

## Town of Sturbridge Final Draft (Red-Line)

### CHARTER

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as amended April 2017. Amendments noted where applicable.]**

#### ARTICLE 1 DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the Charter will have the following meanings:

- (A) Charter - The word "Charter" shall mean this Charter and amendments to it through any of the methods provided under the amendments to the state constitution.
- (B) Town - The word "Town" shall mean the Town of Sturbridge.
- (C) Majority Vote - The words "majority vote" shall mean a majority of those present and voting.
- (D) Voters - The word "voters" shall mean registered voters of the Town of Sturbridge.
- (E) Gender - The reference to the generic pronoun "he" throughout the Charter refers to both the male and female gender.
- (F) Days - When the period of time prescribed or allowed is ~~less than~~ seven days or less, Saturdays, Sundays and legal holidays shall be excluded in the computation. "Legal Holiday" includes those days specified in Massachusetts General Laws (M.G.L.) Chapter 4, Section 7 and any other day designated a holiday by the President and the Congress of the United States. If more than seven days, every day shall be counted.
- (G) Warrant - The "Warrant" is a document issued by the Board of Selectmen to call a Town Meeting. The Warrant states the time and place at which the Town Meeting is to convene, and, by separate articles, the subject matter to be acted upon, and further defined by Massachusetts General Laws, Chapter 39, Section 10.
- (H) Officer - All officers listed in Section 4-1(A) and any other person holding a position under Massachusetts General Laws (M.G.L.).

#### ARTICLE 2 INCORPORATION ~~AND~~ POWERS

##### Section 2-1. Incorporation.

The inhabitants of the Town of Sturbridge, within the territorial limits as now or hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Sturbridge."

##### Section 2-2. Short title.

This instrument shall be known and may be cited as the "Sturbridge Home Rule Charter."

##### Section 2-3. Powers.

The form of government provided by this Charter shall be known as the Sturbridge Selectmen-Open Town Meeting plan. Pursuant to the provisions of this Charter and subject only to such limitations as may be imposed by the Constitution and the General Laws of the Commonwealth, the Town shall have all powers possible for a Town to have under the Constitution and General Laws as fully and completely as though they were specifically enumerated in this Charter.

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### Section 2-4. Construction.

The powers of the Town of Sturbridge under this Charter shall be construed liberally in favor of the Town and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

### Section 2-5. Intergovernmental relations.

Subject to the applicable requirements of any provision of the Constitution or General Laws of the Commonwealth, the Town of Sturbridge may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

## ARTICLE 3 LEGISLATIVE BRANCH

### Section 3-1. Town Meeting.

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all voters.

### Section 3-2. Presiding officer.

The Moderator, as provided in Section 4-3, shall function as the presiding officer at all sessions of the Town Meeting. At the first Town Meeting session at which he presides following his election, the Moderator shall appoint a Deputy Moderator to serve as acting Moderator in the event of his temporary absence or disability. The appointment of a Deputy Moderator shall be subject to confirmation by the Town Meeting.

Subject to the provisions of the Charter and such bylaws regarding committees as may be approved by the Town Meeting, he shall appoint the members of such committees of the Town Meeting, special or standing, as may from time to time be approved by the Town Meeting.

The Presiding Officer shall perform such other duties as may from time to time be assigned to the office of Moderator by bylaw or other vote of the Town Meeting.

### Section 3-3. Time of meeting.

The regular Annual Town Meeting of the Town of Sturbridge for the transaction of business relating to the prudential affairs of the Town shall be held on the first Monday of June or on such date as may from time to time be fixed in the bylaws of the Town.

### Section 3-4. Preparation of warrant for Annual and Special Town Meetings.

The Selectmen shall prepare the warrant for the Annual Town Meeting and for Special Town Meetings.

### Section 3-5. Town Meeting warrant ~~and~~ posting.

The Town Clerk shall cause to be posted the Warrant for the Annual Town Meeting and all Special Town Meetings in the Town Hall, the post offices, and the Town Library on the dates required by law. The Warrant shall also be posted on any ~~web site~~[website](#) established as the official ~~web site~~[website](#) for the Town of Sturbridge.

