) Restaurants, bakeries, delicatessens, candy, nut and confectionery stores, dairy and specialty foods and/or beverage shops and places serving food for consumption on the premises. Total floor area shall not exceed 7,500 square feet per structure. Drive-thru windows are not permitted.
 - (6) Outdoor seating associated with restaurants.
 - (7) Cultural and historic attractions.
 - (8) Artist live and work space.
 - (9) Residential units located above nonresidential space.
 - (10) Accessory uses customarily incidental to a permitted main use on the same

premises, including one or more accessory dwelling units located above the first story of the structure containing a primary use permitted herein.

(11) Banks and financial institutions without a drive-up window or ATM drive.

B. The following uses may be allowed by special permit (Planning Board as SPGA) subject to the special permit criteria outlined in § 300-18.2B(2) and the requirements of this chapter:

- (1) Indoor recreational facilities (maximum size 7,500 square feet per structure).
- (2) Live theater or movie house with a maximum of two screens.
- (3) Dance studios.
- (4) Any permitted use with more than one curb cut.
- (5) Banks and financial institutions with a drive-up window or ATM drive-up lane.
- (6) Fast casual restaurant with drive-thru.

§ 300-6.5. Dimensional requirements.

- A. Front setback shall be 50 feet.
- B. Side and rear setbacks shall be 30 feet.
- C. Maximum height shall be 35 feet. Hotels, motels and inns may exceed 35 feet in height by special permit.

§ 300-6.6. Design standards.

The design standards in this section shall be applied to development within the Village Gateway District. These standards are to be applied by the Planning Board through the site plan review process and are not to be seen as inflexible standards. If a particular development is proposed which departs from the general criteria in basic concept or in detail, the Planning Board may waive or modify the general criteria upon demonstration that the proposed design is of high standards and that any departures from the general criteria will not violate the intent of the Zoning Bylaw or the design conditions.

- A. Relationship to surroundings. The location, scale and characteristics of proposed land uses on the site; the design, siting and scale of structures; and the circulation and other characteristics of the development shall be in harmony with surrounding properties and land uses.
 - (1) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks and materials.
 - (2) Attractive landscape transition to adjoining properties shall be provided.
 - (3) Harmony in textures, lines and masses is required. Monotony shall be avoided.
 - (4) Environmental resources shall be respected and protected.

B. Relationship of building to site.

- (1) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting and safe vehicular and pedestrian movement.
- (2) Parking areas shall be treated with decorative elements, building wall extensions, planting, berms or other innovative means so as to provide suitable screening and heat island mitigation.
- (3) Within the permissible limits of the Zoning Bylaw, the height and scale of each building shall be compatible with the site and existing adjoining buildings.

C. Vehicular and pedestrian circulation.

- (1) The base parking standards contained in Part 4, Article XVI, of this bylaw shall apply to individual uses within the VG. However, parking space size shall be reduced to nine feet by 18 feet and the total paved square footage difference between this parking space size and the traditional 10 feet by 20 feet requirement shall be incorporated as additional interior parking lot landscaping, or if suitable area exists on site, for the creation of an outdoor seating area or pocket park. The calculation for the additional parking lot landscaping or for an outdoor seating or parking area is: No. of spaces provided x 38 square feet.
- (2) Two-way driving lanes shall be a minimum of 25 feet wide for angle parking. One-way driving lanes shall be a minimum of 18 feet wide for angle parking. A twenty-four-foot-wide driving lane is required for perpendicular parking. Dead-end parking lanes shall be avoided; however, if they are necessary, turnarounds shall be provided at their ends.
- (3) All uses within a proposed VG development shall share all on-site parking. All parking lots shall be screened from adjacent streets by buildings or vegetation. Efforts shall be taken to emphasize buildings and de-emphasize asphalt. Walkability elements are required to be integrated into the overall site design and walkways, benches, landscaping and strategically placed open spaces shall be incorporated design elements. Spaces between buildings may be used to form outdoor rooms and may be used to provide outdoor seating for restaurant or other uses and to create other restful spaces.
- (4) Shared parking may be allowed subject to the provisions of § 300-16.10, Shared parking, of this bylaw.
- (5) Curbing within the parking lot along the perimeter and for islands is to be granite in accordance with MassDOT Standards.
- (6) Pedestrian walkways, streets, driveways, terraces and parking areas shall be carefully designed to provide an inviting and stable appearance, with respect to topography, proper relation to surrounding streets and pedestrian ways, number of access points to public streets, provision of a clear and efficient street system on the site, adequate widths of drives and street, separation and attractive parking areas and proper relationship of circulation elements to

structures and other site features. Universal accessibility shall be provided in conformance with state regulations and federal guidelines (AAB and ADA). The use of architectural treatments such as stamped concrete, pavers or bricks is highly encouraged for walkways and crosswalks within the site.

- (7) Sidewalks should not only be provided within the site but should also be provided along the frontage of the property abutting any roadway.
- (8) Sufficient maneuvering space shall be provided such that vehicles shall not have to back into a public way or across a public sidewalk in order to enter or exit any parking area. Space for snow removal activities shall be provided in addition to the required parking and maneuvering space.
- (9) All parking areas and main pedestrian routes shall be suitably lighted. Lights shall be appropriately styled, shall be partial or full cut-offs and shall be energy efficient. Illumination levels shall conform with Illuminating Engineering Society (IES) standards.
- (10) Prior to the issuance of an occupancy permit a registered professional engineer must certify that the drainage system, driveways, curbing and parking areas have been installed according to accepted practices and in compliance with the Zoning Bylaw and all applicable permits and approvals.
- (11) It is important to remember that drivers become pedestrians once they park their cars and that they must walk to the facility for which the parking is provided. Parking lots shall include a clearly delineated, properly constructed pedestrian system to bring people from their cars to the facility.

D. Building siting and topography.

- (1) All buildings and other structures shall be sited to minimize disruption of the topography and to facilitate natural surface drainage and shall be properly designed for the particular site conditions. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscape elements and paved areas.
- (2) Where slopes are steep, terracing should be employed using properly stabilized slopes or retaining walls.
- (3) Topography which slopes from one lot across another shall be graded so as to minimize runoff directly onto lower lots. In no case shall conditions be created which channel excessive amounts of surface drainage directly onto major yard spaces or buildings on lower lots.

E. Design of structures.

- (1) All structures shall be of quality design and construction and shall be compatible with the neighborhood and the Town as to design characteristics, including but not limited to scale, massing, proportions, height, roofs, colors and materials.
- (2) Traditional New England architecture is preferred. Buildings should be carefully designed to reflect contextual New England elements. Franchise

buildings are required to use elements that are appropriate to the character of the Town and that support and enhance the community identity. These elements might include Georgian, Federal and Greek Revival details, complementary materials and other traditional New England stylistic features.

- (3) Building finish materials shall be that of traditional New England architecture. Exterior siding finishes, including trim, shall be wood or approved synthetic materials which are close in appearance and detail to the natural material they emulate. All sides of the building should use materials consistent with those on the facade, when visible from public streets, lakes, ponds or neighboring properties, and should be carefully designed with similar detailing, comparable quality and compatible materials.
- (4) Buildings shall be designed in appropriate scale and be in harmony with other traditional neighborhood development.
- (5) In multiple-building projects, variable siting of individual buildings should be considered as a means to prevent a monotonous appearance.
- (6) Buildings may have more than one principal facade and/or entry. As one of the most important parts of the facade, the main entrance should be easily identifiable. Both street facing and rear entry doors and entryways should be compatible with the architectural style of the structure.
- (7) Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where typical windows are not possible or appropriate to the intended use, false windows or "blank windows" should be considered.
- (8) Windows, sidelights and glazed doors must have exterior muntins or those which give the appearance of true divided lights and are nonremovable. Solid glass windows or doors are not acceptable, with a possible exception for elevations that are not visible from public streets.
- (9) Building design should incorporate features that add visual interest to the building while reducing the appearance of bulk or mass. Buildings should avoid long, monotonous, uninterrupted walls or roofs on their visible facades. They also should avoid long expanses of repetitive architectural elements. Wall offsets and varied rooflines shall be used on larger buildings to create the appearance of several small buildings clustered together. Within a project, compatibility shall be achieved through the consistent use of the noted architectural styles, and using materials, fenestration, scale and other architectural features appropriate to that style.
- (10) In keeping with traditional New England architecture, structures shall have roofs that are sloped and may be articulated with dormers, chimneys, gables, cupolas, fascias, etc. If a mansard or "false" mansard roof is used on a large commercial structure, the roof should be consistent in slope and arrangement on all sides and high enough to screen all mechanical equipment. Asphalt shingles, cedar shake shingles or slate is desirable. The use of corrugated sheet metal or standing seam metal roofing is not permitted.
- (11) Fenestration (arrangement of windows on the wall) should be architecturally

related to the style, materials, colors and details of the building. Windows and door openings should be proportioned so that verticals dominate horizontals. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows.

- (12) Exterior lighting, when used, shall enhance the building design and surrounding landscape. Lighting standards and building fixtures shall be of a design and size comparable with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided, with no spillover to occur on streets and surrounding property.

F. Utilities and storm drainage.

- (1) All electrical utility lines, including but not limited to telephone, power and cable television, shall be placed underground in new developments. The installation shall be done in accordance with the specifications of the utility company concerned. The placement of electrical lines and other underground utility lines, such as water and sewer, shall be coordinated whenever possible and desirable. Placement of utilities, including sanitary sewers and disposal facilities, shall be done so as to minimize disruption of topography and cutting of trees or undergrowth. The proposed method of sanitary sewage disposal shall be shown precisely on plans.
- (2) Storm drainage shall be designed according to best management practices and shall comply with local and state law. Where possible, low-impact development stormwater treatment shall be provided. Where infiltration areas, rain gardens or bioswales are used, they shall be planted and maintained. Plantings are to be stamped by a registered landscape architect.

G. Signs.

- (1) Due to the unique nature of the Gateway District, every sign shall be designed as an integral architectural element of the building and site to which it relates.
- (2) Signs and outdoor advertising features shall be subject to the requirements of Part 4, Article XVII, Signs. Such signs shall be reviewed as an integral element in the design and planning of all developments and shall be in harmony with the proposed and nearby developments.
- (3) Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
- (4) Every sign shall be designed as an integral architectural element of the building.
- (5) The colors, materials and lighting of every sign shall be harmonious with the building and site to which it principally relates.

H. Landscaping and existing vegetation.

- (1) These standards are in addition to those contained in Part 5, Article XIX, Site Plan Review; where landscape standards conflict, those found in this article

shall prevail. Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water features and all visible site construction, not including buildings and utilitarian structures.

- (2) Natural tree coverage and other desirable natural foliage shall be preserved to the maximum extent possible and proposed improvements shall be designed accordingly.
 - (3) Where natural or existing topographic patterns contribute to beauty and utility of development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good appearance.
 - (4) Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. Plant material shall be noninvasive as delineated on the MassDOT Invasive Plant List. Plant material shall preferably be native, shall be selected to thrive in its location, be low maintenance and be attractive.
 - (5) Landscape treatments shall be provided to enhance architectural features, strengthen vistas and provide shade and microclimate control.
- I. Property edge landscaping.
- (1) Ornamental fence types, including but not limited to snake rail fence, split rail fence, stone walls or other similar treatment, shall be considered along the property boundary abutting a public roadway.
 - (2) Where commercial property abuts residential property, setbacks and landscape buffers shall be as required in Subsection K, Buffers between land uses.
 - (3) Within other property setbacks, existing vegetation shall be preserved if it is healthy and noninvasive. If the existing material is diseased, dying or on the State's Invasive Species List, it shall be removed. New plant materials shall be added to screen views, to encourage plant diversity and habitat and to improve appearance.
 - (4) Parking lots that abut public ways shall be separated from the public way by at least a ten-foot strip of landscaping that shall contain trees, shrubs and other plant material. Shade trees shall be spaced at 40 feet on center, and flowering trees shall be spaced 30 feet on center. In addition, shrubs, grasses and perennials shall be installed in this planting strip.
- J. Property interior landscaping.
- (1) Parking areas/lots.
 - (a) Parking lots shall contain visual relief from vast expanses of unbroken blacktop and cars. In parking areas exceeding 1/4 acre but less than one acre in area, landscaped islands containing trees of greater than six feet in height shall be provided at a rate of at least six per 80 parking spaces. At least half of these trees shall be of a species expected to mature to a height greater than 30 feet. Landscaping in islands shall be protected from damage from cars and snow removal operations.

- (b) When the total amount of parking on a lot or building site exceeds 40,000 square feet, the parking shall be separated into smaller lots or segments of not more than 20,000 square feet each, with dividers at least 10 feet wide and containing vegetation as required for parking lots abutting public ways, above. In lots of this size cut into a hillside or rolling topography with relief, these segments shall be terraced with the slope and the divider strips stabilized against erosion.
 - (2) Screening of service yards, delivery areas and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting or combinations of these.
 - (3) Within the property and its setbacks, landscaping using plant material is encouraged. Site design should minimize large expanses of pavement, include plant material to soften appearance, cool temperatures and treat stormwater.
 - (4) In areas where general plantings will not prosper, other materials such as fences, walls and paving of wood, brick, stone, gravel and cobbles shall be used.
 - (5) A registered landscape architect or other qualified licensed professional must certify to the Planning Board in writing for notification of the Building Inspector prior to the issuance of a final occupancy permit that the required landscaping has been properly installed in accordance with the approved site plan, Zoning Bylaw and acceptable landscape practices.
- K. Buffers between land uses.
- (1) Uses adjacent to residential. In order to protect residential land from potential noxious or disruptive effects of adjacent land uses of different character and to eliminate as practicable the impacts of visibility, noise and lighting, the following buffer areas shall be provided.
 - (2) Where commercial use abuts residential use, a minimum setback of 30 feet from the property line is required in which structures and vehicular infrastructure such as parking and loading areas, and drive aisles other than entrance and exit driveways are prohibited. Within this setback, plant material shall be installed for 2/3 of the buffer width starting from the property line to visually screen the commercial property from residential abutters. Evergreen and deciduous plant material shall be spaced and sized appropriately at installation to achieve this requirement.
- L. Other property setbacks. Within other property setbacks, existing vegetation shall be preserved if it is healthy and noninvasive. If the existing material is diseased, dying or on the State's Invasive Species List, it shall be removed. New plant materials shall be added to screen views, to encourage plant diversity and habitat and to improve appearance. New plant material shall be a mix of deciduous and evergreen trees, shrubs and ground cover in a mix of large and small sizes, and in a density sufficient to provide some screening of the building from the public road.
- M. Other site features.

- (1) All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities or other service or utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances. Light fixtures, walls, fences, benches, recreation facilities and other such site appurtenances shall be harmoniously designed, constructed and located in relation to other site features.
- (2) Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

N. Erosion and sedimentation control.

- (1) During the construction of the driveways, parking areas and drainage system, disturbance to the site shall be minimized. Construction equipment and trucks must stay within the areas of proposed work as shown on the approved plan.
- (2) Temporary vegetation, mulching or other protective measures must be provided for areas that will be exposed for one or more months. These temporary measures must be applied immediately after disruption. Temporary measures include seeding with rye grass or other annual grasses, jute netting, spreading straw mulch and any other method acceptable to the Building Inspector. The Building Inspector may require a specific type of temporary stabilization for any given area. If a disturbed area will be exposed for greater than one year, permanent grasses or other approved cover must be installed.
- (3) In disturbed areas, if the surface material is not suitable for the growing of seed, a minimum of four inches of loam will be required.
- (4) All slopes shall be stabilized by adequate ground cover or other approved means to prevent erosion and to retard excessive runoff. Means of preventing erosion during construction shall be specified to the satisfaction of the Building Inspector.
- (5) Temporary sediment controls are required for unpaved driveways, paved driveways where curbing has not been installed, drainage inlets and drainage outfalls. Temporary sediment control devices include silt fences, filter strips, double-row staked haybales, silt traps, sediment basins and crushed rock berms. Temporary sediment control devices must be placed along roadsides where runoff may occur and around storm drain inlets and outfalls.
- (6) The developer is responsible for preventing all erosion and buildup of sediment within the area disturbed due to the construction of the road and drainage system.

ARTICLE VII
Medical Marijuana Overlay District

§ 300-7.1. Purpose.

The purpose of the Medical Marijuana Overlay District is to provide for the placement of registered marijuana dispensaries (RMDs) and off-site medical marijuana dispensaries (OMMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, MGL c. 94C, App. § 1-1 et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMDs.

§ 300-7.2. Definitions.

Where not expressly defined in the Zoning Bylaws, terms used in this article shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, MGL c. 94C, App. § 1-1 et seq. and the Department of Public Health Regulations promulgated thereunder, 935 CMR 500 et seq., and otherwise by their plain language.

§ 300-7.3. Location.

- A. RMDs or OMMDs may be permitted in the Medical Marijuana Overlay District pursuant to a special permit.
- B. RMDs or OMMDs may not be located within 300 feet of the following:
 - (1) School, including a public or private elementary, vocational or secondary school or a public or private college, junior college or university;
 - (2) Child-care facility;
 - (3) Library;
 - (4) Public playground;
 - (5) Public park;
 - (6) Youth center;
 - (7) Public swimming pool;
 - (8) Video arcade facility; or
 - (9) Similar facility in which minors commonly congregate.
- C. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in § 300-7.3B to the nearest point of the property line of the proposed RMD or OMMD.
- D. The distance requirement may be reduced by 25% or less by special permit, but only if:
 - (1) The applicant demonstrates that the RMD or OMMD would otherwise be

effectively prohibited within the municipality;

- (2) The applicant demonstrates that the RMD or OMMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 935 CMR 502.110.

§ 300-7.4. Application and approval procedures.

The Planning Board shall be the special permit granting authority (SPGA) for a special permit for an RMD or OMMD. Site plan review is required for all RMD or OMMD applications in accordance with Part 5, Article XIX, of the Zoning Bylaw.

- A. Application. In addition to the materials required under § 300-19.3 (site plan review contents of plans), all applications for RMDs shall include:
 - (1) The name and address of each owner of the RMD or OMMD facility/operation;
 - (2) A copy of its registration as an RMD or OMMD from the Massachusetts Cannabis Control Commission (CCC);
 - (3) Evidence that the applicant has site control and the right to use the site for an RMD or OMMD facility in the form of a deed or valid purchase and sales agreements, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
 - (4) In addition to what is normally required in a site plan, details showing all exterior proposed security measures for the RMD or OMMD, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
 - (5) A description of all activities to occur on site;
 - (6) A detailed floor plan of the premises of the proposed RMD or OMMD that identifies the square footage available and describes the functional areas of the RMD or OMMD, including areas for any preparation of MIPs;
 - (7) A description of the security measures, including employee security policies, approved by the CCC for the RMD;
 - (8) A copy of the emergency procedures approved by the CCC for the RMD or OMMD;
 - (9) A copy of the policies and procedures for patient or personal caregiver home-delivery approved by the CCC for the RMD or OMMD;
 - (10) A copy of the policies and procedures for the transfer, acquisition or sale of marijuana between RMDs or OMMDs approved by the CCC;
 - (11) A copy of proposed waste disposal procedures; and
 - (12) A description of any waivers from CCC regulations issued for the RMD or OMMD.

- B. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission and Department of Public Works. These departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
- C. RMD facilities that can demonstrate that they comply with the agricultural exemption under MGL c. 40A, § 3 must still apply for site plan approval.

§ 300-7.5. Additional requirements and conditions on RMDs or OMMDs.

- A. Physical requirements.
 - (1) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, products containing marijuana, related supplies or educational materials must take place at a fixed location within a limited-access area and shall not be visible from the exterior of the business.
 - (2) Ventilation. All RMD and OMMD facilities shall be ventilated in such a manner that:
 - (a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
 - (b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
 - (3) Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.
- B. Conditions. The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD or OMMD, the Planning Board shall include the following conditions in any permit granted under this bylaw:
 - (1) Hours of operation, including dispatch of home deliveries.
 - (2) RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
 - (3) The permit holder shall file a copy of any Incident Report required under 935 CMR 501.110 with the Zoning Enforcement Officer and the Planning Board acting as SPGA within 24 hours of creation by the RMD or OMMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
 - (4) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order

limiting sales, notice of a hearing or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD or OMMD with the Zoning Enforcement Officer and the Planning Board acting as SPGA within 48 hours of receipt by the RMD or OMMD.

- (5) The permit holder shall provide to the Zoning Enforcement Officer and Chief of Police, the name, telephone number and electronic mail address of all management staff in the event that such person(s) needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- (6) The local Building Inspector, Board of Health, Police Department, Fire Department and special permit granting authority shall be notified in writing by an RMD or OMMD facility owner/operator/manager a minimum of 30 days prior to any change in ownership or management of that facility.
- (7) The permit shall lapse within five years of its issuance. If the permit holder wishes to renew the permit, an application to renew the permit must be submitted at least 120 days prior to the expiration of the permit.
- (8) The permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
- (9) The permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
- (10) The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

§ 300-7.6. Prohibition against nuisances.

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

§ 300-7.7. Required findings.

In addition to the standard findings for a special permit or site plan approval the special permit granting authority must also find all the following:

- A. That the applicant has satisfied all of the conditions and requirements of this chapter and other applicable sections of this bylaw;
- B. That the RMD or OMMD facility provides adequate security measures to protect the premises, registered qualifying patients, personal caregivers and dispensary agents of the RMD, and that the storage and/or location of cultivation is adequately secured as determined by the Chief of Police.

§ 300-7.8. Severability.

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

Part 3
Special Development Regulations

ARTICLE VIII
Open Space Residential Development

§ 300-8.1. Purpose and intent.