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**Section 3-6. Insertion of Warrant article by petition.**

Insertion of articles in the Warrant for Town Meetings by petition of the voters shall follow the procedures and stipulations of Chapter 39, Section 10 of the General Laws; namely, articles shall be inserted in the Warrant for an Annual Town Meeting by the Selectmen upon receipt in writing of a petition signed by 10 or more registered voters of the Town. Petitions for insertion of articles in the warrant for a Special Town Meeting shall be signed by 100 ~~or more~~ registered voters or by 10% of the total number of registered voters of the Town, whichever number is the lesser.

**Section 3-7. Call of Special Town Meeting by petition.**

A Special Town Meeting shall be called by the Board of Selectmen within 45 days after receipt by them of a petition for that purpose signed by 200 ~~or more~~ registered voters of the Town or of 20% of the total number of registered voters of the Town, whichever number is the lesser. Signatures on said petition shall be certified by the Registrars of Voters.

**Section 3-8. Availability of Town officials at Town Meetings.**

Every Town officer, the head of each department and the head of each division within the said department shall attend all sessions of the Town Meeting for the purpose of providing the Town Meeting with pertinent information. In the event any Town officer, department head or division head is to be absent due to illness or other reasonable cause, he shall designate a deputy to attend in his place.

ARTICLE 4  
**ELECTED OFFICIALS**

**Section 4-1. General provisions.**

- (A) Elective offices—2. The offices to be filled by ballot of the whole Town shall be:
- (A) A Board of Selectmen, a Moderator, a School Committee, a Board of Assessors, a Board of Health, and such members of regional authorities or districts as may be established by statute, inter-local agreement or otherwise.
- (B) Eligibility—2. Any registered voter shall be eligible to hold any elective Town office, 2 except that no full-time employee of the Town reporting to the Board of Selectmen, either directly or through the Town Administrator, may simultaneously hold the position of Selectman.
- (C) Election—2. The regular elections for Town office shall be held annually on the second Monday of April or such a date as may from time to time be fixed in the bylaws of the Town.

<b>ELECTED OFFICES</b>		
<b>Board</b>	<b>No. of Members</b>	<b>Term</b>
Board of Selectmen	5	3
Moderator	1	3
Town Clerk	1	3
Assessors	3	3
Constables	3	3
Library Trustees	9	3
School Committee (Elementary)	5	3
Board of Health	3	3

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<b>ELECTED OFFICES</b>		
<b>Board</b>	<b>No. of Members</b>	<b>Term</b>
Zoning Board of Appeals	5 <sup>1</sup>	3
Tantasqua Regional School Committee	Variable	3
Recreation Committee	5	3

1 Two additional members appointed by the Town Administrator

**Section 4-2. Selectmen: composition, term of office, compensation, powers and duties, etc.**

- (A) Composition, term of office— There shall be a Board of Selectmen consisting of five members elected by the voters for three-year terms, so arranged that the term of office of at least one member, but not more than two members, shall expire each year.
- (B) Compensation— The Selectmen shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and duties in general— The executive powers of the Town shall be vested in the Board of Selectmen, and may be exercised by them jointly or through the Town agencies and offices under their general supervision and control. The Board of Selectmen shall cause the laws and orders for the government of the Town to be enforced, and shall cause a record of all their official acts to be kept, and for that purpose and to aid them in their official duties, they shall appoint a Town Administrator. The Board of Selectmen shall act as the Water and Sewer Commissioners and have the power and authority of Water and Sewer Commissioners as provided by Massachusetts General Laws.
- (D) Appointment— The Selectmen shall appoint a Town Administrator and members of the Board of Registrars.
- (E) Restrictions on members of the Board— Selectmen shall not hold any other elected Town of Sturbridge office, or any office appointed by the Town Administrator under Section 6-1 of the Charter which is subject to confirmation by the Board of Selectmen.

**Section 4-3. Moderator: term of office; compensation; powers and duties.**

- (A) Term of office— At each Town Election at which the term of office expires or when a vacancy exists, a Moderator shall be chosen by the voters for a term of three years. He shall not hold any other Town office, elected or appointed.
- (B) Compensation— The Moderator shall receive for his services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and duties— The Moderator shall have the powers and duties provided for that office by statute, by this Charter, by bylaws and by other vote of the Town Meeting.
- (D) Appointments— The Moderator shall appoint a nine-member Finance Committee. The term shall be for three years, so arranged that the term of office of three members shall expire each year. The Finance Committee shall review all Town Meeting warrants and advise the Town Meeting of their recommended action. The Finance Committee shall have all the powers available in the General Laws, granted by Town Meeting or specified by this Charter.

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- (D) The Moderator shall make appointments to other committees where so authorized by Town Meeting.

### **Section 4-4. Elementary School Committee: composition; term of office; compensation; powers and duties.**

- (A) Composition, term of office—  . There shall be a School Committee consisting of five members elected by voters for three-year terms such that the term of office of at least one member, but not more than two members, shall expire each year.
- (B) Compensation—  . School Committee members shall be compensated as may annually be provided for that purpose by appropriation.
- (C) Powers and duties—  . The School Committee shall have all of the powers and duties school committees may have under the Constitution and General Laws of the Commonwealth, and it shall have such additional powers and duties as may be authorized by this Charter or by bylaw, including the use of land and buildings.

### **Section 4-5. Tantasqua Regional School Committee: composition; term of office; compensation; powers and duties.**

- (A) Composition, term of office—  . There shall be elected representatives to the Regional School Committee variable in number as provided in the Tantasqua and Union 61 Regional School Agreement for a term of three years,    so arranged that the term of office of at least one member shall expire each year. One member shall be elected annually by the Elementary School Committee from the Elementary School Committee.
- (B) Compensation—  . Regional School Committee members shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and duties—  . The Regional School Committee shall have all the powers and duties school committees may have under the Constitution, the General Laws of the Commonwealth, the regional school agreement, and it shall have such additional powers and duties as may be authorized by this Charter or by bylaw.

### **Section 4-6. Board of Assessors: composition; term of office; compensation, powers and duties.**

- (A) Composition, term of office—  . There shall be a Board of Assessors consisting of three members elected by the voters for three-year terms, such that the term of office of one member shall expire each year.
- (B) Compensation—  . The Assessors shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and duties—  . The Assessors shall annually make a fair cash valuation of all property, real and personal, subject to taxation within the Town. They shall have such other powers and duties as are provided by law for assessors.

### **Section 4-7. Town Clerk: composition; term of office; powers and duties.**

- (A) Term of office—  . There shall be a Town Clerk elected by the voters at large for the term of three years.
- (B) Powers and duties—  . The Town Clerk shall have all of the powers and duties town clerks may have under the Constitution and General Laws of the Commonwealth. The Town Clerk may also exercise such additional powers and duties as may from time to time be assigned to that office by the Charter,

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by bylaw or by other vote of the Town Meeting.

### Section 4-8. Board of Health: composition; term of office; compensation; powers and duties.

- (A) Composition, term of office—  . There shall be a Board of Health consisting of three members elected by the voters for terms of three years so arranged that the term of office of one member shall expire each year.
- (B) Compensation—  . The members of the Board of Health shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (C) Powers and duties—  . The Board of Health may make reasonable health regulations and shall enforce the laws relating to public health, the provisions of the State Sanitary Code and all local health regulations.

### Section 4-9. (Reserved)

### Section 4-10. Zoning Board of Appeals: composition; term of office; powers and duties.

- (A) Composition, term of office—  . There shall be a Zoning Board of Appeals consisting of seven members. Five members shall be elected by the voters for three-year terms such that the term of office of at least one member, but not more than two members, shall expire each year. Two members shall be appointed by the Town Administrator for three-year terms so arranged that the terms of office will not expire in the same year.
- (B) Powers and duties—  . The Zoning Board of Appeals shall have all powers which are conferred on Zoning Boards of Appeal by the General Laws, and such additional powers and duties as may be provided in the Zoning Bylaws.