- A. Open space residential development (OSRD) is a creative land use technique that accommodates residential growth while preserving at least 50% of the parcel as meaningful open space in perpetuity. OSRD is the preferred form of residential development in the Town of Sturbridge and is permitted within the Rural Residential, Suburban Residential and Special Use Zoning Districts.
- B. The primary purposes for this bylaw are to encourage flexibility and creativity in the design of residential developments and to encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than traditional subdivisions. Appropriate OSRD will facilitate the permanent preservation of meaningful open space and help to maintain the Town's traditional New England character and land use development pattern.

§ 300-8.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACTIVE RECREATION — Activities of a formal nature and often performed with others, requiring equipment and/or the use of motorized vehicles and taking place at prescribed places and sites.

AMENITIES — Natural or created features that enhance the aesthetic quality or visual appeal or makes more attractive or satisfying a particular property, place or area. Amenities may include gardens, parks, playgrounds, tennis courts, ball fields, club houses, trails, swimming pools and other similar items.

BASIC MAXIMUM NUMBER — The number of dwelling units that would be allowed on a site using the standard Zoning Bylaw provisions and/or Subdivision Rules and Regulations as determined by a conventional yield plan.

COMMON AREA — Any land area, other than open space, set aside for common ownership as a result of an OSRD, including areas for common facilities.

HARD STORMWATER MANAGEMENT TECHNIQUES — Structural stormwater management techniques, including, but not limited to, catch basins, subsurface piping, stormwater inlets and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.

HOMEOWNER'S ASSOCIATION — A private nonprofit organization (corporation, association or other legal entity) established by the developer to manage, maintain, support and finance the common facilities and common open space of an OSRD, and to enforce certain covenants and restrictions.

LOW-INCOME HOUSEHOLD — These households shall be defined as those in the "very low income" affordability range as published annually by the Department of

Housing and Urban Development. Although this figure is generally considered to be 50% of the area median income (AMI), the Planning Board recognizes that this calculation may vary depending upon the subsidy program applied to the unit.

MODERATE-INCOME HOUSEHOLD — These households shall be defined as those in the "low income" affordability range as published annually by the Department of Housing and Urban Development. Although this figure is generally considered to be 80% of the area median income (AMI), the Planning Board recognizes that this calculation may vary depending upon the subsidy program applied to the unit.

PASSIVE RECREATION — Activities that involve inactive or less energetic activities, such as walking, sitting and picnicking, etc. These activities have less potential impact on surrounding land uses.

SOFT STORMWATER MANAGEMENT TECHNIQUES — Nonstructural stormwater management techniques that use passive surface pretreatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

§ 300-8.3. Applicability.

- A. The Planning Board may grant a special permit for an open space residential development for any parcel or contiguous parcels in the same ownership within the Rural Residential, Suburban Residential or Special Use Districts for housing types other than single-family detached dwelling units. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are "contiguous" for the purpose of this section, if they will serve as a singular resource and effectively satisfy the purpose and intent of this bylaw. An applicant for an OSRD special permit will be required to file plans showing both a conventional residential subdivision and an open space residential development in accordance with the provisions of this bylaw.
- B. Eligible districts. An OSRD shall be permitted within the Rural Residential, Suburban Residential or Special Use Districts, pursuant to the requirements of this section.
- C. Uses allowed as of right. The following uses are allowed as of right in an OSRD with reduced or modified dimensional requirements as set forth in this article:
 - (1) Single-family detached dwellings. Subject only to the requirements of the subdivision regulations or site plan review as applicable and any other generally applicable nonzoning land use regulations. All proposed single-family detached housing developments choosing open space residential development as the development method shall comply with the provisions of this article, unless the Planning Board allows a development that deviates from the requirements of this article by special permit as noted in §§ 300-8.10 and 300-8.11.
- D. Special permit uses. The following uses are allowed by special permit from the Planning Board in an OSRD with reduced or modified dimensional requirements as set forth in this article:
 - (1) Single-family attached dwelling.

- (2) Two-family dwelling.
- (3) Multifamily dwelling.
- (4) Accessory dwelling units.
- (5) Bonus dwelling units (see § 300-8.11).

§ 300-8.4. Pre-application procedures.

A. Pre-application conference.

- (1) A pre-application meeting between Planning and other staff and the applicant is strongly encouraged. At the pre-application meeting, the applicant may outline the proposed development, including both conventional and OSRD models to receive preliminary feedback prior to a complete design of the project. This pre-application meeting will help to promote better communications and will help to avoid misunderstandings about the bylaw, the procedures used or any other applicable bylaw or regulation.
- (2) The applicant is also encouraged to request a pre-application review at a regular business meeting of the Planning Board. If the applicant chooses to request a pre-application meeting, the Planning Board may, at its discretion, invite other Town boards to attend the pre-application review. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development, including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts and set a timetable for submittal of a formal application.
- (3) The applicant is encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the special permit. If a site visit is requested, the Planning Board may, at its discretion, invite other Town boards to attend the site visit.

B. Pre-application submittals. In order to facilitate review of the special permit at the pre-application stage, applicants should submit the following information:

- (1) Site context map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
- (2) Existing conditions/site analysis map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall show current zoning district boundaries, including Floodplain and Groundwater Protection Districts, and shall locate and describe noteworthy resources that should be protected through sensitive

subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature, non-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

- (3) Other information. In addition, applicants may submit any additional information or documentation that may be helpful to the Planning Board.
- C. Design criteria. The design process and criteria outlined in §§ 300-8.6 and 300-8.7 shall be discussed by the parties at the pre-application conference and site visit.

§ 300-8.5. Application for OSRD.

The Planning Board, acting as the special permit granting authority (SPGA), may authorize an OSRD special permit pursuant to the procedures developed below.

- A. Application. An applicant for an OSRD special permit will be required to file plans showing both a conventional residential subdivision and an open space residential development in accordance with the provisions of this bylaw. An application for a special permit shall be submitted on the appropriate forms to the Planning Department. Applicants for OSRD shall also file with the Department 15 copies of the concept plan. The concept plan shall include a conventional yield plan and an OSRD plan (See Subsections B and C of this section), prepared by an interdisciplinary team including a registered civil engineer, registered land surveyor and a registered landscape architect. The applicant shall also submit both the Site context map and existing conditions/site analysis map prepared according to § 300-8.4B above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soils maps.
- B. Conventional yield plan. The basic maximum number of allowable dwelling units shall be derived from a conventional yield plan. The conventional yield plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the basic maximum number of units resulting from the design and engineering specifications shown on the conventional yield plan. The conventional yield plan shall contain, at a minimum, the following information:
 - (1) Parcel boundaries, North point, date, legend, title "Conventional Yield Plan," and scale.
 - (2) The name and address of the record owner or owners, the applicant and the design engineer and/or land surveyor that prepared the plan.
 - (3) The names of all abutters as determined from the most recent Assessors' records.

- (4) The names, approximate location and widths of adjacent streets.
 - (5) The locus of the land shown on the plan at a scale of 1,000 feet to the inch (1" = 1,000').
 - (6) Existing topography at two-foot contour intervals.
 - (7) Map of soils using NRCS soils mapping.
 - (8) All on-site local, state and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the yield plan.
 - (9) Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.
 - (10) Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.
 - (11) If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high groundwater levels.
- C. OSRD plan. The OSRD plan shall address the general features of the land, and give approximate configurations of the proposed lots, of open space and roadways. The OSRD plan shall incorporate the four-step design process, according to § 300-8.6 below, and the design standards, according to § 300-8.7 below, when determining a proposed design for the development. In addition to those requirements for a conventional yield plan listed in Subsection B, an OSRD plan shall contain the following information:
- (1) Topography at two-foot intervals and approximate location of any wetlands (as defined by MGL c. 131, § 40 and by Sturbridge Conservation Commission Regulations⁵) to include any abutting parcels within 200 feet.
 - (2) The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to § 300-8.6A. Proposals for all site features to be preserved, demolished or altered shall be noted on the OSRD plan.
 - (3) The location, names, widths and condition of adjacent streets, approaching or near the proposed development and the proposed lines of streets, ways, driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the development in a

5. Editor's Note: See Ch. 365, Wetlands Regulations.

general manner.

- (4) Proposed roadway grades.
- (5) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. However, a narrative explanation shall be prepared by a Massachusetts certified professional engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems or any combination of these or other methods will be utilized. Additionally, the narrative shall describe potential flows and shall explain how the proposal will meet Massachusetts Department of Environmental Protection (MADEP) and local standards for wastewater systems, whether individual or shared.
- (6) A narrative explanation prepared by a Massachusetts certified professional engineer proposing systems for stormwater drainage and likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether soft or hard stormwater management techniques will be used and the number of any detention/retention basins or infiltrating catch basins. It is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The proposed system of drainage, including existing natural waterways, in a general manner shall be shown on the plan and accompanied by a conceptual landscaping plan.
- (7) A narrative explanation prepared by a Massachusetts certified professional engineer, detailing the proposed drinking water supply system.
- (8) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Proposed open space parcels shall be clearly shown on the plan. Additionally, the proposed open space parcels shall be shown on a plan in relation to other existing protected lands within the Town. Applicants shall contact the Planning Department for electronic and/or paper copies of the most recent protected lands mapping for this purpose.
- (9) All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
- (10) A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions land transfers and master deeds, with an accompanying narrative explaining their general purpose.
- (11) A narrative indicating all requested waivers, reductions and/or modifications as permitted within the requirements of this bylaw.
- (12) A narrative providing preliminary findings, in a general way, of the environmental impact analysis if expected to be required.* (An environmental impact analysis is required for any subdivision proposing five or more dwelling units. See the Town of Sturbridge Subdivision Regulations for detailed information.⁶)

- D. Procedures. Whenever an application for an OSRD special permit is filed with the Planning Department, the Department shall forward, within five working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, DPW Director, Police Chief and Fire Chief, for their consideration, review and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within 35 days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the Planning Board opens the public hearing on the application prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period.
- E. Site visit. Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- F. Other information. 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. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for an OSRD special permit with the public hearing required for approval of a definitive subdivision plan.

§ 300-8.6. Design process.

As part of submitting an application for approval of an OSRD special permit, applicants are required to demonstrate to the Planning Board that the following design process was performed by a multi-disciplinary team of which one member must be a certified landscape architect and considered in determining the layout of proposed streets, house lots and open space as shown on the OSRD plan.

- A. Step One: Identifying Conservation Areas. Identify preservation land by two steps. First, primary conservation areas (such as wetlands, riverfront areas and floodplains regulated by state or federal law) and secondary conservation areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, lands adjacent to other protected lands as depicted on the current Protected Lands Map for the Town of Sturbridge, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the potentially developable area will be identified and delineated. To the maximum extent feasible, the potentially developable area shall consist of land outside identified primary and secondary conservation areas.
- B. Step Two: Locating House Sites. Locate the approximate sites of individual houses within the potentially developable area and include the delineation of private yards

and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

- C. Step Three: Aligning the Streets and Trails. Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails.
- D. Step Four: Lot Lines. Draw in the lot lines.

§ 300-8.7. Design standards.

The following general and site specific design standards shall apply to all OSRD plans, and shall govern the development and design process:

A. General design standards.

- (1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- (2) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees; to minimize cut and fill; and to preserve and enhance views and vistas on and off the subject parcel.
- (3) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- (4) The removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

B. Site-specific design standards.

- (1) Building heights. All structures within an OSRD project shall comply with the height and story limitations as stated in Part 4, Article XIV, Table of Dimensional Requirements (§ 300-14.2). However, building heights of greater than 35 feet but not to exceed three stories may be allowed by the special permit granting authority when it is determined that the location, scale and characteristics of the proposed land uses on the site, and the design, siting and scale of the structures included within the OSRD, is in harmony with the surrounding properties and land uses.
- (2) Parking. Each dwelling unit for single- and two-family homes shall be served by two off-street parking spaces per unit. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two

bedrooms, the applicant shall provide 1.5 parking spaces per unit. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning Board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.

- (3) Drainage. The Planning Board shall encourage the use of soft stormwater management techniques and other low-impact development techniques that reduce impervious surface and enable ground infiltration where possible.
- (4) Screening and landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- (5) On-site pedestrian and bicycle circulation. Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- (6) Disturbed areas. Every effort shall be made to minimize the area of disturbed areas of the tract. A disturbed area is land not left in its natural vegetated state.
- (7) Common driveways.
 - (a) The Planning Board may authorize the use of common driveways to provide access to no more than three individual lots of land within an OSRD, provided that the following conditions are met:
 - [1] A common driveway shall have a minimum roadway width of 16 feet to a maximum of 20 feet, in addition to an easement of sufficient width to assure proper drainage and maintenance.
 - [2] A common driveway shall not exceed 75 feet in length.
 - [3] The slope or grade of a common drive shall in no place exceed 8% grade or be less than 0.5% grade, except with the written approval of the DPW Director.
 - [4] The common drive shall intersect a public way at an angle of not less than 80°.
 - [5] Alignment and sight distances should be sufficient to support a design speed of 15 miles per hour.
 - [6] The common driveway shall lie entirely within the lots being served.
 - [7] The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 5% for the next 30 feet.
 - [8] There shall be a minimum of 50 feet between the entrances of any two common driveways onto any road.
 - [9] The common driveway shall be constructed of a minimum fifteen-inch gravel base, with an oil and stone top layer of 1 1/2 inches consisting of three successive layers of 3/4-inch crushed traprock

stone, 1/2-inch crushed traprock stone and 1/4-inch crushed traprock stone, with a crown sufficient for drainage; or of a top layer of bituminous concrete with a three-inch minimum thickness; or of any other paving materials (stone pavers, porous pavers, etc.) with the approval of the DPW Director. Drainage shall be by sheet runoff to drainage swales adequate to dispose of surface runoff. Culverts will be installed if deemed necessary by the Planning Board.

- [10] A common driveway shall have adequate sight distance at its intersection with a public or private road, and shall not create traffic safety hazards to its users or the public.
 - [11] The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.
 - [12] The common driveway shall provide the only vehicular egress/ access to the lots being serviced.
 - [13] Permanent signs, sufficiently readable from the road to serve the purpose of emergency identification and complying with the State Building Code and Town bylaws, indicating the street number address assigned to each lot served by the common driveway shall be installed within 10 feet of the intersection of the common driveway with the street, as well as within 10 feet of the intersection of an individual lot driveway with the common driveway. This requirement is in addition to those for individual homes.
 - [14] Common driveway design shall to the greatest extent possible minimize adverse impact to wetlands, farmland or other natural resources; allow reasonable, safe and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of number of accessways; and retention of existing vegetation and topography.
 - [15] Frontage along the length of a common driveway shall in no way be used to satisfy frontage requirements as specified in the Zoning Bylaw.
- (b) These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.

§ 300-8.8. Open space requirements.

- A. Required open space. A minimum of 50% of the area of the parcel shall be provided as open space. Roadway rights-of-way and drainage areas shall not count toward the area to be provided as open space. The percentage of the minimum required open space that can be wetland shall not exceed the percentage of wetland for the entire site under existing conditions as shown on the OSRD plan. A sample calculation follows:

Sample Calculation:

Existing Conditions - 12 acre site (3 acres of wetland) = 25% wetland coverage

Open Space Requirements - 50% Open Space = 6 acres (25% wetland coverage = 1.5 acres)

The Open Space would include 4.5 acres of upland and 1.5 acres of wetland.

B. Open space design requirements.

- (1) The location of open space provided through this bylaw shall be consistent with the policies contained in the Master Plan and the Open Space and Recreation Plan of the Town. The open space should be of a quality that both protects the environment and promotes community.
- (2) The following design requirements shall apply to open space and lots provided through this bylaw:
 - (a) Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100 feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site or as connections between open space areas. The Planning Board may allow noncontiguous open space within the boundaries of the site when it is determined that the proposed open space areas promote the goals of this bylaw and/or will protect identified primary and/or secondary conservation areas and/or when the Planning Board determines that the size, shape and location of such parcels (within the proposed development) are suitable for the designated uses. Where feasible, these parcels shall be linked by trails.
 - (b) Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails and archeological sites, and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel, and cuts and fills shall be minimized.
 - (c) Where the proposed development abuts or includes a body of water, reasonable access shall be provided to shorelines where appropriate.
 - (d) The maximum number of dwelling units compatible with standard practices in design shall abut the open space and all homeowners within the open space residential development shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. Such access may be limited where the Planning Board finds that resource areas are vulnerable to trampling or other disturbance.
 - (e) Open space shall be provided with adequate access, by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development.
 - (f) Where a proposed development abuts land held for conservation

purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections shall be provided where appropriate.

C. Allowable use of open space.

- (1) Purpose. Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents and/or the public. Where appropriate, multiple use of open space is encouraged. At least 1/2 of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas.
- (2) The Planning Board shall have the authority to approve or disapprove particular uses proposed for the open space.
 - (a) Protected lands. The Planning Board may require that up to one-half of the minimum required open space remain in its natural state.
 - (b) Recreation lands. Where appropriate to the topography and natural features of the site, the Planning Board shall require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the subdivision.
 - (c) Leaching facilities and/or wells and well fields. If not connected to public sewerage and/or public water, and subject to the approval of the Board of Health, the Massachusetts Department of Environmental Protection, or as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal system and/or wells or well fields serving the subdivision, where the Planning Board finds that such use will not be detrimental to the character, quality or use of the open space, wetlands or water bodies, and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants, to be included in the deeds to the lots in the open space residential development, that such facilities shall be adequately maintained by the lot owners within the development.
 - (d) Accessory structures. Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space, including parking.
 - (e) Agriculture and forestry. Agriculture, horticulture, floriculture, viticulture or forestry are allowed as accessory uses to the OSRD; provided if the land is not conveyed to the Town, the owner shall submit a long-term management plan for the use of the land, including, as appropriate, sustainable forestry or agricultural processes, pesticide, insecticide, fertilizer and animal waste management plans, and other issues pertaining to the stewardship of the land. The Planning Board shall review and approve the plan in making its decision.

D. Ownership of open space.

- (1) Ownership options. At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be either:
 - (a) Conveyed to the Town to be placed under the care, custody and control of the Town of Sturbridge or the Town of Sturbridge Conservation Commission, and be accepted by it for open space use. Land conveyed to the Town may be opened to public use.
 - (b) Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Subsection D(2) below. Such organization shall be approved by the Planning Board as a nonprofit conservation organization.
 - (c) Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e., "homeowners' association") and placed under a conservation restriction. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners' association is legally and practically capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners' association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.
- (2) Permanent restriction. In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction in accordance with MGL c. 184, §§ 31 through 33, approved by the Planning Board and Board of Selectmen and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning Board. It is the applicant's duty to timely secure approvals of such restriction as required by MGL c. 184, § 32. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board for review prior to approval of the project, and shall be recorded at the Registry of Deeds/Land Court simultaneously with the recording of the OSRD special permit. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices.
- (3) Encumbrances. All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances

inconsistent with using and maintaining the open space as such in perpetuity.

- (4) Maintenance of open space. In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land and to allow the Town to enter the property for the purposes of inspecting the maintenance of the property. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.
- (5) Monumentation. Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.

§ 300-8.9. Use and dimensional standards.

- A. Housing types. Single-family detached dwelling, single-family attached dwelling, two-family dwelling, multifamily dwelling and accessory dwelling units may be constructed in an open space residential development (OSRD) as outlined in § 300-8.10 and except as specified, although such lots have less area, frontage and/or rear and side yard dimensions than normally required.
- B. Basic maximum number of dwellings. The maximum number of dwellings for an OSRD shall be determined by a conventional yield plan, even for OSRDs consisting of all single-family detached dwellings. In no case shall the number of dwelling units permitted exceed that which would be permitted under a conventional ("grid") subdivision that complies with the Town Zoning Bylaw and the Subdivision Rules and Regulations of the Planning Board and any other applicable laws and regulations of the Town or the state, with the following exceptions:
 - (1) Multifamily dwellings may exceed four dwelling units; however, no more than eight dwelling units shall be allowed in one building.
 - (2) Increases in permissible density may be allowed according to § 300-8.11, Bonus dwelling units.

§ 300-8.10. Reduction of dimensional requirements.

Applicants may propose to modify lot size, unit placement, shape and other dimensional requirements otherwise applicable to the OSRD, subject to the following:

- A. Frontage.
 - (1) Existing roadways. Lots on existing roadways shall conform to the frontage requirement of the underlying district. However, the Planning Board may reduce the minimum frontage requirement through the special permit process where it is determined that such reduced lot(s) will further the goals of this bylaw.

- (2) Internal roadways. No lot within an OSRD shall have less than 50 feet of frontage. This frontage requirement shall apply only to lots fronting on proposed internal roadways. However, the Planning Board may reduce the minimum frontage requirement through the special permit process where it is determined that such reduced lot(s) will further the goals of this bylaw.

B. Setbacks.

- (1) Existing roadways. Lots on existing roadways shall conform to the setback requirements of the underlying district. However, the Planning Board may reduce the minimum setback requirements through the special permit process where it is determined that such reduced setbacks will further the goals of this bylaw.
- (2) Internal roadways. Every dwelling fronting an internal roadway shall be set back a minimum of 20 feet from the front property line, and 10 feet from any rear or side lot line.
- (3) The side yard setback requirement shall apply to single-family detached dwellings and end units of structures containing single-family attached dwellings, two-family dwellings and multifamily dwellings. A side yard need not be provided on that side of a dwelling that shares a party wall or double wall with an adjacent dwelling.
- (4) The Planning Board may reduce the side yard requirement through the special permit process if dwelling unit dimensions or other conditions justify doing so, provided the reduction is consistent with the intent of this section.

- C. Lot size. The minimum lot size shall be no less than 1/3 the square footage otherwise required in the zoning district in which the subdivision is located or 10,000 square feet, whichever is greater.

§ 300-8.11. Bonus dwelling units.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the basic maximum number for an OSRD plan. The density bonus for the OSRD shall not, in the aggregate, exceed 20% of the basic maximum number. Computations shall be rounded down to the nearest integer when determining this bonus. The applicant must demonstrate that the land is suitable to support the additional bonus units (i.e., the parcel has suitable soils to support on-site systems, ample public sewer service is available, soil types and topography can support additional units, adequate water supply is available, etc.).