### Section 4-11. Recreation Committee: composition; term of office; powers and duties.

- (A) Composition, term of office—  . There shall be a Recreation Committee consisting of five members elected by the voters for three years, such that the term of office of at least one member, but not more than two members, shall expire each year.
- (B) Powers and duties—  . The Recreation Committee shall plan, organize and implement programs in response to the recreational needs of the Town.

### Section 4-12. Other elected officers: powers and duties.

All other elected officers shall have all the powers and duties conferred upon their office by the General Laws, Sturbridge Town Charter and the Town bylaws.

### Section 4-13. Recall ~~Petition~~petitions.

- (A) Any holder of an elective office, as defined in Section 4-1(A), may be recalled by the voters as herein provided.
- (B) Recall petition—  . Any voter may file with the Town Clerk a signed and dated affidavit containing the name of the officer sought to be recalled and a statement of the grounds for the recall. The Town Clerk shall deliver to said voter making the affidavit copies of petition blanks demanding such recall, and keep printed copies of the petition blanks available. The printed petition blanks shall be issued by the Town Clerk with his signature and Official Seal affixed. They shall be dated, shall be addressed

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to the Selectmen and shall contain the name or names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit and shall demand a recall election. A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk. The recall petition shall be entered in a record book to be kept in the office of the Town Clerk. The recall petition shall be returned and filed with the Town Clerk within 30 days after the filing of the affidavit and shall have been signed by at least 20% of the voters, who shall add to their signatures the street and number of their residences.

- (B) The Town Clerk shall within 24 hours of receipt submit the petition to the Board of Registrars of Voters in the Town, and the Registrars shall forthwith certify the number of signatures which are names of voters.
- (C) Selectmen's action on receiving petition—~~2~~. If the petition shall be found and certified by the Board of Registrars to be sufficient they shall submit the same with their certificate to the Selectmen without delay, and the Selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than 25 days nor more than 35 days after the date of the Board of Registrars' certificate;~~3~~ provided however, that if any other Town election is to occur within 60 days after the date of the certificate, the Selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.
- (D) Incumbent holds office until recall election—~~2~~. The incumbent shall continue to perform the duties of his office until the recall election. If not recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section. If recalled, he shall be deemed removed from office, and the vacant office filled by appointment by the Board of Selectmen until the next election.
- (E) Proposition on ballot—~~2~~. Ballots used in a recall election shall submit the following proposition in the order indicated:
  - For the recall of (name of officer):
  - Against the recall of (name of officer):
  - Title of office:
- (F) Repeat of recall petition—~~2~~. No recall petition shall be filed against an officer within three months after he takes office, nor, in the case of an officer subject to a recall election and not recalled thereby, until at least three months after the election at which his recall was submitted to the voters.
- (G) Appointment of person recalled—~~2~~. No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any Town office within two years after such recall or such resignation.

### ARTICLE 5 TOWN ADMINISTRATOR

#### Section 5-1. Appointment; qualifications; term.

The Board of Selectmen shall appoint a Town Administrator for an indefinite term and fix his compensation within the amount appropriated by the Town. The Town Administrator shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a person especially fitted by education, training and/or previous experience in management or administration to perform the duties of the office. The Town may from time to time establish by bylaw such additional qualifications as seem necessary and

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appropriate.

Any vacancy in the office of the Town Administrator shall be filled in accordance with Section 4-2 by the Board of Selectmen. Meanwhile, they shall appoint a suitable person as temporary Town Administrator to perform the duties of the office. Such temporary appointment may not exceed three months but one additional renewal may be voted by the Board of Selectmen not to exceed a second three months. Compensation for such person shall be set by the Board of Selectmen.

### Section 5-2. Town Administrator - appointive procedure.

The Board of Selectmen shall appoint a five-member Town Administrator Search Committee consisting of the following:

One member of the Board of Selectmen,

One Town department head,

Three registered voters of the Town at large not employed by the Town.

The search committee shall advertise the available position, screen all applicants and present three candidates to the Board of Selectmen. The search committee shall follow the affirmative action guidelines as established by federal law. The Board of Selectmen shall interview the candidates presented by the search committee at a regular meeting of the Board, and elect by majority vote, the Town Administrator.

In the event of any vacancy in the office of the Town Administrator, the Board of Selectmen will initiate the appointment procedure within a period of 10 working days.

### Section 5-3. Powers and Duties.

The Town Administrator shall be the chief administrative officer of the Town and be directly responsible to the Board of Selectmen for the administration of all Town affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (A) He shall supervise and direct the administration of all departments, agencies and offices for whose function he is responsible.
- (B) The Town Administrator shall appoint, subject to confirmation by the Board of Selectmen, all appointive Town officers as described in Section 6-1 utilizing procedures described in Section 6-5.
- (B) The Town Administrator shall make notification of all unfilled positions within the Town by posting a notice on the bulletin boards at the Town Hall and on ~~cable television~~ the Town website for a period of not less than five days, and by notification in writing to the local ~~new~~ news media.
- (C) He shall fix the compensation of all Town officers and employees appointed by him within the limits established by existing appropriations and Town bylaws.
- (D) He shall attend all regular meetings of the Board of Selectmen unless excused at his own request, except meetings at which his removal is being considered, and shall have a voice but no vote in all of its deliberations.
- (E) He shall keep full and complete records of his office and shall render as often as may be required by the Board of Selectmen, but not less once in each year, a full report of all operations during the period reported on, which report shall be made available to the public.
- (F) He shall keep the Board of Selectmen fully advised as to the needs of the Town and shall recommend to the Board of Selectmen for adoption such measures requiring action by them or by the Town



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Meeting as he may deem necessary or expedient.

- (G) He shall have full jurisdiction over the rental and use of all Town property except school property and property under the control of the Conservation Commission. He shall be responsible for the maintenance and repair of all Town buildings and facilities placed under his control by this Charter, by bylaw, by vote of the Town or otherwise.
- (H) He shall present to the Board of Selectmen the annual budget of the Town and shall also be responsible for the development and annual updating of the capital improvement program.
- (I) He shall keep a full and complete inventory of all property of the Town, both real and personal.
- (J) Copies of all proposed contracts, including personnel, shall be provided to the Finance Committee by the Board of Selectmen within 10 days of approval for record purposes.
- (K) He shall be responsible as Chief Procurement Officer of the Town for purchasing all supplies, material and equipment for all departments under his jurisdiction.
- (L) He shall see that all of the provisions of the General Laws, of the Charter, of votes of the Town Meeting and votes of the Board of Selectmen which require enforcement by him or officers subject to his direction and supervision are faithfully carried out.
- (M) He shall prepare and revise, as necessary, a plan establishing personnel requirements. It shall include job descriptions, together with wage and salary schedules, for all departments established by this Charter, administrative code or Town bylaw, except School Department employees, and it shall become effective within 30 days of submission to the Board of Selectmen unless, rejected by them.
- (N) He may at any time inquire into the conduct of office of any officer or employee or department, board or commission under his jurisdiction.
- (O) He shall attend all sessions of the Town Meetings and answer all questions directed to him by the voters of the Town which relate to his office.
- (P) He shall perform any other duties required by the bylaws, administrative code, the voters of the Town Meeting, or the votes of the Board of Selectmen.

### **Section 5-4. Acting Town Administrator.**

By letter filed with the Town Clerk, the Town Administrator shall designate a qualified Town administrative employee or officer to exercise the powers and perform the duties of Town Administrator during his temporary absence. During his absence, the Board of Selectmen may not revoke such designation until at least 10 working days have elapsed, whereupon it may appoint another qualified Town administrative employee or officer to serve until the Town Administrator shall return.

In the event the Board of Selectmen deem the Town Administrator as unable to perform his assigned duties, the Board of Selectmen shall appoint a department head to serve as acting Town Administrator.

### **Section 5-5. Removal and suspension.**

The Board of Selectmen may, by majority vote of the full Board, terminate and remove or suspend the Town Administrator from his office in accordance with the following procedure.