A. Open space, recreation, prime lands density bonus.

- (1) For each additional 10% of the site (over and above the required 50%) set aside as open space, a bonus of 5% of the basic maximum number may be awarded. A bonus may only be awarded when the additional open space has no higher a percentage of wetlands than what is allowed for the mandatory 50% open space under § 300-8.8A.
- (2) For the construction of passive and/or active recreation facilities that are

available for public use, one dwelling unit may be added per two acres of recreation land or per 2,500 feet of trail: however, this density bonus shall not exceed 5% of the basic maximum number. For the purpose of this section, the term "trail" shall be defined as a linear corridor suitable for use for recreation and/or transportation designed to accommodate the expected users of the trail system. The Planning Board shall have final approval of the location, alignment, width and surface type of the proposed trail. An applicant wishing to receive a density bonus for trail construction is strongly encouraged to submit preliminary trail design plans as early in the process as possible.

- (3) For every five acres of prime agricultural soils or active farmland preserved at the site, one dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed 5% of the basic maximum number.
- B. Historic preservation. For every historic structure preserved and subject to a historic preservation restriction, one dwelling unit may be added to the basic maximum number.
- C. Alternative energy. For every four dwelling units in which alternative renewable energy (i.e., solar power, wind power, hydroelectric power and other sources deemed acceptable by the Planning Board) supplies at least 50% of the total annual energy requirements for heating and hot water for that dwelling unit, one dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed 5% of the basic maximum number.
- D. Affordable housing.
- (1) A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the open space residential subdivision or elsewhere in Sturbridge. When located within the open space residential subdivision, affordable units shall be developed concurrently with the market-rate units.
 - (2) For every two dwelling units restricted in perpetuity to occupancy by moderate-income households, or for every one dwelling unit restricted in perpetuity to occupancy by low-income households provided under this section, one additional market-rate dwelling unit may be permitted, up to a maximum 5% of the basic maximum number. Affordable housing units may be used toward density bonuses only if they can be counted towards the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count towards the community's affordable housing inventory to the satisfaction of the Planning Board.

§ 300-8.12. Decision of Planning Board.

- A. Review and decision. With respect to materials submitted, time limits for action and other such procedural matters, the Planning Board shall act in accordance with the procedures specified in the Town of Sturbridge Rules and Regulations governing Special Permits - Planning Board, adopted December 2, 2002, and as may from

time to time be amended,⁷ and in accordance with MGL c. 40A, §§ 9 and 11 regarding submittal, review and decision. Where this bylaw requires additional submittals, those items shall also be submitted.

B. Approval criteria.

- (1) Findings. The Planning Board may approve the development upon finding that it complies with the purposes and standards of the Open Space Residential Development Bylaw and those standards for the issuance of special permits set forth in § 300-18.2B(2) of the Zoning Bylaws and MGL c. 40A, § 9, and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The Planning Board shall consider the following criteria in making its decision:
 - (a) Upland open space as required by this bylaw has been provided and generally conforms to the design requirements in § 300-8.8A of this bylaw.
 - (b) Approximate building sites have been identified and are not located closer than 50 feet to wetlands and water bodies.
 - (c) Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots.
 - (d) All lots and structures meet the applicable dimensional requirements of § 300-8.9 of this bylaw.
- (2) The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

C. Conditions. The Planning Board shall impose conditions in its decision as necessary to ensure compliance with the purposes of this bylaw. Approval of an open space residential development shall be conditioned upon definitive subdivision approval as applicable. Lands made subject to an OSRD special permit may not be further divided so as to increase the number of lots, or alter the ways, common areas or open space provided for by such special permit, without a modification of the special permit.

D. Time limit. A special permit under this section shall lapse if substantial use or construction has not commenced within three years from the date the special permit decision is filed with the Town Clerk, not including appeals periods, except for good cause shown. An extension of time may be granted by the Planning Board upon application by the owner/applicant prior to the expiration and upon review of the circumstances and a finding of good cause.

E. Relationship to Subdivision Control Law. Nothing contained herein shall exempt a proposed subdivision from compliance with other applicable provisions of this

7. Editor's Note: See Ch. 340, Planning Board Rules and Regulations, Ch. 2, Special Permits, § 2.00 et seq.

bylaw or the Subdivision Rules and Regulations of the Planning Board,⁸ nor shall it affect the right of the Board of Health and of the Planning Board to approve, condition or disapprove a subdivision plan in accordance with the provision of such Rules and Regulations and of the Subdivision Control Law. To the extent possible, the application for approval of an open space residential development and a definitive subdivision application shall be processed and administered contemporaneously. An application for an OSRD shall be followed by an application for a definitive subdivision plan, as necessary.

§ 300-8.13. Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Sturbridge Zoning Bylaw.

8. Editor's Note: See Ch. 350, Subdivision Regulations.

ARTICLE IX
Wireless Communications Facilities

§ 300-9.1. Purpose; applicability.

- A. The purpose of this article is to establish a bylaw which regulates wireless communication facilities such that these services may be provided with minimal harm to the public health, safety and general welfare. This bylaw has been created to:
- (1) Protect the general public from hazards associated with wireless communication facilities.
 - (2) Minimize visual impacts from wireless communication facilities.
 - (3) Prevent adverse impact on local property values.
 - (4) Enable the responsible deployment of wireless communication facilities in the Town to promote public safety and quality of life.
- B. This article does not apply to satellite dishes and antennas for residential use.

§ 300-9.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANTENNA — The device from which wireless radio signals are sent and received through the air.

AVERAGE TREE CANOPY ELEVATION — The average elevation of dominant-height treetops within the fall zone of the tower.

CAMOUFLAGE — The use of structure, materials, coloration and/or shapes to disguise, hide or render unremarkable the appearance of a wireless communication facility and/or its components.

CARRIER — A company that provides personal wireless services.

DOMINANT-HEIGHT TREETOPS — The highest elevation treetop within a defined area together with treetops in that same area whose elevation is no more than 15 feet lower than the highest treetop.

ELEVATION — The height above sea level of a specified point on the ground or above ground.

EQUIPMENT SHELTER — A structure that encloses wireless communication equipment and that can be entered by an individual. This does not include freestanding outdoor equipment cabinets which are serviced from outside the cabinet.

FALL ZONE — A 360° radius on the ground equal to 120% of the height of a facility measured from ground level at the base of the facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

LATTICE TOWER — A tower with three or more legs consisting of an open frame truss configuration.

MONOPOLE — A self-supporting tower consisting of structurally suitable materials

used to support antennas and related equipment.

MOUNT — The structure or surface upon which antennas are mounted, including a tower attached to the ground or a rooftop, a frame attached to the top or side of a building or other structure, or a camouflage structure such as a faux rooftop chimney.

PERSONAL WIRELESS SERVICES — Those telecommunications services defined in the Telecommunications Act of 1996, Section 704.

RADIO FREQUENCY (RF) ENGINEER — An individual qualified by training and experience to design and evaluate radio frequency communications systems.

RADIO FREQUENCY ENERGY (RFE) — Electromagnetic energy emitted by radio transmission equipment and other sources.

SECURITY BARRIER — A locked, impenetrable wall or fence that completely seals an area from unauthorized entry or trespass.

SITE-SHARING (ALSO SITE-SHARE) — The use of a single mount or structure by more than one carrier to confine the impact of multiple facilities to one site.

TOWER — A structure built and used primarily for the purpose of supporting antennas and related components that is at least 35 feet from its base to its top or the top of its highest appurtenance, whichever is higher, if mounted on the ground, and at least 12 feet from its base to its top or the top of its highest appurtenance, whichever is higher, if mounted on the roof or side of a building.

WIRELESS COMMUNICATION FACILITY — The assembly of any and all materials, equipment, equipment shelters, towers, mounts, antennas and cabling intended for transmitting or receiving personal wireless services (also referred to as "facility").

WIRELESS COMMUNICATION OVERLAY DISTRICT — All land as portrayed on the Sturbridge Wireless Communication Overlay District Map, dated 11-26-1997, an overlay map to the official Sturbridge Zoning Map. As an overlay district, all requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded per the Wireless Communication Facilities Bylaw.

§ 300-9.3. Use regulations.

No wireless communication facility shall be placed, constructed or modified except as set forth below:

A. Mounts attached to existing buildings or structures.

- (1) Pursuant to site plan approval obtained in accordance with these bylaws, a wireless communication facility may employ an existing building or structure, provided that the mount shall not increase the height of the existing structure.
- (2) Pursuant to site plan approval and a special permit granted by the Planning Board in accordance with these bylaws, a mount attached to a building or structure (other than a tower) may extend above the height of that building or structure if the Planning Board finds that the mount is appropriately camouflaged and/or screened from view, or the mount is otherwise compatible with the context of the site on which it is located; provided that no such mount

may extend more than 12 feet above the building or structure.

- B. Mounts of any type within the tree canopy.
- (1) A new wireless communication facility, which may extend up to 15 feet in height above the average tree canopy elevation, may be located in the following zoning districts: Commercial, Commercial II, Commercial/Tourist, Special Use, General Industrial and Industrial Park, pursuant to a special permit and site plan approval issued by the Planning Board in accordance with these bylaws.
 - (2) A new wireless communication facility, which may extend up to 15 feet in height above the average tree canopy elevation, may be located in a Residential District pursuant to a special permit and site plan approval issued by the Planning Board in accordance with these bylaws, provided the Planning Board finds that the applicant has exhausted all reasonable alternatives for placing the facility in a nonresidential district and provided that any wireless communication facility placed in a residential district shall not present a dominant visual feature to residential users within the district, and may utilize significant wooded isolation, topographical isolation and/or or camouflage consistent with its surroundings, as determined acceptable by the Planning Board, to achieve this result.
 - (3) Any new wireless communication facility located under this section shall be camouflaged in a manner that is compatible with its surroundings as determined by the Planning Board with reference to visual impact analysis and simulations.
- C. A new wireless communication facility up to 130 feet in height from grade may be located in the Wireless Communication Overlay District pursuant to a special permit and site plan approval issued by the Planning Board in accordance with these bylaws. A freestanding monopole without camouflage may be allowed, at the Planning Board's discretion, in the overlay district under this section.
- D. No wireless communication facility shall be located in a local, state or national historic district unless the Planning Board finds that the wireless communication facility:
- (1) Is hidden or otherwise camouflaged to the satisfaction of the Planning Board;
 - (2) Cannot be located outside such district; and
 - (3) Is demonstrated to be compliant with the National Historic Preservation Act.
- E. New lattice-style towers are not allowed in any district, unless the Planning Board makes a finding that the benefit of employing a particular such tower outweighs the detriments to the community.
- F. Whenever feasible, wireless communication facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunication facilities, utility and light poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing

telephone and electric utility structures as sites for one or more wireless communication facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

- G. Site-sharing. Carriers shall share wireless communication facilities and sites where feasible and appropriate, thereby reducing the number of stand-alone facilities. All applicants for a special permit for a wireless communication facility shall demonstrate a good faith effort to site-share with other carriers. In determining whether site-sharing is appropriate, the Planning Board may consider whether the addition of a wireless communication facility to a site with existing facilities may be more detrimental due to the density of use than beneficial due to reduction of multiple facility sites. In the event an applicant determines that site-sharing is not feasible, it shall submit a written statement of the reasons for the infeasibility to the permit granting authority in sufficient detail to allow the permit granting authority to properly assess such feasibility.
- H. Average tree canopy elevation waiver. In the event that the Planning Board finds that application of the average tree canopy elevation requirement is impracticable because there exists no alternative site at which a wireless communication facility can be located to provide service in compliance with such requirement, the Planning Board may, at its discretion, grant a waiver to such requirement. The waiver may allow a wireless communication facility to extend up to 130 feet in height from grade, subject to all other applicable site plan approval and special permit criteria in these bylaws. To grant an average tree canopy elevation waiver, the Planning Board must also find that there are no alternative locations, including other parcels, where the grant of an average tree canopy elevation waiver would result in an outcome substantially more in keeping with the intent and purpose of the bylaw than at the proposed location.
- I. The Town may retain a technical expert in the field of RF engineering to peer-review the applicant's claims and submittals and to provide advice on the need for the proposed facility and on any potential alternatives. The cost for such a technical expert will be borne by the applicant.
- J. In no case shall any facility of the type in § 300-9.3C above be located closer than one mile to any other such facility unless the Planning Board makes a finding that site-sharing on such facilities is infeasible or does not address the coverage objective of the applicant.
- K. All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use.
- L. In order to ensure public safety, the minimum distance from the base of any ground-mounted facility to any property line, road, habitable dwelling, business or institutional use, or public recreational areas shall be 120% of the height of the facility, inclusive of any appurtenant devices. A fall zone shall be maintained around the facility as per the definition.
- M. Wireless communication facilities shall be painted or otherwise screened or camouflaged to minimize their visibility to abutters, adjacent streets and residential neighborhoods. Existing on-site vegetation shall be preserved to the maximum extent practicable for screening purposes. All towers and mounts shall be

positioned and designed to minimize their visibility to residential abutters, adjacent streets and residential neighborhoods.

- N. Equipment shelters. Equipment shelters for wireless communication facilities shall be designed consistent with their surroundings as determined by the context of their location, such as by requiring traditional colonial Sturbridge architectural styles and materials, with a pitched roof and wood clapboard or shingle siding or commercial or industrial styling where consistent with surrounding development; and/or screened by an effective year-round landscape buffer and/or natural fence, equal to the height of the proposed building or equipment compound and/or wooden fence.
- O. Lighting shall be limited to minimal security lighting and that required by the Federal Aviation Administration (FAA) only. The Planning Board may require an applicant to consider alternatives that do not require FAA navigation lighting or painting.
- P. There shall be at least one parking space at each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for storage of vehicles or other items.
- Q. All outdoor wireless communication facilities and related equipment shall be surrounded by a security barrier.
- R. No signage of any kind, including carrier identification signs, shall be mounted on telecommunications towers except signs less than 10 feet above ground that identify the tower, its owner, its emergency contact number and other relevant information and hazard communication signs.

§ 300-9.4. Safety standards.

- A. Applicants shall demonstrate their facilities are designed to operate in compliance with applicable federal and state requirements regarding human exposure to RFE (ref. 47 CFR 1.1307 et seq. and 105 CMR 122) and shall maintain compliance at all times.
- B. Applicants shall demonstrate compliance with National Environmental Policy Act and local environmental requirements.
- C. Equipment shelters and outdoor equipment for wireless communication facilities shall together not generate noise in excess of 50 Dba Le at the property line. Applicants must include a demonstration of how a proposed facility or modification, together with all existing facilities at the site, will comply with this requirement. The Town may hire an acoustical engineer to verify noise levels at the carrier's expense.

§ 300-9.5. Review and approval procedures.

In addition to the usual procedures and information required to file for a special permit under § 300-18.2B(2) of this bylaw, the following shall also be required:

- A. A report prepared by one or more suitably qualified RF engineers providing the following information:

- (1) Demonstration that the proposed wireless communication equipment shall be installed, erected, maintained and used in compliance with all applicable federal, state and local regulations, including, but not limited to: the radio frequency emissions regulations established by the FCC, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), MassDOT Aeronautics Division and the Massachusetts Department of Public Health.
 - (2) A description of the facility and the technical and other reasons for the proposed location, height and design, including reasons for not co-locating on other existing facilities or structures.
 - (3) A description of the capacity of the facility, including total the number and type of panels, antenna, other carriers' facilities and related gear that it can accommodate.
- B. A locus plan at a scale of one inch equals 200 feet or other such scale as appropriate to the context of the parcel, which shall show all property lines, the exact location of the proposed facilities, streets, landscape features and all buildings within 500 feet of the facility shall be submitted.
- C. A color photograph or rendition of the facility with its antennas and/or panels at the proposed site.
- D. A view test to be conducted utilizing balloons or other means to document the extent of visual impact. The Planning Board may require the applicant to conduct a publicly noticed balloon test during the conduct of the public hearing. Photographs and photosimulations of the view test showing the impact of the proposed facility on abutting streets, adjacent property owners and residential neighborhoods shall be submitted.
- E. The Town, acting through its Planning Board, may require the applicant to pay reasonable fees for review of the applicant's proposal by a radio frequency engineer or other qualified professionals.

§ 300-9.6. Monitoring and maintenance.

- A. After the wireless communication facility is operational, the applicant shall submit, within 90 days of beginning operations, a verification of compliance of RFE emissions with applicable regulations employing methods appropriate to the circumstances as guided by FCC Office of Engineering and Technology Bulletin 65.
- B. The applicant shall maintain the wireless communication facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and any security barrier, and maintenance of the buffer area and landscaping.

§ 300-9.7. Modifications.

- A. Except as otherwise directed by applicable federal and state regulation, including the 2012 Middle Class Tax Relief and Jobs Creation Act, Section 6409, a

modification of a wireless communication facility will require a special permit and/or site plan approval as appropriate.

- B. The Town of Sturbridge takes notice of federal exceptions such as those included in the 2012 Middle Class Tax Relief and Jobs Creation Act, Section 6409, which requires that municipalities "may not deny and shall approve" applications for certain kinds of facility modifications. Applicants shall have the burden of demonstrating that their proposed facilities are not "substantial modifications" of "eligible facilities." The Planning Board, through regulation, may delegate preliminary review of Section 6409 applications to staff to facilitate prompt evaluation of the applicability of Section 6409 and determination whether the applicant:
- (1) May be relieved of Planning Board review;
 - (2) May be required to demonstrate Section 6409 applicability to the Planning Board; or
 - (3) May not be eligible for Section 6409 relief and is required to file a full application with the Planning Board.

§ 300-9.8. Abandonment and discontinuance.

- A. At such time that the licensed carrier plans to abandon or discontinue operation of a wireless communication facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuance of operations.
- B. Such notice shall be given no less than 30 days prior to abandonment or discontinuance of operations. In the event that a carrier fails to give notice, the wireless communication facility shall be considered abandoned upon such discontinuance of operations.
- C. Upon abandonment or discontinuance of use, the carrier shall physically remove the wireless communication facility within 90 days from the date of abandonment or discontinuance of use. "Physically remove" shall include, but shall not be limited to:
- (1) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the wireless communication facility to its natural condition, except that any landscaping and grading shall remain in the "after" condition.
- D. The applicant shall provide the Town with written authority from the owner or owners of record for the subject property where the facility is located to bind successors and assigns to allow the Town to enter onto the subject property to physically remove the facility in the event that the carrier fails to remove the facility in accordance with the requirements of this Zoning Bylaw. The Planning Board shall require the applicant to post a bond at the time of construction to cover the

costs for the removal of the wireless communication facility in the event the Town must remove the facility.

§ 300-9.9. Exceptions.

- A. Amateur radio towers used in accordance with the terms of any amateur radio license issued by the Federal Communications Commissions shall be exempt from the provisions of this bylaw, provided that:
- (1) The tower is not used or licensed for any commercial purpose; and
 - (2) The tower must be removed if use is discontinued for one year.
- B. Facilities used for the purposes set forth in MGL c. 40A, § 3 shall also be exempt.

§ 300-9.10. Severability.

In the event that one or more of the provisions of this Zoning Bylaw are deemed invalid by a court of competent jurisdiction, then all remaining provisions shall remain in full force and effect.

ARTICLE X
Solar Energy Facilities

§ 300-10.1. Purpose.

The purpose of this bylaw is to promote the development of solar energy facilities by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such energy facilities, to protect public safety, to minimize impacts on scenic, natural and historic resources of Sturbridge and to provide adequate financial assurance for the eventual decommissioning of such energy facilities.

§ 300-10.2. Applicability; permitted districts.

- A. This bylaw applies to all ground-mounted solar energy facilities and to physical modifications that materially alter the type, configuration or size of these facilities or related equipment. Ground-mounted solar energy facilities on municipal and school district properties are permitted in all districts upon site plan approval from the Planning Board. Solar facilities for one- and two-family dwellings are also exempt from this bylaw.
- B. Large-scale solar facilities and small-scale solar facilities are prohibited in the Suburban Residential District, the Rural Residential District, the Commercial District, the Commercial Tourist District, the Historic Commercial District and the Commercial II District. Large-scale solar facilities and small-scale solar facilities are allowed as of right in the General Industrial District, the Industrial Park District and the Special Use District.

§ 300-10.3. General requirements.

- A. Site plan review. All solar energy facilities, except for those explicitly exempted pursuant to § 300-10.2, shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.
- B. Required documents. In addition to the submission requirements in the Planning Board's Site Plan Review Regulations,⁹ the applicant shall provide the following documents:
 - (1) Plans and drawings of the solar energy facility signed and stamped by a professional engineer licensed to practice in Massachusetts showing the proposed layout of the system;
 - (2) An electrical diagram detailing the solar energy facility, associated components and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;
 - (3) Technical specifications of the major system components, including the solar arrays, mounting system and inverter;
 - (4) A glare analysis and proposed mitigation, if any, to minimize the impact of glare on affected properties;

9. Editor's Note: See Ch. 340, Planning Board Rules and Regulations, Ch. 3, Site Plan Approval, § 3.00 et seq.

- (5) The name, address and contact information of the owner, proposed installer and operator;
 - (6) Proof of actual or proposed control of access ways and the project site sufficient to allow for installation and use of the proposed facility;
 - (7) An operation and maintenance plan;
 - (8) Proof of liability insurance; and
 - (9) Financial surety that satisfies § 300-10.12 of this bylaw.
- C. Operation and maintenance plan. The applicant shall submit a plan for the operation and maintenance of the solar energy facility, which shall include measures for maintaining safe access, stormwater controls and general procedures for operating and maintaining the energy facility.

§ 300-10.4. Utility notification.

The applicant shall submit evidence satisfactory to the Planning Board that he has informed the utility company in writing of his intent to install a solar energy facility and that the utility company has responded in writing to the interconnection notice. Off-grid systems are exempt from this requirement.

§ 300-10.5. Dimension and density requirements.

- A. Setbacks. Ground-mounted solar energy facilities, including appurtenant structures (including but not limited to equipment shelters, storage facilities, transformers and substations), shall have a setback from front, side and rear property lines and public ways of at least 100 feet in Special Use District and Industrial Districts. Twenty percent of a parcel's total square footage may be used for a solar facility.
- B. Buffering. The visual impact of large-scale solar photovoltaic facilities, including all appurtenant structures, shall be mitigated. Structures shall be buffered/shielded from view and/or joined and clustered to avoid adverse visual impacts as deemed necessary by the Planning Board using landscaping and natural features as appropriate to accomplish the mitigation. When a proposed project abuts a property in residential use, the minimum width of the buffer area shall be 200 feet (measured from the proposed solar project to the property line of the property in residential use) and this distance shall supersede the 100-foot setback as stated in Subsection A above. In all other cases that buffering/shielding shall occur within the stated setback amount.

§ 300-10.6. Design standards.

- A. Lighting. Lighting shall be limited to that required for safety and operational purposes, and shall not be intrusive in any way on abutting properties. Lighting shall incorporate full cut-off fixtures to reduce light pollution.
- B. Signage. The site may have a sign not exceeding 16 square feet in area providing educational information about the facility and the benefits of renewable energy. Ground-mounted solar photovoltaic facilities shall not be used for displaying any

advertising. Safety signage shall be installed as deemed necessary.

- C. Utility connections. Reasonable efforts, as determined by the Planning Board, 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 transformer for utility interconnections may be above ground if required by the utility provider.
- D. Land clearing. Clearing of natural vegetation shall be limited to only what is absolutely necessary as determined during site plan review for the construction, operation and maintenance of the solar photovoltaic installation or otherwise prescribed by applicable laws, regulations and bylaws.
- E. Environmental impacts. Proposed structures (including panels) shall be integrated into the existing terrain and surrounding landscape by minimizing use of and impact to wetlands, steep slopes and hilltops; protecting visual amenities and scenic views; minimizing tree, vegetation and soil removal; and minimizing grade changes.

§ 300-10.7. Emergency services.

The operator shall provide a copy of the operation and maintenance plan, electrical schematic and site plan to the Sturbridge Fire Chief and Police Chief. The operator shall cooperate with local emergency services in developing an emergency response plan; this plan shall be reviewed annually with local emergency officials and revised as necessary. All means of shutting down the solar energy facility shall be clearly marked. The premises shall identify a qualified contact person to provide assistance during an emergency; the operator shall change the contact information immediately and so notify the Sturbridge Fire Chief and Police Chief whenever there is a change in the contact person.

§ 300-10.8. Monitoring and maintenance.

Maintenance. The operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. The operator shall be responsible for maintaining access for emergency vehicles that is determined to be adequate by the Sturbridge Fire Chief, Police Chief and any other local emergency services, and for maintaining adequate access for any maintenance equipment.

§ 300-10.9. Modifications.

After issuance of the building permit, any material modification to the facility requires approval of the Planning Board unless exempt under this bylaw. The operator may apply to the Planning Board for a determination as to whether a proposed modification is material.

§ 300-10.10. Discontinuance, decommissioning, abandonment and removal.

- A. Removal requirements. Any solar energy facility that has reached the end of its useful life or has been discontinued, decommissioned or abandoned, as defined below in § 300-10.11, shall be removed. The owner or operator shall physically

remove the facility within 150 days after the date of discontinued or abandoned operations or decommissioning in compliance with the requirements of the Inspector of Buildings. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations or decommissioning and submit the plans for removal.

- B. Removal. Removal shall consist of: physical removal of all of the equipment from the site, including, but not limited to, the solar arrays, structures, equipment, security barriers and electrical transmission lines.
- C. Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or below-grade foundations in order to minimize erosion and disruption of vegetation.

§ 300-10.11. Abandonment.

Absent notice to the Planning Board, as provided above in § 300-10.10, of a proposed date of discontinuance or decommissioning or written notice requesting an extension due to extenuating circumstances, the solar facility shall be considered abandoned when it fails to operate or operations are discontinued for more than one year without the written consent of the Planning Board. If the owner or operator fails to remove the energy facility in accordance with the requirements of § 300-10.10 within 150 days of abandonment or discontinuance or the proposed date of decommissioning, the Town may, to the extent it is otherwise duly authorized by law, enter the property and physically remove the facility.

§ 300-10.12. Financial surety.

Prior to commencing operation of the facility, the applicant shall provide a form of surety, either through a cash deposit, bond or otherwise, in an amount determined by the Planning Board to cover the cost of removal and site restoration. Such surety will not be required for municipal facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include an escalator for calculating increased removal costs due to inflation.

ARTICLE XI
Accessory Dwelling Units

§ 300-11.1. Special permit required.

Accessory dwelling units shall be permitted only upon issuance of a special permit from the Zoning Board of Appeals and in accordance with the additional requirements specified herein.

§ 300-11.2. General description.

An accessory dwelling unit is a second dwelling unit located on the same lot as the principal dwelling unit, either within the principal dwelling or in an accessory structure. The accessory dwelling unit shall be subordinate in size to the principal dwelling and shall be a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities. This bylaw is not intended for revolving short-term rentals.

§ 300-11.3. Purpose.

The purpose of the Accessory Dwelling Unit Bylaw is to:

- A. Provide homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- B. Provide a mix of housing that responds to changing family needs and smaller households;
- C. Provide a broader range of accessible and more affordable housing;
- D. Protect stability, property values and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and
- E. Legalize conversions to encourage compliance with the State Building Code.

§ 300-11.4. Accessory dwelling unit standards.

The SPGA may authorize a special permit for a use known as an accessory dwelling unit within the principal single-family dwelling, or in an accessory structure located on the same lot as the principal dwelling unit, provided that the following standards and criteria are met:

- A. The accessory unit shall clearly be subordinate in size to the single-family dwelling.
- B. The accessory unit will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.
- C. Only one accessory unit shall be created. This accessory unit shall be either within the single-family dwelling or an attached accessory structure.

- D. The owner(s) of the property on which the accessory dwelling unit is located, either within the principal single-family dwelling or in an accessory structure on the same lot, shall occupy at least one of the dwelling units on the premises except for bona fide temporary absences.
- E. When the accessory dwelling unit is located within the principal single-family dwelling, the unit shall be designed so that the appearance of the building remains that of a single-family residence as much as feasibly possible. Where feasible, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform to the single-family character of the neighborhood.
- F. When the accessory dwelling unit is created in an accessory structure, the exterior appearance shall be visibly compatible with the primary dwelling and the character of the neighborhood.
- G. An addition to the original building is permitted, provided the addition will not alter the character of the building.
- H. Parking shall be provided as required by § 300-16.11 of this bylaw. Parking spaces shall be located to the side or the rear of the structure, to the extent feasible.
- I. A sanitarian or professional engineer, registered in the Commonwealth of Massachusetts, has certified that the existing or proposed improvements to new or existing sewage disposal systems are adequate and in accordance with 310 CMR 15.000, the State Environmental Code, Title 5.
- J. The construction of any accessory apartment must be in conformity with the State Building Code.

§ 300-11.5. Application procedure.

- A. The procedure for the submission and approval of a special permit for an accessory dwelling unit in owner-occupied, single-family dwellings shall be the same as prescribed in § 300-18.2B(2) of the Sturbridge Zoning Bylaw, and the rules and regulations for special permits that have been adopted and amended from time to time by the SPGA,¹⁰ except that the application shall include a notarized letter of application from the owner(s) attesting that he/she will occupy one of the dwelling units on the premises.
- B. In order to provide for the development of housing units for disabled and handicapped individuals, the SPGA will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

§ 300-11.6. Accessory units in existence before adoption of bylaw.

- A. Statement of intent. The purpose of this section is to ensure that accessory units or conversions in existence before the adoption of this Accessory Unit Bylaw are in compliance with the State Building Code.

10. Editor's Note: See Ch. 340, Planning Board Rules and Regulations, Ch. 2, Special Permits, § 2.00 et seq.

B. Application procedure.

- (1) The SPGA may authorize, under a special permit and in conjunction with the Building Inspector, an accessory unit in an owner-occupied, single-family dwelling or accessory structure. The Board will review, with the Building Inspector, each existing use on a case-by-case basis to determine if the dwelling conforms to the State Building Code.
- (2) The applicant must follow the same procedures described in this Accessory Unit Bylaw.

ARTICLE XII
Removal of Sand and Gravel

§ 300-12.1. Special permit required.

The removal of sand, gravel, subsoil, topsoil or earth and the processing and treating of said materials shall be conducted only by special permit issued by the Board of Selectmen.

§ 300-12.2. Exceptions.

This article shall not apply to the following:

- A. The excavation of a foundation for a new structure for which a valid building permit is in force, provided the amount of material to be removed will not exceed 5,000 cubic yards.
- B. The grading and/or landscaping in connection with the construction of a new structure as approved by the Planning Board.
- C. The construction or reconstruction of a residential driveway if otherwise permitted.
- D. The excavation and grading in connection with construction of a subdivision as approved by the Planning Board.
- E. The removal of less than 50 cubic yards in a twelve-month period.
- F. The grading in connection with a bona fide agriculture operation.
- G. Building construction. Removal of sand, earth or gravel and the processing and treating of said materials shall be conducted only by special permit of the Board of Selectmen. This article shall not apply to such operation which are incidental to and in connection with the construction of a building on a lot.

§ 300-12.3. Conditions.

The Board of Selectmen may approve the removal of sand, gravel or earth in excess of 50 cubic yards but not to exceed 2,000 cubic yards on a one-time basis under the following conditions:

- A. The application be accompanied by a plan or plans showing:
 - (1) The property lines.
 - (2) The area to be excavated.
 - (3) The distance from the property lines to the area to be excavated.
 - (4) The approximate contours before and after excavating.
- B. The excavation shall be at least 20 feet from the lot lines unless the Board of Selectmen deem otherwise.

§ 300-12.4. Grant of permit by Selectmen.

The Board of Selectmen may, after public hearing for which notice has been given by publication and posting as provided in MGL c. 40A, grant a special permit for the removal of more than 50 cubic yards in a twelve-month period.

§ 300-12.5. Site plan required.

Any application for a special permit for the removal of sand, earth or gravel or for the processing and treating of said materials shall be accompanied by a site plan depicting the land to be affected by such operation. In addition to complying with the minimum site plan requirements of § 300-12.3, the site plan shall indicate the following:

- A. Contours at intervals of not more than 10 feet;
- B. A placement of at least four inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, re-seeded as necessary to ensure uniform growth and soil surface stabilization;
- C. Finished grades not to exceed a slope of one foot vertical to two feet horizontal; and
- D. Existing removal area(s) and the proposed area(s) for removal in the immediate future.

§ 300-12.6. Permit conditions.

Any special permit granted for the removal of sand, earth or gravel or for the processing and treating of said materials shall contain the following mandatory conditions:

- A. All equipment, except mobile equipment, for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 feet to any public street or to any adjoining property lines.
- B. Any access to excavated areas or areas in the process of excavation shall be adequately posted with KEEP OUT - DANGER signs.
- C. Any work or bank that slopes more than 30° downward adjacent to a public street shall be adequately fenced at the top.
- D. Fencing. A substantial fence shall be provided enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope of more than one foot vertical to two feet horizontal. Such fence shall be located 10 feet or more from the edge of the excavation or quarry, and shall be at least six feet in height.
- E. Adequate provision is to be made for drainage during and after the completion of operations.
- F. Adequate lateral support shall be maintained for all adjacent properties.
- G. The use of explosives shall be done in accordance with the regulations for storage and handling of explosives as published by the Massachusetts Department of Fire Services and the Sturbridge Fire Department.

- H. Provision shall be made for the adequate control of dust during operation.
- I. There shall be replacement of at least four inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces. There shall also be seeding with a perennial crop, re-seeded as necessary to ensure uniform growth and soil surface stabilization.
- J. Finished grades shall not exceed a slope of one foot vertical to two feet horizontal.
- K. It is recognized that the land reuse of a removal site is in the public interest. Therefore, land reuse plan(s) must be submitted to the Board of Selectmen for approval subject to the regulations set forth in the following paragraphs:
 - (1) The Board of Selectmen may require that up to three approved alternative future land reuse plans be submitted for such land as is used for the extraction of earth, sand, gravel and/or rock;
 - (2) Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonable occur in the immediate future, zero to five years, and be revised as necessary as to the existing physical character of the removal area changes;
 - (3) The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation. Abandonment for the purpose of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to abandon the use of the land; and
 - (4) A bond in an amount stated by the Board of Selectmen shall be posted to ensure the satisfactory implementation of the reuse plan.

§ 300-12.7. Additional conditions.

- A. Excavation and grading shall be executed in such manner as not to result in holes, depressions, stagnant water, soil erosion, drainage or sewerage problems or other conditions which would depress the land values or impair the property for use for which it has been zoned.
- B. Except in the case of dams, swimming pools, or where retaining walls are to be constructed, no removal, excavation or processing shall be conducted within 50 feet of any street or property line.
- C. Unless the property to be graded is located in an Industrial District, no earth excavating machinery or trucks shall be stored within 300 feet of any property line or street line, and no machinery for sorting, grading, crushing or for other processing of the excavated material shall be erected except a temporary shelter for machinery or office.
- D. After excavation or removal, the premises shall be cleared of debris, a top layer of topsoil of at least four inches in depth shall be spread over the finished subgrade, and the final surface shall conform to the proposed finished contours and grades.

No areas shall be excavated in such a manner that the finished grade is below the water table.

§ 300-12.8. Performance bond.

A performance bond, in form and amount specified by the Board of Selectmen, shall be filed with the Treasurer of the Town of Sturbridge; said bond shall specify the time within which the work under the permit is to be completed and shall guarantee satisfactory performance of the work.

§ 300-12.9. Expiration and revocation of permits.

- A. Expiration. Any permit issued by the Board of Selectmen as herein described shall expire within two years of the date of the permit, but may be renewed by the Board of Selectmen for an additional period of time if the Board deems such action satisfactory.
- B. Revocation. The Board of Selectmen may revoke the permit and may take other action as shall be necessary either against the permittee or surety in the bond, to cause completion of the work forthwith in accordance with the terms of the application and permit, if the work or excavating, removal, grading or regrading is not being performed in accordance with said permit.

ARTICLE XIII
Adult Use Marijuana

§ 300-13.1. Purpose.

The purpose of this bylaw is to provide for the limited establishment of adult use marijuana establishments in the Town of Sturbridge, in appropriate locations. It is the express purpose and intent of this bylaw to minimize the adverse impacts adult use marijuana establishments may have on residential neighborhoods and other potentially incompatible land uses and to provide standards for the placement, design, siting and safety of adult use marijuana establishments subject to reasonable conditions that will protect the public health, safety and welfare. This bylaw is intended to be used in conjunction with other regulations adopted by the Town of Sturbridge designed to encourage appropriate land use and reasonable safeguards to govern the time, place and manner of marijuana establishment operations.

§ 300-13.2. Applicability.

Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This bylaw shall not be construed to prevent the conversion of a registered marijuana dispensary licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to an adult use marijuana establishment engaged in the same type of activity; provided, however, any such medical marijuana treatment center obtains site plan approval pursuant to Part 5, Article XIX, of the Zoning Bylaw and pursuant to the requirements of this bylaw for any such conversion to an adult use marijuana establishment.

§ 300-13.3. Use regulations.

- A. With the exception of the conversion of a licensed registered marijuana dispensary to an adult use marijuana establishment, an adult use marijuana establishment shall be permitted by special permit only in the IP, GI and MMOD Zoning Districts, except a marijuana retailer which may be permitted in the MMOD or C Districts and only then upon the issuance of a special permit and site plan approval by the Planning Board acting in accordance with the standards and procedures set forth in this bylaw and Part 4, Articles XVIII and XIX, of the Zoning Bylaw.
- B. The number of marijuana retailers that shall be permitted in Town shall be limited to 20% of the number of licenses issued within the Town of Sturbridge for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138, § 15. In the event that 20% of said licenses is not a whole number, the limit shall be rounded up to the nearest whole number.
- C. The following marijuana establishments shall be eligible for a special permit:
 - (1) Marijuana cultivator.
 - (2) Marijuana independent testing laboratory.
 - (3) Marijuana product manufacturer.

- (4) Marijuana research facility.
 - (5) Marijuana retailer.
 - (6) Marijuana transporter.
 - (7) Marijuana microbusiness.
- D. With the exception of the conversion of a medical marijuana treatment facility, no special permit shall be granted for any marijuana establishment within a radius of 500 feet of a preexisting public or private school (pre-school through Grade 12), child-care facility, public playground, public park, youth center, library or similar facility in which children commonly congregate. The 500-foot distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses noted above to the nearest point of the property line of the proposed marijuana establishment. Each applicant for a special permit under this section shall submit a plan signed by a licensed surveyor, depicting compliance with the linear distance requirements set forth herein.
- E. All aspects of a marijuana establishment relative to the cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, marijuana products or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. A marijuana establishment shall not be located in a trailer, storage freight container, motor vehicle or other similar movable enclosure, unless operating as a licensed marijuana transporter.
- F. No outside storage of marijuana, marijuana products or related supplies is permitted.
- G. The hours of operation of a marijuana establishment shall be set by the SPGA, but in no event shall a marijuana establishment be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises outside the hours of 8:00 a.m. through 11:00 p.m. Monday through Saturday or before 10:00 a.m. on Sundays.
- H. The marijuana establishment shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana-related products from being dispersed or released outside the facilities and to prevent odor from marijuana or its processing from being detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of such facility or at any adjoining use or property. Application of pesticides shall be performed in compliance with MGL c. 132B and the regulations promulgated at 333 CMR 2.00 through 333 CMR 14.00.
- I. No use shall be allowed at a marijuana establishment which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

- J. The marijuana establishment shall provide for adequate and proper security at the premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.
- K. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises of any marijuana establishment unless expressly permitted under this law and permitted by state law or regulation. The prohibition on on-site consumption shall also include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.
- L. No drive-through service shall be permitted at a marijuana establishment.
- M. Clubs, lodges or other private grounds (nonprofit and private) allowing on-site social consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator, are prohibited.
- N. All signage must comply with the requirements of the Sturbridge Zoning Bylaw, Design Review Committee and any other applicable bylaws or regulations. In the case of a conflict, the stricter requirement shall apply.

§ 300-13.4. Special permit and site plan required.

The Planning Board shall be the special permit granting authority (SPGA) for a special permit for an adult use marijuana establishment. In addition to a special permit, site plan approval is required for all adult use marijuana establishments in accordance with Part 5, Article XIX, of the Zoning Bylaw.

§ 300-13.5. Application requirements.

- A. All applicants are encouraged to contact the Planning Department staff to schedule a preapplication meeting.
- B. In addition to all the application requirements related to special permits and site plan approval under Part 5, Articles XVIII and XIX, of the Zoning Bylaw, the applicant shall include the following at the time of application:
 - (1) Copies of all licenses, permits and documentation demonstrating application status, registration or licensure by the Commonwealth of Massachusetts Cannabis Control Commission, including but not limited to a copy of an executed host community agreement.
 - (2) A security plan showing the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public or private street or off-street parking area. The security plan shall detail how the property will be monitored so as to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity and shall show the location of any walkway structures, lighting, gates, fencing and landscaping.
 - (3) A list of all managers, officers, directors, persons or entities having direct or

indirect authority over the management, policies, security operations or cultivation operations of the marijuana establishment.

- (4) An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities and the administrative and engineering controls that will be implemented to control such odors, including maintenance of such controls.
 - (5) An applicant who is not the property owner shall submit evidence in the form of a deed, an executed lease or valid purchase and sale agreement documenting the applicant's contingent property interest and legal right to operate a marijuana establishment at the property.
- C. The SPGA shall refer copies of the application and plan to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission and Department of Public Works. These departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

§ 300-13.6. Required findings.

In addition to the standard findings for special permit and site plan approval, the SPGA must also find all the following:

- A. The marijuana establishment does not derogate from the purposes and intent of this article and the Zoning Bylaw.
- B. The application information submitted is adequate for the SPGA to consider approving the special permit request.
- C. The proposed establishment is designed to minimize any adverse impacts on abutting properties.
- D. The security plan provides, in the opinion of the Chief of Police, sufficient assurance that adequate security controls will be implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana-related products are adequately secured on-site or via delivery.
- E. The odor control plan proposed adequately provides for the ongoing safe operation of the establishment and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
- F. The proposed design and operation of the marijuana establishment will meet the requirements of this article.

§ 300-13.7. Severability.

The provisions of this bylaw are severable. If any provision, paragraph, sentence or clause of this bylaw or the application thereof to any person, establishment or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

**Part 4
General Development Regulations**

**ARTICLE XIV
Intensity Regulations**

§ 300-14.1. General requirements.

- A. No building shall be erected, placed or converted to use on any lot in the Town unless the following requirements are met.
- B. All of these requirements must be met by land located entirely within the applicable zoning district.
- C. Except as otherwise provided in this bylaw, no residential use shall have a net floor area of living space per family of less than 750 square feet.

§ 300-14.2. Table of standards.

	Lot Size		Setbacks		Max. Lot Coverage (%)	Max. # Bldg. Stories	Max. Height (Mean) (feet)	Max. Impervious Surface	Min. Habitable Floor Area ⁶ (square feet)
	Area (acres)	Frontage (feet)	(feet)						
			Street ²	Other					
Rural Residential	1	150	30	20	15	2	35	—	750
Suburban Residential	3/4 ¹	125	30	15	15	2	35	—	750
Commercial	1	150	25	10	30	3	35 ³	70%	750
Commercial Tourist	10,000 square feet	100	25	10	30	3 ³	35 ⁴	—	750
Commercial II	1	150	25	10	30	3	35 ³	70%	750
Historic Commercial	1	200	50	20	30	—	35	—	750
General Industrial	1	150	30	20	50	—	35 ³	70%	750
Industrial Park	2	300	60	30	33 ³	2	35 ³	70%	750
Special Use	1 ⁴	200 ⁵	50	30	30	—	35	—	750

¹ 1/2 acre area allowed if lot is serviced by Town water and sewer.

² Street line setbacks apply to all streets forming corner lots.

- ³ May be varied by special permit by the Planning Board.
- ⁴ May be varied by special permit by the Planning Board.
- ⁵ May be varied by special permit by the Planning Board.
- ⁶ Except as otherwise provided in this bylaw, no residential use shall have a net floor area of living space per family of less than 750 square feet.

ARTICLE XV
General Regulations

§ 300-15.1. Existing uses not affected.

This bylaw shall not apply to existing use of any building or structure, or of land to the extent of that use at the time of the adoption of this bylaw.

§ 300-15.2. Nonconforming uses and structures.

The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this bylaw may be continued although such structure or use does not conform with provisions of this bylaw.

A. Change in nonconforming use and structures.

- (1) A preexisting nonconforming structure or use may be extended, changed or altered, and subject to issuance of a special permit by the Zoning Board of Appeals. No such extension, change or alteration shall be permitted unless the Zoning Board of Appeals finds after a public hearing that such extension, change or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- (2) In order to make such a finding, the Zoning Board of Appeals shall request from the petitioner any relevant surveys, studies or other documentation; and shall verify this information with other Town agencies and officials as necessary, to make the following determinations:
 - (a) Baseline conditions. The extent to which the existing nonconforming structure or use does not currently conform to the requirements of the Zoning Bylaw with regard to permitted use, dimensional controls, parking, loading or other requirements.
 - (b) Proposed changes.
 - [1] The extent to which the proposal would increase the nonconformity with respect to each of the dimensional controls listed in the Town's Zoning Bylaws Part 4, Article XIV, Intensity Regulations.
 - [2] The extent to which the proposal would increase the nonconformity with respect to Article XVI of the Zoning Bylaw, Off-Street Parking, Loading and Drive-Thru Standards.
 - [3] Whether the proposal would intensify the existing nonconformities or result in additional ones.
- (3) In order to assist in making its decision, the Zoning Board of Appeals shall also review and consider information related to the following: traffic, noise, lighting, heat, glare and vibration, drainage, air quality, intensity of use, public nuisance, abutting uses, neighborhood character and environmental quality.

B. Alteration of nonconforming residential structures.

- (1) Notwithstanding any other provisions of these bylaws, alteration, reconstruction, extension or structural change (collectively "alteration") of a preexisting, nonconforming single-family or two-family residential structure will be deemed not to increase the nonconforming nature of such a structure, and shall be permitted as of right, if:
 - (a) The structure is located on a conforming lot, and the proposed alteration will comply in all respects with the bylaws; or
 - (b) The structure is located on a legally nonconforming lot, and the proposed alteration will retain the structure's existing footprint, and will not increase the structure's existing envelope. "Envelope," as used herein, shall mean the outer surfaces of the existing structure.
 - (2) Alteration of a preexisting, nonconforming single-family or two-family residential structure, where such alteration cannot be made as of right, may be made without the necessity of obtaining a special permit pursuant to Subsection A, if the Zoning Board of Appeals determines that such alteration will not increase the nonconforming nature of the structure. If the Zoning Board of Appeals does not make this determination, the applicant may seek a special permit pursuant to Subsection A.
- C. Replacement of destroyed buildings.
- (1) Any preexisting nonconforming nonresidential building, including an otherwise conforming nonresidential building on a nonconforming lot, that is destroyed by fire, explosion, the act of public enemy or act of God, may be reconstructed as a matter of right, provided that the reconstruction must be within the then-existing building footprint and must not exceed the then-existing building envelope. Said reconstruction of the building must be under construction within two years of the date of casualty.
 - (2) Reconstruction of a preexisting nonconforming building, where such reconstruction cannot be made as of right, may be made by a special permit granted pursuant to Subsection A.
- D. Abandonment. A nonconforming use which has been discontinued for a period of two years or more shall not be re-established. Any future use shall conform to the requirements of this bylaw at the time of the establishment of the new use.
- E. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

§ 300-15.3. Width of lot.

No lot shall have a width as defined in Part 1, Article II, that is less than the frontage specified for the district in Part 4, Article XIV.

§ 300-15.4. Reduction of lot size.

No lot shall be changed or reduced in area or shape so that it does not conform to the provisions of this bylaw, except that any single lot or parcel on which two or more

houses were standing at the time of the adoption of this bylaw may be divided into separate lots, conforming as nearly as possible to this bylaw on each of which one of such houses remains standing, provided that each lot has at least 20 feet of frontage on a public way.

§ 300-15.5. Lots of less than required width or area.

Certain previously recorded or approved lots having an area or frontage of lesser amount than required by this bylaw may be built upon under the conditions set forth in MGL c. 40A, § 6.

§ 300-15.6. Dwellings.

Not more than one building designed or available for use for dwelling purposes shall be erected or placed, or converted to use as such on any lot in a subdivision, or elsewhere in the Town without the consent of the Planning Board, which consent shall be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. Conditions pertaining to the location of building on a lot, additional setbacks from the lot lines and an impact statement may be required by the Planning Board.

§ 300-15.7. Accessory buildings.

- A. An accessory building attached to its principal building shall be considered an integral part of the principal building and as such shall be subject to the open space requirements applicable to the principal building.
- B. No accessory building or structure shall be located within the required setback from street line nor within the required setback from lot lines.

§ 300-15.8. Trailer coaches.

- A. Not more than one trailer coach may be kept on any parcel of land. No trailer coach may be used as living quarters while so located. Space shall not be leased for trailer coaches; provided, however, that the foregoing shall not prohibit the establishment of a trailer coach park under provisions of MGL c. 140 and any amendment thereto and this bylaw.
- B. The removal of wheels from a mobile home or trailer and the placing of the same on any type of permanent foundation will not change the character of the building and the prohibition of the bylaw will apply to such structures.

§ 300-15.9. Projections.

Nothing in this bylaw shall prevent the projection of steps, eaves, cornices, window sills, awnings or belt courses into any required setback from street line nor within the required setback from lot lines.

§ 300-15.10. Obstruction of view.

No sign, fence, tree, wall, hedge or other vegetation, and no building or other structure

more than 3 1/2 feet above the established street grades shall be erected, placed or maintained within the area formed by any intersecting street lines and in a straight line adjoining said street lines at points which are 25 feet distance from the point of intersection, measured along said street lines.

§ 300-15.11. Prohibited uses.

Notwithstanding any other provision or provisions of this bylaw to the contrary, no building or structure shall be constructed and no building, structure or land, or part thereof, shall be used for any of the following purposes in any zoning district:

- A. Any use, trade, business or process which is noxious or offensive by reason of gas, odor, dust, smoke, vibration, illumination or noises, or which constitutes a public hazard whether by reason of fire, explosion or otherwise.
- B. Flea market.
- C. Truck stops, except as provided for in § 300-4.8B.
- D. Junkyard.

§ 300-15.12. Fences.

- A. No fence more than four feet six inches high may be constructed without first securing a building permit.
- B. A building permit may be denied for any fence which, in the judgment of the Building Inspector:
 - (1) Would result in an unreasonable obstruction to view for any abutter; or
 - (2) Would not be safe, either structurally or otherwise; or
 - (3) Would not be in keeping with the character of the Town in general and with the specific neighborhood in particular.
- C. No fence may be constructed closer than one foot to any lot line or street line.
- D. No fence shall be constructed which creates an obstruction to view under the provisions of § 300-15.10 of this bylaw.
- E. A fence which is set on and serves as a boundary line between any two lots or lot and the street line constructed solely of dry-laid stone not more than three feet high shall be exempt from this bylaw.
- F. Jersey barriers may not be used for fencing, except by a governmental agency.

§ 300-15.13. Driveways.

All driveways shall comply with the requirements of Chapter 250, Article V, of the Town bylaws and the following:

- A. Each developed lot shall be provided with a driveway adequate in arrangement and construction to provide safe and proper access to the developed portion of said lot.

- B. All driveways shall access on the way on which legal frontage for that lot is established.
- C. Common driveways serving more than one lot for residential purposes shall not be permitted, except in open space residential developments as set forth in § 300-8.7 of this bylaw.

ARTICLE XVI

Off-Street Parking, Loading and Drive-Thru Standards**§ 300-16.1. Purpose.**

- A. The purpose of this article is to provide standards that will lead to the provision of adequate parking to support various land uses within the Town without the creation of excessive paved areas. These standards, when applied, shall accommodate automobile, pedestrian and bicycle access in a safe and aesthetically appealing manner by mitigating the effects of large commercial parking lots.
- B. No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement or increase in the net floor area of an existing building, the development of a use not located in a building or the change from one type of use to another, unless off-street parking spaces, loading bays and bicycle parking are provided in accordance with this bylaw.

§ 300-16.2. Motor vehicle parking.

- A. This article establishes the standards for the amount, location and development of parking areas within the Town of Sturbridge and shall apply to all parking lots developed within the Town.
- B. Parking lots shall be provided on the same lot or on another lot located in a zone in which the parking area is permitted within a radius of not more than 300 feet from the lot to which it is appurtenant and in accordance with the shared parking requirements in § 300-16.10. Properties within the Commercial Tourist District shall not be required to comply with the 300-foot limitation, but may share parking anywhere within the district.
- C. Parking shall not be located within the applicable setback requirements in any district except for single residential use. Additionally, pedestrian lanes five feet wide must be located adjacent to the front and sides of such buildings to allow for handicapped passage without parking interference except for buildings for single residential use.
- D. Any two driveways leading to or from a street from a single lot shall not be within 30 feet of each other at their intersection with the front lot line (street line).
- E. There shall not be any storage of material or equipment or display of merchandise within the required parking spaces.

§ 300-16.3. Space dimensions.

- A. The following dimensions shall apply:
 - (1) Standard spaces shall have an area of not less than 10 feet by 20 feet per vehicle.
 - (2) Parallel parking spaces shall have an area of not less than nine feet by 20 feet.
 - (3) Compact/Small car parking spaces shall have an area of not less than eight feet by 16 feet.

- (4) Universal access spaces shall have an area of not less than 12 feet by 18 feet.
- (5) Truck parking spaces shall have an area of not less than 12 feet by 72 feet.
- B. When required, loading spaces shall have an area of not less than 10 feet by 30 feet and 14 feet height clearance.

§ 300-16.4. Drive aisles and maneuvering space.

- A. Two-way driving lanes shall be a minimum of 25 feet wide for angle parking. One-way driving lanes shall be a minimum of 18 feet wide for angle parking. A twenty-four-foot-wide driving lane is required for perpendicular parking. Dead-end parking lanes shall be avoided; however, if they are necessary, turnarounds shall be provided at their ends.
- B. Sufficient maneuvering space shall be provided such that vehicles shall not have to back into a public way or across a public sidewalk in order to enter or exit any parking area. Space for snow removal activities shall be provided in addition to the required parking and maneuvering space.

§ 300-16.5. Surface materials and space delineation.

- A. The parking lot and access driveways thereto shall be surfaced with crushed stone or bituminous or cement concrete material or other material acceptable to the Board and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices. To ensure safety, berms must be placed as required by the Planning Board except for parking lots for single residential use.
- B. A substantial bumper of masonry, steel, heavy timber, concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.
- C. All paved parking lots shall be striped to delineate parking spaces. In cases where the lot is not paved, parking spaces shall be delineated by the use of appropriate berms or landscape timbers or other method acceptable to the Board.

§ 300-16.6. Lighting.

- A. All parking lots and main pedestrian routes shall be suitably lighted. Lights shall be appropriately styled, shall be partial or full cut-offs and shall be energy efficient. Illumination levels shall conform with Illuminating Engineering Society (IES) standards.
- B. Where practical, exterior lighting installations shall include timers, dimmers, sensors or photocell controllers that turn lights off during daylight hours or during hours when lighting is not needed, to reduce overall energy consumption and eliminate unneeded lighting. For typical business parking lots, after active hours, illuminance should be no greater than required for security purposes. In the case of one (or more) tenants staying open beyond the hours of the majority of the property, appropriate levels of lighting shall be maintained for security and safety of those working at and visiting the establishment.

§ 300-16.7. Electric vehicle parking.

An electric vehicle charging station (EVCS) shall be allowed within any legal single-family or multiple-family residential driveway, garage or carport. EVCS may be installed within any existing legal commercial parking space subject to the following:

- A. The EVCS shall be protected as necessary to prevent damage by automobiles.
- B. The EVCS shall have complete instructions and appropriate warnings posted in an unobstructed location next to each EVCS.
- C. The EVCS shall be located in a manner that will be easily seen by the public for informational and security purposes and shall be illuminated during evening business hours.
- D. The EVCS shall be located in desirable and convenient parking locations that will serve as an incentive for the use of electric vehicles.
- E. Complete instructions and appropriate warnings concerning the use of the EVCS shall be posted on a sign in a prominent location on each station for use by the operator.
- F. One standard nonilluminated sign, not to exceed four square feet in area and 10 feet in height, may be posted for the purpose of identifying the location of each cluster of EVCSs.
- G. The EVCS may be on a timer that limits the use of the station to the normal business hours of the use(s) that it serves to preclude unauthorized use after business hours.

§ 300-16.8. Pedestrian circulation.

- A. It is important to remember that drivers become pedestrians once they park their cars and that they must walk to the facility for which the parking is provided. Parking lots shall include a clearly delineated, properly constructed pedestrian system to bring people from their cars to the facility.
- B. Pedestrian walkways, streets, driveways, terraces and parking areas shall be carefully designed to provide an inviting and stable appearance, with respect to topography, proper relation to surrounding streets and pedestrian ways, number of access points to public streets, provision of a clear and efficient street system on the site, adequate widths of drives and street, separation and attractive parking lots and proper relationship of circulation elements to structures and other site features. Universal accessibility shall be provided in conformance with state regulations and federal guidelines (AAB and ADA). The use of architectural treatments such as stamped concrete, pavers or bricks is highly encouraged for walkways and crosswalks within the site.
- C. Sidewalks should not only be provided within the site but should also be provided along the frontage of the property abutting any roadway.

§ 300-16.9. Parking lot landscaping.

- A. Buffering. Parking spaces, driveways, buildings, structures and storage materials

shall not be allowed within the front setback, and the area of the front setback shall be a buffer, and landscaped as such. Landscaping of the frontage buffer shall consider the need for proposed or future sidewalk installations. The buffer shall allow for necessary access to the site, but driveways shall otherwise not be allowed in the buffer.

- B. Interior parking lot landscaping. Interior areas of parking lots (exclusive of buffer areas) shall be landscaped according to the following percentage of total parking lot areas:

Lots under 20 parking spaces	0.0%
Lots equal to or over 20 spaces	5.0%
Lots equal to or over 100 spaces	7.5%
Lots equal to or over 200 spaces	10.0%

- (1) The landscaping shall be located in bermed/protected areas, such as along walkways, in center islands, at the ends of bays or between parking stalls. A mixture of hardy ornamental or deciduous shade trees must be planted. A minimum of one shade tree is required for every 10 parking spaces.
 - (2) No landscaping island shall be less than 10 feet wide. No landscaping strip separating parking bays shall be less than eight feet wide. Only hardy ground cover or mulch shall be placed within a two-foot area under any potential car over-hang, to avoid the burning of landscape plantings. In no case shall a tree be set back less than four feet from paved areas.
 - (3) The Planning Board encourages the use of large planting islands (over 600 square feet) to be located throughout the lot and planted with shade trees, low shrubs and/or ground cover. Uninterrupted parking rows should generally not exceed 10 spaces, but in no case should they exceed 15 spaces.
 - (4) The location of landscaping islands shall not interfere with the need to conduct firefighting operations. All landscape plans shall require the approval of the Fire Department for this purpose. Interior and bermed landscape areas cannot be designated as snow storage areas; sufficient open lawn area shall be provided for this purpose.
 - (5) Where quality woodland exists, the Planning Board requires that it be preserved in the prescribed buffer areas along the perimeter of the lot, and additional evergreen shrubs shall be required if needed.
- C. Additional requirements for lots over 200 spaces.
- (1) Parking lots over 200 spaces shall consider the creation of multiple, separated parking areas. These areas shall be separated by landscaping elements and/or differences in grade, and shall be naturally screened from one another.
 - (2) Separate pedestrian walkways shall be provided to allow safe movement within the lots. These walkways should generally be oriented perpendicular to and between parking bays. Adjacent to the walks, trees should be planted. These plantings will aid in the identification of the walkway locations within

the lot and also aid in providing shade for the pedestrian. The following guidelines apply to the development of walkways within large parking lots:

- (a) One walkway can serve as a collector for up to four bays of parked cars.
 - (b) The walkway should be a minimum of four feet wide.
 - (c) All walkways should be raised to a standard sidewalk height and should be constructed of different paving material than the parking lot, and should be handicap accessible.
 - (d) All walkways shall be maintained at all times and remain accessible to pedestrians at all times unless otherwise approved by the Board.
- (3) A five-year landscape maintenance plan detailing the maintenance and replacement of defective plantings, commencing the year the site has received its final occupancy permit, shall be submitted as part of the application.

§ 300-16.10. Shared parking.

Parking spaces required for one use shall not be considered as providing the required facilities for any other use, except as hereinafter provided. Any existing parking 120% or above of parking otherwise required for all uses on a property may be shared or leased by right. Where existing parking spaces are more than 100% but less than 120% of parking otherwise required for all on-site uses, applicants for a site plan review approval or special permit may request to share and/or lease the parking spaces, based on the following conditions:

- A. Parking spaces to be shared represent the difference between peak parking needs generated by on-site uses occurring at different times. This may include reductions in parking use resulting from employees, tenants, patrons or other parking users of the site being common to and shared by more than one different use on the site; and/or
- B. Parking spaces to be shared represent the difference between current levels of peak parking utilization and anticipated lower future levels of peak parking utilization, said difference to be generated in whole or in part by a parking management plan approved by the permit granting authority. Said plans shall include and implement measures such as car and van pooling, bicycling and public transit. The permit granting authority may require periodic documentation of reductions in parking utilization realized as a result of the parking management plans.
- C. The shared or leased parking is suitably located in the neighborhood in which it is proposed, as deemed appropriate by the permit granting authority.
- D. The shared parking spaces may only be located in a zone in which the parking area is permitted.
- E. An agreement, lease, deed, contract or easement establishing shared use of a parking facility shall be submitted to and approved by the Planning Board. The approved agreement shall be recorded in the Registry of Deeds, as applicable, prior to the issuance of an occupancy permit for the project.

- F. In the event that a shared parking agreement is terminated, those uses with less than the required number of spaces shall notify the Planning Board within 14 days and do one of the following:
- (1) Provide at least 50% of the required parking within 60 days and provide the remaining required parking within six months following termination of the shared use agreement; or
 - (2) Demonstrate to the Planning Board, using a study deemed reliable by the Board, that the available parking is sufficient to accommodate the use's peak parking demand.

§ 300-16.11. Parking spaces required.

- A. Commercial Tourist District. Properties within the Commercial Tourist District shall not be required to comply with the current parking requirements for the continued use for a same or similar use that exists at the time of adoption of this article. A proposed change shall require review by the Planning Board and a determination of practical parking requirements for the proposed use given the constraints of the district. Factors such as shared parking, peak parking demands of uses at different times of the day or week and actual projected parking needs shall be considered when determining practical parking requirements. The Town Planner, Zoning Enforcement Officer and DPW Director shall review such parking proposals and make recommendations to the Planning Board on the parking proposals. The intent of this section of the bylaw is to encourage the continued use and reuse of buildings within the Commercial Tourist District.
- B. Parking calculations. With the exception of properties located within the Commercial Tourist District as noted above, the following schedule of parking requirements shall apply. Please note that the number of parking spaces is computed based on the primary uses on the site.

Use Categories	Specific Uses	Minimum Required
Residential Categories	Dwelling unit	2
	Accessory dwelling unit	1 per unit
	Senior housing	1 per unit
	Bed-and-breakfast	1 per guest room in addition to the 2 for the residence
Retail and Service	Hotel, inn, motel	1 per room and 1 per employee
	Retail	1 per 200 square feet of gross floor area

Use Categories	Specific Uses	Minimum Required
	Personal service	1 per 200 square feet of gross floor area; in the case of a hair salon or barber shop the ratio shall be 1 per 200 square feet or 2 per chair, whichever is greater
	Health clubs, gyms and fitness centers	1 per 4 occupants based upon the maximum allowable occupancy
	Theaters	1 per 10 seats
	Bank or other financial institution	1 per 400 square feet of floor area
	Veterinarian	1 space for every 2 employees, plus 1 space per doctor, plus 1 space per examination room
Office		
	General office	1 per 500 square feet and 1 per employee working on the largest shift
	Corporate office	1.1 per employee
	Medical/Dental office	1 per 300 square feet of floor area or 2 per exam room and 1 per employee
Other Commercial		
	Restaurant, cafe, tavern, microbrewery	1 per 3 seats and 1 per employee working on the largest shift
	Miniature golf	1 per hole and 1 per employee
	Commercial outdoor recreation	1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to maximum capacity
	Indoor family amusement centers	3 spaces per 1,000 square feet of gross floor area, plus 1 space for each 2 licensed game machines
	Vehicle repair	2 spaces per service bay plus 1 space per employee working on the largest shift
	Vehicle sales and service	2 spaces per service bay plus 1 space per employee working on the largest shift, plus 1 space for each vehicle allowed for sale by the license
	Art studio/class space	1 per studio and 1 per 3 students if classes are provided

Use Categories	Specific Uses	Minimum Required
Industrial		
	Manufacturing and production	1 per 2 employees
	Warehouse and wholesale	1 per 2 employees
Institutional		
	Long-term care facility	1 space for 4 beds and 1 per employee working on the largest shift

C. Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed under this section shall be determined, in each case, by the Planning Board as part of the special permit or site plan approval process, which shall consider all factors entering into the parking needs of such use.

§ 300-16.12. Reductions in required parking.

A decrease in the number of off-street parking spaces required by this article may be granted as part of the special permit or site plan approval process, provided that the following criteria have been met:

- A. The purpose and intent of the bylaw is met.
- B. The amount of off-street parking to be provided will be sufficient to serve the use(s) for which it is intended.
- C. The decrease in required off-street parking is based on a parking study prepared by a registered professional engineer. The parking study will include, at a minimum, the following:
 - (1) Size and type of existing uses or activities on site.
 - (2) Size and type of proposed uses or activities on site.
 - (3) Rate of parking turnover.
 - (4) Peak traffic and parking loads to be encountered.
 - (5) Any other pertinent factors such as experience with the same use in another location.
- D. If the Planning Board allows a decrease in the amount of required off-street parking, it may require that a portion of the site be reserved to meet the off-street parking spaces required by this bylaw. The reserved area shall not be developed and shall either be landscaped or maintained in its natural state.

§ 300-16.13. Bicycle racks.

For all parking lots of 10 or more parking spaces, it is encouraged that the installation of

bicycle racks be provided. The bike racks shall be designed to provide for the locking of bikes to the racks. The design, location and number of bike racks shall be approved by the permit granting authority as part of an approval of the permit request.

§ 300-16.14. Drive-thru facilities.

- A. Purpose. The purpose of this section is to regulate drive-thru facilities by imposing certain performance standards to ensure that the design and operation of such uses effectively mitigate problems commonly associated with drive-thru facilities, such as traffic congestion, excessive pavement, noise from idling cars and amplification equipment, lighting and queued traffic interfering with on-site and off-site traffic and pedestrian flow.
- B. Applicability. These standards apply to the construction of any drive-thru within the Town of Sturbridge, whether allowed by right or by special permit. The size of the site or the size and location of existing structures and abutting structures may make it impossible to meet the requirements of this section.
- C. General development standards. The development standards in this section are intended to supplement the standards in the underlying zoning district where the drive-thru is proposed. In the event of conflict between these standards and the underlying zoning district standards, the provisions of this section shall apply.
- (1) Drive-thru aisles shall have a minimum ten-foot interior radius at curves and a minimum twelve-foot width.
 - (2) Each drive-thru entrance/exit shall be at least 50 feet from an intersection of public rights-of-way, measured at the closest intersecting curbs, and at least 25 feet from the curb-cut on an adjacent property.
 - (3) Each entrance to a drive-thru aisle and the direction of traffic flow shall be clearly designated by signs and pavement markings.
 - (4) Each drive-thru aisle shall be separated from the circulation routes necessary for ingress or egress from the property, or access to a parking space.
- D. Stacking lane standards. These regulations ensure that there is adequate on-site maneuvering and circulation areas, ensure that stacking vehicles do not impede traffic on abutting streets, and that stacking lanes will not have nuisance impacts on abutting residential lands.
- (1) In general, views of the stacking lanes from the street should be minimized.
 - (2) Drive-thru windows shall provide at least 180 feet of stacking space for each facility, as measured from the service window or unit to the entry point into the drive-up lane. Non-food and/or non-beverage businesses may reduce the stacking space to a minimum of 60 feet.
 - (3) Stacking lanes and their circulation may include escape lanes at logical and functional locations for drive-thru uses.
 - (4) Stacking lanes must be designed so that they do not interfere with parking and vehicle circulation and shall be separated from circulation routes necessary for

ingress and egress from the property or to access a parking space.

- (5) The entrance to the stacking lanes and the direction of traffic flow shall be clearly identified, through the use of means such as striping, landscaping and signs.
 - (6) Double drive-thru lanes may be acceptable if they do not interfere with smooth and safe pedestrian and vehicular traffic circulation.
- E. Landscaping of the drive-thru aisles. Landscaping shall be provided as described below and this shall be in addition to the parking lot landscaping requirements noted above:
- (1) A five-foot-wide planter or other suitable landscape area between the drive-thru aisle and the parking area that includes shade trees consistent with those used in the parking area.
 - (2) A minimum three-foot-tall, maximum four-foot-tall planter or other suitable landscape area with low shrubs that screens the drive-thru aisles from the abutting public right-of-way shall be used to minimize the visual impact of readerboard signs and directional signs. At no time shall this landscape barrier be pruned in a manner that allows the vehicle headlights from the drive-thru lane to be visible from abutting street rights-of-way. Plantings should also be designed to discourage potential safety issues (e.g., persons lying in wait).
 - (3) Pedestrian access and crossings. Pedestrian access shall be provided from each abutting street to the primary entrance with a continuous four-foot-wide sidewalk or delineated walkway. Pedestrian walkways should not intersect the drive-thru drive aisles, but where they do the walkways shall have clear visibility and shall be delineated by textured and colored paving.
- F. Hours of operation. With the exception of drive-up ATM windows, when located on a site within 100 feet of any residential property (measured from the nearest property lines), hours of operation for the drive-up/drive-thru service shall be limited from 7:00 a.m. to 10:00 p.m. daily. If the use is located greater than 100 feet from a residential use, then there are no restrictions on the hours of operation. The special permit granting authority may grant exceptions in the special permit after preparation of a qualified noise study.
- G. Signs. Signs shall be permitted in accordance with the provisions of Part 4, Article XVII. Double drive-thru aisles shall be restricted to two menu/order board signs. All menu boards shall be located close to the order station and be properly integrated with the design of the building and appropriate landscaping.
- H. Parking. The provision of drive-thru service facilities shall not justify a reduction in the number of required off-street parking spaces for the accompanying use.
- I. Noise. Any drive-up or drive-thru speaker system shall emit no more than 50 decibels and at no time shall any speaker system be audible above daytime ambient noise levels beyond the property lines of the site. The system shall be designed to compensate for ambient noise levels in the immediate area.

ARTICLE XVII

Signs**§ 300-17.1. Purpose and intent.**

- A. The purpose of this Sign Bylaw is to provide an appropriate balance between public and private interests in a manner that promotes the health, safety and general welfare of the citizens of the Town of Sturbridge and in a manner that recognizes the importance of business advertising, through signs, by acknowledging that signs and their message must be visible and comprehensible in order to provide identification and thus assuring that the intended audience is able to find their way.
- B. To accomplish this purpose it is the intent of this bylaw to:
- (1) Promote the creation of an attractive visual environment that promotes a healthy economy by:
 - (a) Permitting businesses to inform, identify and communicate effectively; and
 - (b) Directing the general public through the use of signs while maintaining attractive and harmonious application of signs on the buildings and sites.
 - (2) Protect and enhance the physical appearance of the community in a lawful manner that recognizes the rights of property owners by:
 - (a) Insuring the appropriate design, scale and placement of signs.
 - (b) Assuring that the information displayed on a sign is clearly visible, conspicuous, legible and readable so that the sign achieves the intended purpose.
 - (3) Foster public safety along public and private streets within the community by assuring that all signs are in safe and appropriate locations.
 - (4) Have administrative review procedures that are the minimum necessary to:
 - (a) Balance the community's objectives and regulatory requirements with business's needs for advertising and wayfinding.
 - (b) Allow for consistent enforcement of the Sign Bylaw.
 - (c) Provide some flexibility as to the number and placement of signs so the regulations are more responsive to business needs while maintaining the community's standards.

§ 300-17.2. Permit required; applicability.

No sign, except those qualifying for permit exceptions, shall be constructed, erected, remodeled, refaced, relocated, expanded or otherwise altered until a sign permit has been obtained from the Building Inspector in accordance with the provisions of this article. In addition to the requirements for all signs as set forth herein, commercial signage shall be specifically subject to those requirements set forth in § 300-17.6A and § 300-17.7.

§ 300-17.3. Exemptions.

The following types of signs shall be authorized by right without the necessity of a permit. These signs shall be subject to the prohibitions set forth in § 300-17.4 along with all other requirements of this bylaw.

- A. Signs bearing the name of an occupant of a dwelling not to exceed 1 1/2 square feet in area.
- B. Real estate signs not to exceed six square feet in area in a Residential District or 30 square feet in area in nonresidential districts. Real estate signs shall not be placed on property other than the property that is for sale, except that real estate open house signs may be placed on property other than the property that is for sale, with the approval of the property owner, on the day of the open house for a duration of no more than two hours longer than the time period of the open house.
- C. Signs accessory to the use of the premises by a church, educational or charitable institution. These signs, however, are expected to conform to the spirit and intent of the bylaw.
- D. Signs erected by the municipal, county, state, or federal government, as may be deemed necessary for their respective functions, are exempt from the provisions of this bylaw, but are expected to conform to the spirit and intent of it.
- E. Signs indicating "entrance," "exit," "parking," or the like, erected on a premises for the direction of persons or vehicles not to exceed five square feet in area. Such signs shall not carry the name of the business, a trade or service mark or any product designation unless such identification is necessary to differentiate one area from another, such as assigned parking on multi-tenant properties.
- F. Private drive signs. On-premises private drive signs are limited to one per drive entrance, not exceeding two square feet in area.
- G. Signs installed on property where a contractor is working may be maintained on the premises while construction is in progress. Such a sign shall not exceed 12 square feet and shall not be installed in the setback. These signs shall be removed within seven days of work completion at a property site.
- H. Signs required by federal or state law.
- I. Signs erected within a building.
- J. Nonilluminated window signs not to exceed 25% of the individual window area, or 16 square feet, whichever is smaller. No signs shall be permitted in the window area of entrance and exit doors except for matters of public safety or security, and/or public information (for example hours of operation, credit cards accepted, etc.).
- K. Political signs. Such signs may be displayed for a period not to exceed six weeks prior to any election, shall be removed within 14 days following that election and are expected to conform to the spirit and intent of this bylaw.

§ 300-17.4. Prohibited signs.

The following signs are prohibited in the Town:

- A. Moving or animated signs. A sign which is designed to align itself with the wind for structural reasons shall not be considered a moving sign.
- B. Flashing, moving and animated signs, including oscillating, rotating lights, strings of lights, whirligigs and signs containing reflective elements which sparkle in the sunlight.
- C. Graphics which by color, location or design resemble or conflict with traffic control signs or signals.
- D. Signs that are mounted on vehicles or other moveable devices or objects except as permitted in Subsection N.
- E. Temporary signs, except as provided in § 300-17.8.
- F. Internally illuminated signs.
- G. Devices, structures or symbols that are meant to attract people's attention to a proprietor's products or services in excess of the number otherwise permitted by this bylaw.
- H. Neon or tube signs or outlining, other than hotel/motel vacancy signs or no-vacancy signs.
- I. Advertising signs tacked, posted, painted or otherwise attached to poles, posts, trees, sidewalks, curbs, rocks, radio, television or water towers, lighting structures or other similar poles or structures.
- J. Temporary colored string light type displays used to outline or ornament buildings, trees or shrubbery except in the period from November 15 to January 15 of the ensuing year. Such displays shall be illuminated only from dusk to 12:00 midnight during this period. This prohibition shall not apply to the use of white lights to accent an entryway, walkway or other feature of a building or business, regardless of the time of year.
- K. Outdoor internally illuminated vending machines.
- L. Halo signs, being signs that are illuminated from behind, creating a silhouette or outline.
- M. Banners or signs painted on or temporarily affixed to a nonregistered motor vehicle or trailer for the purpose of providing a sign for a business or commercial purpose.
- N. No commercial or industrial sign shall be erected on, or attached to any vehicle except for signs applied directly to the surface of the vehicle. The primary use of such vehicle shall be in the operation of a business and not in advertising or identifying the business premises. The vehicle shall not be parked in a public right-of-way for the purposes of advertising.
- O. Any sign advertising a business or organization which is either defunct or no longer

located on the premises.

- P. Digital or electronic signs.
- Q. Balloon signs or inflatable signs except as may be permitted for grand openings (See § 300-17.8B.).
- R. Signs containing noise-making devices.
- S. Laser/Holographic signs.
- T. Strings of pennants.

§ 300-17.5. Requirements applicable to all districts.

A. General.

- (1) Permits for signs serving uses dependent upon special permits, exceptions and/or design review approval shall not be granted by the Building Inspector until such permits and approvals have been issued or approved by the Planning Board, Zoning Board of Appeals, Design Review Committee and/or Historical Commission, as applicable.
- (2) No sign shall cause visual confusion, glare or offensive lighting in the neighborhood.
- (3) Lighting of a sign may only be by white light of reasonable intensity shielded and directed solely at the sign.
- (4) The sign shall be placed so that it will not obstruct the view of traffic entering or leaving the premises. No sign, including its supporting structure, extending more than 3 1/2 feet above the established street grades shall be erected, placed or maintained within the area formed by any intersecting street lines and a straight line adjoining said street lines at points which are 25 feet distant from the point of intersection, measured along such street lines.
- (5) It shall be the responsibility of the property owner to ensure that all signs placed on his property are installed in compliance with the bylaws, that said signs are maintained in safe and presentable condition.
- (6) No freestanding sign shall exceed 18 feet in height above the natural grade. No sign shall project above the ridge line of the primary building on the property.
- (7) Building-mounted signs shall be erected and maintained as follows:
 - (a) Signs parallel to or against the face or wall of a building shall not extend more than 15 inches from said face or wall. Said signs extending over a public sidewalk shall be not less than eight feet above the sidewalk at the lowest point.
 - (b) Signs perpendicular to the face or wall of a building shall extend no more than 54 inches from such building line. Said signs extending over a public sidewalk shall be not less than eight feet above the sidewalk at the lowest point.

- (8) All signs shall meet all safety requirements associated with construction.
- (9) All signs shall be consistent with the requirements of the Zoning Bylaw.

B. Area of signs.

- (1) The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.
- (2) The area of sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest rectangle which encompasses all of the letters and symbols.
- (3) The area of a sign which is other than rectangular in shape shall be determined as the area of the smallest rectangle which encompasses all elements of said sign.
- (4) The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.
- (5) Only one side shall be counted in computing the area of a double-faced sign.

C. Sign setbacks.

Zoning District or Sign Type	Front Setback (as measured from edge of pavement or edge of sidewalk as may be applicable)	Rear and Side Setback	Notes
Commercial, Commercial II, General Industrial, Industrial Park, Historic Commercial, Special Use District	10 feet	10 feet	
Commercial Tourist	0 feet		Setback determined by specific site limitations. In no case shall proposed signs obstruct view at intersections, or project into right-of-way or sidewalk.
Real Estate Signs	10 feet*	10 feet	*Except Commercial Tourist District (see note above)
Rural Residential and Suburban Residential	25 feet	15 feet	

D. Construction and maintenance of signs.

- (1) Signs shall be constructed of durable and weatherproof material.
- (2) Signs shall be maintained in safe structural condition and good visual appearance at all times and no sign shall be left in a dangerous or defective state.

- (3) Every sign permitted by this bylaw shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the Building Inspector, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this bylaw, the owner thereof or the person or firm using same shall, upon written notice by the Building Inspector, forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this bylaw or shall remove it. If within 10 days the order is not complied with, the Building Inspector may remove or cause such signs to be removed at the expense of the owner and/or the user of the sign. In the case of immediate danger to public safety, the Building Inspector shall have the authority to immediately remove or cause to be removed any sign, at the expense of the owner. Such removal shall occur only after the Building Inspector has contacted or attempted to contact the owner of the sign. The Building Inspector shall have sole and exclusive authority to determine that a sign poses a threat of immediate danger to public safety.
 - (4) No sign shall be attached to a utility pole, street sign, fence, tree or light post.
 - (5) Signs for defunct entities or for a business no longer operating at the location must be removed within 30 calendar days of the business closing.
 - (6) A new permit shall be required if the original wording or color or design of a sign is modified. Repainting, replacement of the sign with the exact same sign design and color scheme shall not require approval of the Design Review Committee but shall require a permit from the Building Inspector.
- E. Special permits. In particular instances, and at the discretion of the Planning Board, acting as the special permit granting authority (SPGA), a special permit may be granted to erect and maintain more or larger signs than is provided for by this article, or for signs of types or for purposes not provided herein if it is determined that the proposed signage is consistent with the intent and purpose of this bylaw and that it meets the requirements of this section. A special permit is discretionary and is not the automatic right of any applicant. Special permit applications shall be filed concurrently with site plan approval applications for new projects, and in the case of proposed changes to signage existing at the time of adoption of this chapter, a separate special permit application shall be filed for consideration by the Planning Board. Special permits may only be granted if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the business establishment is such that the sign should be permitted in the public interest.
- (1) In granting a special permit under this section, the Planning Board shall make findings on which to base its determination with respect to the following:
 - (a) The proposed sign shall not be detrimental to public safety and welfare in that it will not be a nuisance or hazard to vehicles and pedestrians and will help to improve safety, convenience and traffic flow;
 - (b) The architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest;

- (c) The sign will not cause visual confusion, glare, offensive lighting in the neighborhood and surrounding properties;
 - (d) The sign requested pursuant to the special permit application is necessary due to topography or site conditions unique to its proposed location;
 - (e) A unique and particular type of use requires additional signage or a different character of signage in order to identify the premises adequately or to inform the public about specific events or activities;
 - (f) The sign will not significantly alter the character of the zoning district or be a detriment to the surrounding area;
 - (g) The sign scale is determined to be in reasonable relation to development scale, viewer distance and travel speed and sign sizes on nearby structures;
 - (h) The sign design is in harmony with other signage on the same or adjacent structures and provides reasonable continuity in mounting location and height, proportions and materials;
 - (i) The granting of the special permit does not derogate substantially from, and will be in harmony with, the intent and purposes of the bylaw.
- (2) In granting such permission, the SPGA shall specify the size and location of the sign or signs and impose such other terms and restrictions as it may be deemed to be in the public interest.
- (3) Any applicant under these provisions shall provide a site plan and specific information in the form of perspectives, renderings, including a scaled elevation plan showing the location and dimensions of the proposed sign, photographs or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings and the reasons the applicant believes the requested signage should be allowed in the public interest.

§ 300-17.6. Requirements applicable to residential districts.

- A. Type, number and size. Commercial signage in the Rural Residential and Suburban Residential Districts shall conform to the following standards:
- (1) No permitted commercial or industrial use within a residential district shall maintain more than four commercial signs serving such use within the limits of the Town of Sturbridge, of which no more than two signs may be located on the property itself. Only one of the two signs on the property may be freestanding. The above controls shall not apply to signs on the property which are less than five square feet in area and which are limited to designation of entrances, exits, parking areas and other similar directional purposes.
 - (2) Freestanding signs shall not exceed the height of the principal building or 18 feet in height, whichever is less.
 - (3) Hospitals, nursing homes, assisted-living facilities and other institutional uses

allowed in a residential district, whether by right or by special permit, shall be allowed to have such signs as can be demonstrated as necessary to the safety and well-being of the community. These include internally illuminated signs indicating emergency room entrances, and such other similar signs as are necessary. In all other respects, they shall conform to the limitations and restrictions set forth in this article except as may be modified by the issuance of a special permit.

- (4) A business may have one flag not to exceed 12 square feet in area which incorporates a trademark, logotype or similar information (such as "Sale" or "Open") directly related to the business located on the lot. Business flags shall not overhang a public way or sidewalk at any time. Flags shall be removed or replaced if they become damaged.

B. The following signs erected in the Rural Residential and Suburban Residential Zoning Districts shall meet the following requirements:

Type of Sign	Square Footage	Total Number	Freestanding	Wall or Projecting Sign	Changeable Copy Sign
Professional name signs	1.5	1	Y	Y	N
Identification signs for estates, schools, farms, etc.	20.0	1	Y	Y	N
Other business uses as may be permitted	30	2	Y	Y	Y
Multi-tenant sign for business use	50	1	Y	N	Y

§ 300-17.7. Requirements applicable to Commercial, Special Use and Industrial Districts.

A. Type, number and size. Signage in the Commercial, Commercial II, Commercial Tourist, Historic Commercial Districts, General Industrial, Industrial Park and Special Use Districts shall conform to the following standards:

- (1) Except as otherwise noted in this section, no commercial or industrial use within the districts set forth herein shall maintain more than four signs serving such use within the limits of the Town of Sturbridge, of which no more than two signs may be located on the property itself (with the exception of lawfully permitted sandwich board and temporary signs). Only one of the two signs on the property may be freestanding (with the exception of lawfully permitted sandwich board and temporary signs). The above controls shall not apply to signs on the property which are less than five square feet in area and which are limited to designation of entrances, exits, parking areas and other similar directional purposes.
- (2) Freestanding signs shall not exceed the height of the principal building or 18 feet in height, whichever is less.

- (3) A freestanding sign may have a portion of the sign area that is used for changeable copy messages; however, the name of the business and the street address shall be a permanent part of the sign.
 - (4) For multiple-tenant properties, each tenant shall be entitled to only one business/advertising sign complying with all provisions of this bylaw and located immediately adjacent to the rented premises. In addition, one multiple listing sign may be erected and maintained on the property to identify said tenants. The total area allowed for such a sign, as described by the rectangle encompassing the framework and all individual listing signs, shall not exceed 50 square feet. Individual listing signs or encompassed individual listings shall be limited to one listing per tenant, and shall be used for the sole purpose of identification, and not for advertising. Such listings may include a designation of profession such as "Attorney," "Architect" to facilitate identification; if lighted, said lighting shall be from a constant, exterior source. Multiple listing signs shall be subject to all other provisions of the Zoning Bylaw.
 - (5) A sandwich board sign may be used by each business. The sign shall not exceed 30 inches in width and 48 inches in height. The sign shall not be placed in a manner to block visibility at intersections nor shall it be allowed to project into the public way or sidewalk. The sign shall be brought in at the close of business each day. When a sandwich board sign is used on a regular basis it shall be considered a permanent sign and design review approval shall be required for the sign, which shall be of the same design and color scheme as the main permitted on-premises signage. All business owners are encouraged to develop a permanent sandwich board sign as soon after the adoption of this bylaw as practicable; however, existing signage may be used with appropriate permits until new signage is acquired. In no case may a sign of different design and color scheme be used after December 31, 2014 at which time only DRC-approved sandwich board signs may be used.
 - (6) A permitted drive-thru food establishment or car wash may have one freestanding menu board sign for each drive-thru lane. The menu board may be a maximum of 40 square feet, and have a maximum vertical dimension of seven feet. No additional temporary or permanent signs, panels, flags, banners, etc. of any type may be attached to the menu board.
 - (7) A business may have one flag not to exceed 12 square feet in area which incorporates a trademark, logotype or similar information (such as "Sale" or "Open") directly related to the business located on the lot. Business flags shall not overhang a public way or sidewalk at any time. Flags shall be removed or replaced if they become damaged.
- B. The following signs erected in the Commercial, Commercial II, Commercial Tourist, Historic Commercial Districts, General Industrial, Industrial Park and Special Use Zoning Districts shall meet the following requirements:

Type of Sign	Square Footage	Com-mercial	Com-mercial Tourist	Com-mercial II	General Industrial	Industrial Park	Historic Com-mercial	Special Use
Professional name signs	1.5	Y	Y	Y	Y	Y	Y	Y
Identification signs for estates, schools, farms, etc.	20.0	Y	Y	Y	Y	Y	Y	Y
Business and advertising, building-mounted and/or free-standing	30	Y	Y	Y	Y	Y	Y	Y
Multi-tenant sign for business use	50	Y	Y	Y	Y	Y	Y	Y
Temporary real estate signs	20	Y	Y	Y	Y	Y	Y	Y
Any other temporary signs	12	Y	Y	Y	Y	Y	Y	Y
Sandwich board signs as defined in Subsection A(5)	10	Y	Y	Y	Y	Y	Y	Y
Bed-and-breakfast signs	12	Y	Y	Y	Y	Y	Y	Y
Changeable copy panel as part of a free-standing sign		Y	Y	Y	Y	Y	Y	Y

§ 300-17.8. Temporary signs.

Unless otherwise specified herein, temporary signs may be displayed for a period of time not to exceed eight consecutive days, the first of which shall occur not more than seven days prior to the subject event, or such longer period of time as the Building Inspector may determine is reasonably necessary pursuant to issuance of a sign permit, provided that the Building Inspector may condition the location, construction and maintenance of

such signs to protect public safety and may deny a permit for such sign where public safety cannot be reasonably guaranteed. All temporary signs shall be removed within 24 hours after the subject event unless the applicable permit states otherwise. Temporary wall signs or banners shall be flush against the building and not above the roof line of the building. A temporary sign shall be removed or replaced immediately if it becomes damaged in any way. A temporary wall sign or banner shall be removed or replaced immediately if it becomes damaged in any way. No more than one permit per month shall be granted.

- A. Sandwich board signs. Sandwich board signs of a temporary nature [not including signs authorized pursuant to the provisions of § 300-17.7A(5)] may be erected for any purpose. Businesses using a permanent sandwich board sign permitted under § 300-17.7A(5) are not permitted to use temporary sandwich board signs.
- B. Grand opening signs. Grand opening events may utilize temporary signage, flags and banners for a period not to exceed 30 days. Grand opening events are limited to the first 90 days after a certificate of occupancy has been issued. No searchlights or flashing type lights are allowed and are strictly prohibited during these events. When an existing business has substantially remodeled, as determined by the Building Inspector, the business will have the option of having a "Grand Re-Opening" sign. A permit is required from the Building Inspector.
- C. Street banners. Street banners may be displayed when approved pursuant to a temporary event permit issued by the Board of Selectmen or its designee specifying the location of such banner.
- D. Yard sale signs.
 - (1) No more than three yard sale sign permits, valid for two days, shall be granted in a calendar year for the same lot.
 - (2) An application must be filled out at the Building Inspector's/Enforcement Officer's or Town Clerk's office with a fee set by the Board of Selectmen.
 - (3) No yard sale sign shall be located so as to cause visual confusion or interfere with traffic safety in the area.
 - (4) No yard sale sign shall be bigger than 20 inches by 20 inches (400 square inches).
 - (5) No more than four yard sale signs for the same event shall be located within the limits of the Town of Sturbridge.
 - (6) If, in the Building Inspector's opinion, any yard sale sign(s) become(s) dangerous or unsafe in any manner whatsoever, the sign(s) shall be removed immediately.
 - (7) No yard sale signs shall be located on telephone poles or trees that are on Town or state property or on property owned by the Town or state.
 - (8) All yard sale signs shall be removed at the end of the permitted two-day period.

(9) The fine per day for violations of any provision of this Subsection D is \$5.

§ 300-17.9. Administration.

- A. Design review. All signs erected to serve commercial or industrial use shall require approval of the Design Review Committee (DRC). In reviewing applications the DRC shall insure that the:
- (1) Site selected is appropriate for the proposed design.
 - (2) The proposed design is in keeping with the character of the Town in general, and with the specific neighborhood in particular.
 - (3) The sign will be consistent with the architecture of the building on the lot upon which the sign is to be located and of the surrounding area.
 - (4) The sign is consistent with the Design Review Committee Handbook and Design Guidelines, Town of Sturbridge Massachusetts adopted March 22, 2011, as may be amended from time to time.
- B. Inspections. Unless waived by the Building Inspector, all signs for which a permit is required shall be subject to a site inspection to ensure that the sign has been safely and firmly constructed and that it is in conformance with approvals granted.
- C. Fees. A schedule of fees for permits may be determined from time to time by the Board of Selectmen.

§ 300-17.10. Violations.

Violations of this article shall be subject to the provisions of § 300-18.1A, Enforcement.

§ 300-17.11. Appeals.

Any appeal hereunder to the Zoning Board of Appeals may be taken as set forth in § 300-18.2 of this bylaw.

Part 5
Administration And Enforcement

ARTICLE XVIII
Administration

§ 300-18.1. Enforcement; violations and penalties.

- A. This bylaw shall be enforced by the Board of Selectmen or the Building Inspector appointed by them. No building shall be built or altered, and no use of land or building shall be begun or changed without a permit having been issued by the Board of Selectmen.
- (1) Any person who continues to violate any provisions of the Zoning Bylaw after receiving either verbal or written warning of violation from the Building Inspector shall be subject to a criminal penalty of \$50 for each offense as provided in MGL c. 40A. Each day that such violation continues shall constitute a separate offense.
- (2) Alternatively, the provisions of the Zoning Bylaw may be enforced by the Building Inspector under noncriminal proceedings pursuant to MGL c. 40, § 21D. The noncriminal penalty shall be \$50 for each offense after receipt of either a verbal or written warning of violation from the Building Inspector. Each day that such violation continues shall constitute a separate offense.
- B. Neither the Board of Selectmen nor any other Town representative or agency shall issue a permit for the erection or alteration of any building or part thereof, if the plans and specifications and intended use of which are not in all respects in conformity with the provisions of this bylaw.
- C. With each application for a permit to build or alter, there shall be filed a plan showing the lot and the location of the building thereon and such other development plans as are deemed necessary.
- D. Nothing herein contained shall affect any permit issued, or any building or structure lawfully begun, before notice of hearing before the Planning Board has been given, or before issuance of the warrant for the Town Meeting at which this bylaw is adopted, whichever comes first, provided that construction work under such permit is commenced within 12 months after its issue, and the work, whether begun under such permit or otherwise lawfully begun, proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.

§ 300-18.2. Zoning Board of Appeals.

- A. There is hereby established a Zoning Board of Appeals of five elected members and two members to be appointed by the Town Administrator subject to the confirmation by the Board of Selectmen, as provided in MGL c. 40A, which shall act on all matters within its jurisdiction under this bylaw in the manner prescribed by MGL c. 40A.
- B. The Zoning Board of Appeals shall have the following powers:

- (1) Appeals. To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of MGL c. 40A, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Board of Selectmen or other administrative official in violation of any provision of MGL c. 40A, or of this bylaw.
- (2) Special permits.
 - (a) Application for special permits for the use of land or buildings as set forth in Part 2, Article IV, or elsewhere in this bylaw may be made to the Board of Selectmen, the Zoning Board of Appeals or the Planning Board as indicated. If no permit granting authority is mentioned, the Zoning Board of Appeals shall be the permit granting authority. The special permit granting authority may authorize the issuance of said special permit in accordance with MGL c. 40A, §§ 9 and 17, provided all the requirements are met and provided that:
 - [1] Such use is not detrimental to the permitted uses in the zone in which it is located.
 - [2] The nature of the operations shall be such that it will not be hazardous or create any danger to public health and safety.
 - [3] The use shall be consistent, insofar as practicable, with the Comprehensive Plan for the future development of the area.
 - [4] Provision for roads and parking areas shall be laid out so as to prevent traffic hazards and nuisances.
 - [5] The location, nature and height of buildings, walls, fences and landscaping shall be such that the use will not hinder or discourage the appropriate development of adjacent land or adversely affect the character of the zone in which it is located.
 - [6] If the rights authorized by a special permit are not exercised within three years of the date of grant, such special permit shall lapse. Any subsequent special permit must adhere to current bylaws then in effect.
 - (b) In addition, the special permit granting authority, as provided for in MGL c. 40A, § 9, may also impose conditions, safeguards and limitations both of time and of use.
- (3) Variances.
 - (a) The Board of Appeals shall have the power, after a public hearing for which notice has been given by publication and posting as provided in MGL c. 40A and by mailing to all parties in interest, to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning bylaw where the Board of Appeals specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially

affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

- (b) The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or by any owner. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse and may be reestablished only after notice and a new hearing pursuant to this section; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one-year period. If the permit granting authority does not grant such extension within 30 days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.
- (c) No use variance may be granted except as allowed by the Zoning Bylaw.

§ 300-18.3. Duplication.

In cases where bylaws, or parts of bylaws, theretofore passed duplicate controls imposed by this bylaw, the more stringent shall govern.

ARTICLE XIX
Site Plan Review

§ 300-19.1. Purpose and intent; administration.

- A. The purpose of the site plan review hereby established is to protect the safety, public health, convenience and general welfare of the current and future inhabitants of the Town by providing a comprehensive review of plans for those uses and structures that have a significant impact upon the character of the Town; upon traffic, utilities, property values and sanitation. Factors to be considered are the placement of buildings, utilities, surface and ground water drainage, wetlands, water supply, parking, loading, landscaping, lighting, dust, noise control, access to the development, acceptable sanitary conditions and provision for open space. It is intended to ensure that the design and layout of those developments or uses so subject to this procedure in this bylaw will constitute suitable development and will not result in a detriment to the neighborhood or to the environment. It is also intended hereby to assist those wishing to build projects in the Town, by providing them with the necessary information about all of the Town's requirements affecting their project prior to the start of any construction or the issuance of any permits.
- B. The site plan review is to be administered by the Planning Board for the Town of Sturbridge.
- C. It is further the intent of the site plan review that any final site plan filed with the Planning Board shall receive the approval of said Board if the plan conforms to the standards established herein and to the reasonable rules and regulations of the Planning Board made in conformity with this bylaw.¹¹ It is to be noted, however, that where maximums are stated in this bylaw, the Planning Board acting hereunder may deny granting the maximum (e.g., height, maximum lot coverage, etc.), in view of the criteria and standards set hereby. Similarly, where minimums are stated in this bylaw, the Planning Board acting hereunder can make increased requirements (e.g., parking spaces, screening, landscaping, etc.) if in its opinion in applying the criteria and standards set hereby, the proposed plan warrants exceeding such minimums.

§ 300-19.2. Applicability.

All uses, other than single-family and two-family dwellings, horticultural nursery, farm, tree farm, professional office when office and residence of the professional are both located in the same residential building when the property is located in a residential zone, and accessory uses customarily incidental to these uses, shall be subject to the site plan review described herein.

§ 300-19.3. General requirements.

- A. Final site plan. No person shall undertake a use, construction or alteration of any structure that is subject to the provisions of the site plan review, unless they have first submitted to the Planning Board for its approval a final site plan of such proposed use or alteration. Once approved by the Planning Board, the Planning

11. Editor's Note: See Ch. 340, Planning Board Rules and Regulations, Ch. 3, Site Plan Approval, § 3.00 et seq.

Board shall issue a permit therefor, and such plan shall not be changed in any material respect, without being amended or modified in the same manner as provided for obtaining initial approval. No building or use permit shall be issued by the Building Inspector for any use subject to the site plan review procedure, and no construction or site preparation shall be started until a decision of the Planning Board approving the final site plan has been filed with the Town Clerk. An applicant for site plan review may not attach conditions to its submittal of plans for review, and any site plan so submitted may be rejected as not being in conformance with these bylaws. There shall be only one final site plan in effect for a tract at any point in time. The Planning Board shall not approve multiple final site plans for all or any portion of a tract subject to site plan review. Although final site plans may be approved for all or part of a project on a tract to accommodate phasing thereof, any subsequent changes in such previously approved final site plan may only be accomplished by amending or modifying the prior approval, including by substituting or replacing previously approved plans or portions thereof. Notwithstanding any other provisions in these bylaws, once a building permit is issued for development under plans approved by the Planning Board under site plan review for all or any part of a tract, all further development of the remainder of such tract shall be subject to this site plan review, regardless of the zoning classifications applicable to such tract at the time of site plan approval, prior thereto or effective thereafter.

B. Content of final site plan and other submittals.

- (1) In addition to any other requirements that the Planning Board may reasonably make, a final site plan shall show all existing and proposed buildings, existing and proposed contour elevations, structures, parking spaces, driveway openings, driveways service areas, facilities for sewage, refuse and other waste disposal, and for surface water drainage, wetlands, surface water, areas subject to the one-hundred-year flood, maximum groundwater elevation, location of aquifers, private or public wells and drinking water supplies in relation to the site, and landscaping features, such as fences, walls, planting areas, walks and lighting, both existing and proposed, and location, type, size and detail of all signs.
- (2) The site plan shall also show the relation of the above features to adjacent ways and properties. The site plan shall also show all contiguous land owned by the applicant or by the owner(s) of the property that is a subject of the application. In addition to the foregoing, the applicant shall submit material dealing with pollution of surface or ground water, soil erosion, increased runoff, changes in groundwater level, and flooding as it affects the site and the project, and the plans as such other submittal shall indicate the measures proposed to deal with and mitigate such environmental impacts.
- (3) Similar submittals and materials regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets and to screen objectionable features from neighbors shall also be presented. The applicant shall further submit, in writing, a traffic study, that shall project traffic flow patterns into and upon the site for both vehicles and pedestrians, and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours, and

for peak seasons, as well as the existing patterns and existing ways for passage of traffic and pedestrians. The Planning Board reserves the right to request additional traffic information that it deems necessary when making development decisions.

- (4) Except for building permits, any other permits or approvals required from Town agencies are to be included as part of this submittal or an explanation for their absence satisfactory to the Planning Board shall be submitted. Failure to provide such permits or approvals shall not be due to failure by the applicant to apply to the appropriate agency for their grant.

§ 300-19.4. Procedure.

The Planning Board shall adopt such rules and regulations for carrying out its duties. The Planning Board may in any particular case, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this site plan review, waive strict compliance with its rules and regulations. The Planning Board may waive the requirement for site plan review where there is a change in use or occupancy and no substantial construction or improvements to the site will occur. The waiver may be granted only after a finding by the Planning Board that the proposed use will not substantially affect existing drainage, vehicular and pedestrian circulation patterns, and any of the other standards or criteria provided for hereafter in this section, and that sufficient parking exists to serve the new proposed use. The Planning Board shall require an application for waiver of site plan that shall at a minimum include a narrative describing the prior use of the site, the nature of the proposed use and its impact. The Planning Board may provide for a schedule of examination fees in connection with the site plan review and/or waiver of site plan review herein provided.

- A. Submission of plans. Although preliminary plans may be discussed informally with the Planning Board, only one plan submission is required. An application for final site plan approval and/or waiver of site plan review shall be made by filing an application with the Planning Board in accordance with the rules and regulations governing such submissions. The applicant shall file a copy of such application with the Town Clerk for his/her information and records.
- B. Approval or disapproval; notice and hearings. Before approval, approval subject to conditions or disapproval of final site plan is given, except where disapproval is mandated by failure of the site plan to comply with applicable bylaws, a public hearing shall be held by the Planning Board in the manner set forth in MGL c. 40A, § 11. The Planning Board shall file its decision with the Town Clerk and send notice of such action by registered or certified mail, postage prepaid, to the applicant. In the event of a disapproval, the Planning Board shall state in detail how the plan does not conform with legal requirements, or the requirement of this site plan review. Reconsideration of applications shall be in accordance with MGL c. 40A, § 16.
- C. Failure to act. Failure of the Planning Board to take final action upon an application for the site plan review within 90 days following the close of a public hearing shall be deemed to be approval of such application. However, the public hearing procedure need not be concluded in one sitting, and it may be continued or extended as the Planning Board determines to be necessary for it to receive further information to enable it to render its decision in the matter.

- D. Right to appeal. Any person aggrieved by a decision of the Planning Board may appeal to the Superior Court in accordance with MGL c. 40A, § 17.

§ 300-19.5. Criteria for approval.

- A. In reviewing a site plan application, the Planning Board shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:
- (1) That the subject and adjoining premises are protected against serious detriment by provisions for the safe carrying and discharge of surface water drainage, buffers against light, sight, sound, dust and vibration, and that the development of the site will preserve sensitive environmental features such as steep slopes, wetlands and large rock outcroppings, public scenic views and historically significant features and the quality of light and air;
 - (2) That there are provisions for convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, by the provision of pedestrian access ways that are adequate in number, width, grade, alignment and visibility, by appropriately locating driveway openings in relation to traffic, access by emergency vehicles, and, when necessary, compliance with other regulations for the handicapped, minors and the elderly, and by the provision of an adequate amount of and safe configuration of off-street parking and loading spaces in relation to the proposed uses of the premises to prevent on-street and off-street traffic congestion;
 - (3) That there is a harmonious relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and that the project will be in harmony with the surrounding neighborhood; and that the general landscaping of the site complies with the purpose and intent of this bylaw; that existing trees are preserved to the maximum extent possible; that refuse and storage areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way;
 - (4) That lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation; that the glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way;
 - (5) That all utility systems are suitably located, adequately designed and properly installed to serve the proposed uses, and to protect the property from adverse pollution and that there is the provision of adequate methods for disposal of wastes;
 - (6) Mitigation of adverse impacts on the Town's resources, including the effect on the water supply and distribution system, sewage collection and treatment systems, fire protection and streets.
- B. Compliance with all provisions of the Zoning Bylaws. The Planning Board may require such appropriate conditions, limitations and safeguards that it determines are necessary to assure the project meets the criteria of Subsection A(1) through (6)

above.

§ 300-19.6. Standards for site plan review.

The following performance standards shall be utilized by the Planning Board in addition to any specific standards prescribed elsewhere in these bylaws, or in the rules and regulations of the Planning Board, in reviewing all site plans. These standards are to provide guidance to the applicant in the preparation of his/her plan, as well as guidelines for review. These are not intended to be exhaustive, and specific additional standards may be applied for a project if, in the opinion of the Planning Board, such are reasonably necessary. These standards are not intended to discourage creativity, invention or innovation but are intended to encourage good design, and exemplary projects, offering solutions to all problems of a site where possible. The issues and concerns represented by the standards below must be addressed to the satisfaction of the Planning Board in the final site plan.

- A. Relationship to other plans. The proposed development shall take into consideration all existing local and regional plans for the community.
- B. Preservation of landscape. Development of the site should, to the extent practicable, occur in such a manner that natural features are preserved and areas of environmental sensitivity are avoided. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist or has been removed, new planting may be required. Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties.
- C. Relation of building to environment and surroundings. Proposed uses and structures shall be integrated into the existing terrain and surrounding landscape by minimizing use of wetlands, steep slopes and hilltops; protecting visual amenities and scenic views; preserving unique natural or historical features; minimizing tree, vegetation and soil removal; and minimizing grade changes. All buildings and other structures shall be sited to minimize disruption of the topography. Design features shall maintain neighborhood character, enhance aesthetic assets and screen objectionable features from neighbors and roadways. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscaped elements and paved areas.
- D. Circulation. With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls), width of interior drives, and access points, general interior circulation, separation of pedestrian, bicycle and vehicular traffic, access to community facilities and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties. The arrangement of access points, service roads, driveways, parking areas, lighting and pedestrian walkways shall be designed in a manner that maximizes the convenience and safety of pedestrian and vehicular movement within the site and in relation to adjacent ways.

E. Surface water drainage.

- (1) Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system, nor obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in paved areas. All surface water drained from roofs, streets, parking lots and other site features shall be disposed of in a safe and efficient manner that shall not create problems of water runoff or erosion of or from the site in question, or onto other sites. Insofar as possible, natural drainage courses, swales properly stabilized with plant material or paving when necessary, and drainage impounding areas, shall be utilized to dispose of water on the site through natural percolation, to a degree equivalent to that prior to development. Also, appropriate control measures shall be employed that include maximum slope requirements, slope stabilization measures, including seeding of exposed areas to replace vegetative cover.
- (2) Applicants are encouraged to incorporate "green techniques" into project designs in an effort to improve water quality by minimizing impervious surfaces and run-off. The use of nontraditional paving materials such as pavers or porous pavement is encouraged to be incorporated into project design whenever feasible. Additionally, other best management practices for stormwater management such as the collection of roof runoff, use of rain gardens, the promotion of vegetation rather than turf in nonpaved areas, and minimizing soil disruption and similar construction methods should be explored whenever feasible.

F. Groundwater recharge and quality preservation.

- (1) Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drainpipes, pervious pavement, reduction of paved areas, reduction of building area or reduction of building coverage, etc.; or to improve quality, such as installing grease traps or gas/oil separators.
- (2) Where groundwater elevation is close to the surface, extra site grading precautions may be required to maintain the protective function of the overburden.

G. Utilities. The placement of electric, telephone or other utility lines and equipment, such as water or sewer, shall be underground; and so located as to provide no adverse impact on the groundwater levels, and to be coordinated with other utilities. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated precisely on the plans.

H. Advertising. All signs and outdoor advertising features shall be reviewed as an integral element in the design and planning of all development on the site. As a minimum, all signs and advertising devices shall be in conformance with the Zoning Bylaw, Part 4, Article XVII, and the provisions thereof shall be administered by the Planning Board.

I. Other site features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory

areas and structures shall be designed with such setbacks, screen plantings or other screening methods to prevent their being a hazard or being incongruous with the existing or contemplated environment and the surrounding properties. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and to maximize accessibility by fire, police and other emergency personnel and equipment.

- J. Open space. All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility to persons passing the site or overlooking it from nearby properties. Attention should be paid to connectivity of open space in an effort to provide natural corridors for wildlife and walking paths, as well as social and recreational needs and the need for neighborhood meeting places and sports fields. The plan for open space should be consistent with the Open Space Plan adopted by the Town. Pedestrian paths, excluding standard sidewalks, should be counted toward open space.
- K. Bonds.
- (1) As a condition of the site plan approval to be granted hereunder, the Planning Board may require that one or more performance bonds be posted with the Treasurer of the Town to guarantee completion in strict accordance with the plans and drawings submitted of all public improvements to be made for a use permitted under this chapter, in the same manner as now required under the Sturbridge Subdivision Regulations.¹² It may require that a single comprehensive bond be posted to guarantee completion of all such improvements. It may also require that an amount be included for land restoration not having to do with the construction of public improvements. The amount for land restoration shall be \$10,000 per acre, or such other amount as determined by the Town Engineer.
 - (2) The amount of the security required shall be established by a preliminary estimate from the proponent's engineer, confirmed or added to by the Town Engineer. The Town Engineer's estimate shall be final, unless modified by a majority vote of the members of the Planning Board.
 - (3) The method of securing performance shall be: a bond, a letter of credit, a tri-party agreement with a financial institution acceptable to the Board or a bank passbook. A covenant is acceptable only before construction is initiated, at which time the financial surety must be posted. Projects large enough to reasonably be built in phases may establish financial surety only for those phases on which construction is initiated, maintaining covenant provisions on the remaining phases.
 - (4) The Planning Board may derive use of the secured funds in the event that the proponent does not complete all public improvements within two years of the date of approval. All approvals of site plans for which performance surety is required shall be conditioned on the completion of public improvements within two years of the date of approval.
 - (5) One or more extensions may be granted for sufficient cause, not to exceed one

12. Editor's Note: See Ch. 350, Subdivision Regulations.

year in length. At the time of granting of the extension, the amount of any secured funds shall be reviewed to determine if it remains sufficient to cover current costs. If the funds are determined to be insufficient, such additional funds as required shall be added to the total of secured funds.

- (6) In any case, should public improvements not be completed within the permitted time, the project approval shall be null and void, with further action by the Planning Board not required.
- L. Start of construction. Construction on a site must be started or substantial activity commenced on the site within one year from the date of final site plan approval. Site preparation alone shall not be deemed to constitute start of construction. Approval of the final site plan may be extended for one additional year at the discretion of the Planning Board, after the receipt of a written request from the owner or his designated agent, and for good cause shown. If one year has elapsed from the date of approval, and no extensions have been granted, or if so granted, then at the end of such one-year extension no construction has been started, the final site plan approval shall become null and void without requiring any further action by the Planning Board.
- M. Certificate of occupancy: designer's certificate.
- (1) No certificate of occupancy shall be issued for any structure or parcel subject to site plan review unless it, and all of its related facilities, substantially conforms to the approval final site plan. The applicant shall submit to the Building Inspector, with a copy to the Planning Board, a written certification from a professional engineer, architect, professional land surveyor or licensed landscape architect (preferably the one who prepared the final site plan) that the work has been completed substantially in accord with the approved final site plan. The applicant shall also present an as-built plan to the Planning Board. The Building Inspector shall deny the issuance of a certificate of occupancy if such certification is not so provided. A certificate of occupancy, issued by the Building Inspector, for any activity requiring site plan approval shall constitute a certificate that such construction was performed and completed in compliance with an approved final site plan. The Building Inspector may issue a temporary certificate of occupancy, for a period of up to one year, with no extension after that, if all the work but certain plantings have been performed. A permanent certificate of occupancy must be issued within one year of the issuance of a temporary certificate, if the certification above outlined is given. Failure to obtain a permanent certificate of occupancy within a one-year extension shall result in forfeiture of all existing permits and authorization.
 - (2) If a permanent certificate of occupancy was issued in disregard of the requirements for certification by a professional engineer, architect or licensed landscape architect, it shall be null and void, but if issued with certification, it shall be conclusive evidence of completion of final site plan.
 - (3) Prior to issuance of a certificate of occupancy, all documents required as a prerequisite to said certificate that grant easements or other rights to the Town shall be recorded in the Registry of Deeds or filed with the appropriate

agencies, and proof thereof submitted to the Building Inspector.

§ 300-19.7. Landscaping, screening and buffers.

- A. Purpose. The Town of Sturbridge recognizes the important aesthetic, ecological and economic values associated with appropriate landscaping and buffering. This section is intended to establish minimum standards for landscaping in the Town as a way to reduce the environmental degradation that can be associated with development in a community. Appropriate landscaping will enhance the community's visual character and protect property values while stabilizing soils, reducing dust and erosion, providing stormwater management and facilitating groundwater recharge. This section seeks to promote the retention and use of existing vegetation as well as to encourage the establishment of new vegetation for aesthetic, health, wildlife and environmental reasons. Appropriate screening and buffer standards will promote the compatibility of land uses by reducing the visual, noise and lighting impacts of specific development on users of the site and abutting users by providing attractive and functional screening between various land uses.
- B. Properties subject to landscaping, screening and buffers. These requirements shall apply to all projects that require site plan approval. These standards shall not apply to landscaping installed by homeowners at single-family residences.
- C. Plan submittal requirements.
- (1) The landscaping plan may incorporate a variety of materials, including plant materials such as trees, shrubs, ground covers, perennials, and annuals, and other materials such as rocks, water features, walls, fencing, street furniture such as benches and seating areas, art or other landscape elements.
 - (2) Unless determined otherwise by the Planning Board, the following submittals are required at the time of application:
 - (a) Each application shall contain a brief narrative describing the project and the proposed landscaping, screening and buffers and other design elements.
 - (b) Plans for projects with over 1,000 square feet of landscaping area shall be prepared by a certified landscape architect, horticulturist or arborist and shall be submitted with each site plan application, unless an exception is granted by the Planning Board. Plans for smaller projects may be prepared by a person familiar with the proposed species of plants, their planting requirements and maintenance requirements. Such plan shall create a total pattern for the site, integrating the various elements of each site's design and creating a pleasant site character. The landscaping plan shall be designed to achieve architectural and environmental enhancement in the following areas:
 - [1] Buffering of parking, screening of storage areas and unsightly objects such as public utilities and substations.
 - [2] Creating buffer zones between residential, commercial and industrial areas.

- [3] Erosion control and stormwater management.
 - [4] Noise barriers.
 - [5] Streetscape enhancement, blending or improving existing and abutting landscape.
 - [6] Improving the relationship of site to structure through the use of shade, screening, accent and foundation plantings.
- (c) Landscaping plans shall include botanical and common names of plant materials, symbols, size, quantity and spacing of materials.
 - (d) The name, address, phone number and certification of the person or firm who prepared the plan.
 - (e) The plans shall include the planting details for the installation of trees and shrubs. Planting details shall comply with Landscaping Details found in Appendix 3 of the Rules and Regulations Governing the Subdivision of Land adopted June 18, 2002, as may be amended from time to time.¹³
 - (f) The plans shall include the details for the erosion control measures to be utilized during construction.
 - (g) The plans shall include the plant protection detail on the site plan as well as the location, type and caliper of any existing mature trees and plantings to remain, to be relocated or to be removed. If mature trees are removed due to grading or other reasons, replacement specimen size trees may be required.
- D. Preservation of existing landscape. The existing landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist or has been removed, new planting may be required. Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties.
- E. Topsoil. Topsoil removed during the course of construction shall be redistributed on all regraded surfaces so as to provide at least six inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting.
- F. Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps or portions of tree trunks and limbs shall be buried anywhere on site. All dead or dying trees, standing or fallen, shall be removed from the site.
- G. Protection of existing plantings. Maximum efforts should be made to save healthy specimens. No material or temporary soil deposits shall be placed within four feet of shrubs or within the protected root zone of trees (please refer to § 270-6 of the Sturbridge General Bylaws for a listing of Protected Root Zones) designated on the

13. Editor's Note: See Ch. 350, Subdivision Regulations, Attachment 3.

landscape plan to be retained. Protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants that they are protecting, but shall be self-supporting. The barriers shall be at least four feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.

- H. Erosion control for slopes. All newly graded slopes at a gradient of 4:1 or greater; in excess of three feet vertical height shall be landscaped with groundcover which is known to have binding characteristics to control erosion. Groundcover shall be planted at a rate to achieve complete coverage in the first year. Jute matting, or other similar erosion control material, shall be installed on all slopes. Hydroseed may be substituted for groundcover plantings if it is shown that the hydroseed area will achieve 100% coverage in the first year. All slope plantings shall be complete prior to requesting final inspection by the Department.
- I. Additional landscaping. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass and/or other ground cover, shrubs and trees as part of the landscape plan approved by the Planning Board.
- J. Landscape trees. Generally, as used in this bylaw, landscape, street or shade trees shall refer to a species of tree that normally grows to a mature height of 40 feet or more, while understory tree refers to a species that normally grows from 15 feet to 35 feet. Where this bylaw specifies a certain number of trees to be used it is referring to street or shade trees. Understory trees may be substituted for up to a maximum of 50% of the number of trees required; provided, however, that two understory trees shall be provided for each landscape tree replaced. (See Tree List.) Dead trees and shrubs shall be replaced in one growing season.
 - (1) Landscape tree selection.
 - (a) Trees are encouraged for all new developments. Tree selections may be made from the approved Street Tree List, which may be found in the Town of Sturbridge Landscaping Guide (1990), as may be amended from time to time.
 - (b) In established neighborhoods with existing mature street tree patterns, street trees should be selected to match the existing street trees in the vicinity.
 - (c) Landscape trees shall not be planted where their growth will interfere with the utility lines or entrances.
 - (d) Landscape trees shall be planted at approximately fifty-foot intervals and shall be planted not closer than five feet and not more than 20 feet from the right-of-way line unless otherwise approved by the Planning Board and DPW Director.
 - (2) Tree size.
 - (a) No new landscape trees installed per these regulations shall be less than

two-inch caliper. Caliper is to be measured in all cases at breast height.

- (b) To encourage the retention of healthy existing large street or landscape trees, every existing landscape tree with a six-inch caliper and eighteen-foot height may be counted as two trees toward the tree requirements. Any landscape tree with at least an eight-inch caliper and thirty-foot height may be counted as three trees toward the tree requirements.
- K. Selection of materials. Landscape materials should be selected and sited to produce a hardy and drought-resistant landscape area. Selection should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site and compatibility with existing native vegetation preserved on the site. Native plant species shall be used in environmentally sensitive sites. Plants listed by the Commonwealth of Massachusetts as invasive shall not be used.
- L. Planting specifications.
- (1) Shrubs and ground cover. All required ground cover plants and shrubs must be of sufficient size and number to meet the required standards within three years of planting. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.
 - (2) Trees. Trees may be deciduous or coniferous. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of two inches, measured 4 1/2 feet above the ground, and have a minimum height of eight feet. Evergreen trees at the time of planting must be fully branched and a minimum of six feet in height. All nursery stock shall be inspected by the landscape professional who submitted the plan, prior to plant installation, and certified that it is of good quality, with proper structure, free of wounds and injury.
- M. Screening and buffering. The intent of screening and buffering is to provide a means of separation between uses or development. Screening or buffering is meant to mitigate or reduce the incompatibility between different land uses through the use of landscaping or other features. The degree or intensity of the screening or buffering is dependent on the level of incompatibility between the adjacent uses.
- (1) Screening may include the use of such materials as: decorative fencing or walls, shrubs, trees and other plant materials. Soft landscaping should be provided in conjunction with fences or walls to provide a more visually appealing development.
 - (2) Shrub planting beds, fencing, berming, or a combination thereof, should be selectively arranged to provide for the buffering of off-street parking facilities as viewed from the street or as may be specifically required.
 - (3) Screening is required for garbage pick-up areas and buffering is required for parking lots within any commercial and industrial districts.
 - (4) Where commercial and industrial uses are adjacent to residential use, a combination of fence, wall and evergreen screen must be provided along the

rear and/or side lot line, or an area of at least 50 feet shall remain undisturbed and contain sufficient vegetation, in the opinion of the Planning Board, to provide a visual buffer from adjoining properties.

- (5) Plant materials used for screening purposes shall be sufficiently large and planted in such fashion that a year-round screen at least eight feet in height shall be produced within three growing seasons. All plantings shall be installed according to accepted horticultural standards.
- N. When required. Every development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and when the Planning Board determines that there is a need:
- (1) To shield neighboring properties from any adverse external effects of a development; or
 - (2) To shield the development from negative impacts of adjacent uses such as streets; and
 - (3) To soften the appearance and enhance the aesthetics of commercial and multiple dwelling construction projects.
- O. Amount of buffering required. Buffering and landscaping of the front setback area shall be required. Parking spaces, driveways, buildings, structures and storage materials shall not be allowed within the front setback, and the area of the front setback shall be a buffer, and landscaped as such. Landscaping of the frontage buffer shall consider the need for proposed or future sidewalk installations. The buffer shall allow for necessary access to the site, but driveways shall otherwise not be allowed in the buffer.
- (1) Buffers will be required for side and rear lot lines according to the following:
 - (a) Where the abutting land use is a same or similar use, and of similar intensity, a buffer strip of 10 feet in width shall be required along the side and rear lot lines.
 - (b) Where more intensive land uses abut less intensive land uses, or the abutting land use is a dissimilar use, a buffer strip 25 feet in width shall be required along the side and rear lot lines. As necessary, the Planning Board may require a buffer strip of greater width to protect adjacent property from the adverse effects of a proposed use.
 - (c) Parking lots, garbage collection and utility areas, and loading and unloading areas shall be screened around their perimeters by a buffer strip a minimum of five feet wide.
 - (d) The Planning Board may waive any of the requirements noted above in confined sites. The applicant shall request such waivers in writing at the time of application. The applicant should note that requesting a waiver does not imply that a waiver will be granted.
 - (2) Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material.

If planted berms are used, the minimum top width shall be four feet and the maximum side slope shall be 2:1.

- P. Tree preservation and care during construction.
- (1) Installation and maintenance.
 - (a) All trees, shrubs and groundcovers should be free of insects, pests or fungus disease or the effects of previous infestations. They should have normally well-developed branch systems and a vigorous and fibrous root system which is not root or pot bound.
 - (b) All trees, shrubs and groundcovers which have been planted and which, due to accident, disease or other cause, fail to show a healthy growth within one year must be replaced.
 - (c) All landscaped areas shall be regularly watered, fertilized, weeded and otherwise kept in good condition in accordance with the approved five-year plan.
 - (d) Trees and shrubs should be trimmed or pruned to prevent blocking or interference with the following:
 - [1] Sight distance views.
 - [2] Pedestrian or motor vehicle access.
 - [3] Installation, maintenance or repair of any public utility or fire land.
 - [4] Damage to property line fences or structures on adjoining properties.
- Q. Exceeding standards. Landscaping materials that exceed the standards may be substituted for the minimums so long as all fence or vegetation does not obstruct vision of pedestrian or automobile traffic.
- R. Complying with the standards. It is the applicant's responsibility to show that the landscaping materials proposed will comply with the regulations of this article.
- S. Alternative methods of compliance.
- (1) Alternate landscaping plans, plant materials or planting methods may be used where unreasonable or impractical solutions would result from the application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography or other physical conditions; or from lot configuration, utility easements or unusual site conditions. This does not pertain to self-created design issues that are not related to the items listed above.
 - (2) The Planning Board may approve an alternate plan which proposes different plant materials or methods, provided that quality, effectiveness, durability and performance are equivalent to that required by this bylaw.
- T. Plant material substitution. Due to seasonal planting problems and/or the lack of plant availability, approved landscape plans may require minor revisions. The

Town Planner and the Tree Warden may approve minor revisions to the planting plans if:

- (1) There is no reduction in the quantity of plant material.
- (2) There is no significant change in size or location of plant materials.
- (3) The new plans are of the same general category (i.e., shade tree, ornamental tree, evergreen or shrub) and have the same general design characteristics and growth habits (mature height, crown spread) as the materials being replaced.
- (4) The need for substitution was not caused by project proponent due to a lack of proper scheduling and purchase of plant material

§ 300-19.8. Landscaping bonds.

A bond will be required for the value of the landscaping improvements and may be provided as a separate bond from the one required for the site plan requirements. No bond for landscaping shall be released until one year after all plantings have been installed and inspected or at the termination of any required-long term maintenance plans.

§ 300-19.9. Final approval.

Upon completion of the landscaping improvements, the developer, contractor or landscape architect shall submit a letter to the Planning Department stating that all landscaping was installed according to Town standards and per the specifications and details of the approved plans. This letter shall also note any changes that were made during installation. Receipt of this letter and final inspection by the Department or its designee shall be required prior to final occupancy being granted for the project.

ARTICLE XX
Expedited Permitting¹⁴

§ 300-20.1. Authority and intent.

In accordance with the provisions of MGL c. 43D as amended pursuant to Section 11 of Chapter 205 of the Acts of 2006, the Town of Sturbridge has established an expedited permitting process on sites that have been designated as priority development sites (PDS) in accordance with the statute. Review and development on these sites will be conducted in accordance with the provisions of the statute and with local regulations.

§ 300-20.2. Administration.

The municipal point of contact for streamlined permitting under this regulation is the Sturbridge Town Planner. The Town Planner will assist in determining what permits are necessary for each project presented, and will review each application on behalf of the governing body to determine, within 20 days, whether the application is complete.

§ 300-20.3. Review periods.

- A. Priority development permit reviews and final decisions shall be completed within 180 days, subject to the opportunity for extension described herein. The time period shall begin the day after the issuance of the notice that the application materials are complete pursuant to clause (e) of MGL c. 43D, § 4.
- B. The governing body shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have. The resubmission of the application or the submission of such additional information required by the governing body shall commence a new thirty-day period for review of the additional information. If, at any time, an issuing authority determines that a permit or other pre-development review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall, where public notice and comment or hearings are not required, complete action on the application filed for the previously unidentified permit within 30 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows. The failure of the governing body to notify an applicant of the requirement of a public hearing or comment period shall not constitute a waiver of the requirement.
- C. The 180-day time period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body or upon written request of the issuing authority with the consent of the applicant. The 180-day period may be extended for up to 30 days by the governing body in the event an additional permit or other pre-development review is required in accordance with

14. Editor's Note: See also Ch. 340, Planning Board Rules and Regulations, Ch. 4, Expedited Permitting (Chapter 43D) Regulations, § 4.00 et seq.

subsection (c) of MGL c. 43D, § 5, if the requirement for the previously unidentified permit or review has been determined no less than 150 days after the issuance of the notice of completeness. The 180-day time period shall be extended when the issuing authority determines either: (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued.

- D. An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this article.

§ 300-20.4. Project review.

- A. Projects submitted in accordance with this regulation shall complete a Priority Development Site - Streamlined Permit Application and shall also comply with the submission requirements for each permit determined necessary by the Town Planner, as established through bylaws, laws and regulations. However, a community fiscal impact assessment, stormwater management plan and a traffic study will be required in all cases.
- B. Pre-filing and issue reviews. The applicant is encouraged to request a pre-filing review of the application to assist in formulation of a complete application. The applicant may also request reviews at any time with specific departments to aid in resolution of any issues with the application. Said reviews shall be requested through the Town Planner. Said reviews are not intended to be "advisory or technical reviews" as referenced in the statute. Each project shall undergo the permitting processes as identified by the Town Planner and/or prescribed by law or local regulation. Every effort shall be made to conduct joint permit hearings.

§ 300-20.5. Fees.

The applicant shall submit fees for each permit that has been determined necessary by the Town Planner, as already established by existing bylaws, laws and regulations.

§ 300-20.6. Automatic grant of approval.

Failure by any issuing authority to take final action on a permit or approval within the 180-day period or extended time, if applicable, shall be considered a grant of the relief requested of that authority. In that event, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the Town Clerk, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice of hearing in connection with the application. The grant shall not occur where:

- A. The governing body has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application;
- B. The governing body has determined that the final application contained false or misleading information; or
- C. The governing body has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

§ 300-20.7. Consolidated and streamlined appeals.

Appeals of issuing authority decisions or automatic grants of approval must be filed in accordance with MGL c. 43D, § 10, within 20 days of the last permit issued or within 20 days of the 180-day expiration, whichever is later. All appeals must be consolidated and filed within the Division of Administrative Law Appeals (DALA) within 20 days. The consolidated appeal does not apply to wetlands. DALA shall render appeals decisions within 90 days, and aggrieved parties may further appeal to the Superior Court within 20 days of the DALA decision.

§ 300-20.8. Transfers, renewals, permit modification requests, expiration.

Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority. Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this article. Issuing authorities shall make reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original review period for permit categories as set forth in § 300-20.3 shall apply. Permits issued pursuant to this article shall expire five years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of MGL c. 40A, § 6.