Before the Town Administrator may be removed, if he so demands, he shall be given a written statement of the reasons alleged for his removal and shall have a right to be heard publicly thereon at a meeting of the Board of Selectmen prior to a final vote on his removal, but pending and during such hearing the Board of

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Selectmen may suspend him from his office. The action of the Board of Selectmen in suspending or removing the Town Administrator from office shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Board of Selectmen. The Town Administrator shall continue to receive his salary until the effective date of a final vote of removal. The Town may, by bylaw, establish a procedure for removal or suspension of a Town Administrator in such detail as it may deem necessary or desirable.

**ARTICLE 6  
APPOINTED OFFICIALS, BOARDS, COMMISSIONS & EMPLOYEES**

**Section 6-1. Appointments.**

- (A) Appointments to all boards, commissions, and committees consisting of more than one member and where terms are greater than one year shall be made in a manner that all terms of all incumbents do not expire in the same year. Wherever possible, an equal number of members of each board, commission, and committee shall come to the end of their terms of office in each year.
- (B) The Town Clerk shall maintain, electronically, a list of all of the offices, boards and committees of the Town of Sturbridge, including the name of the office, board or committee, purpose or objective, number of membership, term of appointment, and the appointing authority. The Town Clerk shall update the list of offices, boards and committees as they are formed or dissolved, post a copy on the official website of the Town of Sturbridge, and cause it to be included in the Annual Town Report.
- (C) Annual appointments to all boards, commissions and committees shall be made by July 1 of each year. Whenever a board, commission, or committee member resigns or otherwise is no longer on the board, commission or committee, the responsible appointing authority shall appoint a new member within 45 days.
- ~~(D) — (Reserved)~~
- (E) The Town Administrator shall have the power to appoint such other individual Town officers and members of boards and committees as are authorized by the Massachusetts General Laws, this Charter, or Town bylaws, for which the method of appointment is not otherwise provided.

**Section 6-2. Appointments by the Town Administrator.**

The Town Administrator shall make appointments to the following offices, boards, and commissions for the specified term, subject to the confirmation by a majority vote of the Board of Selectmen at a regularly scheduled meeting and administration of the oath of office by the Town Clerk.

<b>Office(s)</b>	<b>Term(s) of Office</b>
Town Counsel	1 Year
Finance Director	3 Years
Town Accountant	3 Years
Principal Assessor	3 Years
Director, Department of Public Works	3 Years
Members of the Department of Public Works	3 Years
Tree Warden	3 Years
Chief of Police	3 Years

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<b>Office(s)</b>	<b>Term(s) of Office</b>
Members of the Police Department	3 Years
Fire Chief	3 Years
Members of Fire Department	3 Years
Hazardous Waste Coordinator	3 Years
Building Inspector/Zoning Enforcement Officer	3 Years
Other Inspectors (excluding Board of Health appointees)	3 Years
Emergency Management Coordinator	3 Years
Director of Veteran's Affairs & Soldiers Burial	3 Years
Animal Control Officer	3 Years
Town Planner	3 Years
Council on Aging Director	3 Years

<b>Boards and Commissions</b>	<b>Number of Members</b>	<b>Term(s) of Office</b>
Planning Board	7	5 Years
Design Review	5	3 Years
Zoning Board of Appeals	2	3 Years
Conservation Commission	5	3 Years
Safety Committee	5	3 Years
Historical Commission	5	3 Years
Cultural Council	7	3 Years
Council on Aging	9	3 Years
Street Light Committee	3	3 Years
Housing Partnership Committee	5	3 Years
Cable Advisory Committee	5	3 Years

<b>Partial Appointments</b>	<b>Number of Members</b>	<b>Term(s) of Office</b>
Sturbridge Tourist Association	6 of 7	3 Years
Personnel Classification Committee	4 of 5	3 Years
Community Preservation Committee	3 of 9	3 Years

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<b>Partial Appointments</b>	<b>Number of Members</b>	<b>Term(s) of Office</b>
Zoning Board of Appeals	2 of 7	3 Years

**Section 6-3. Power to rescind appointments.**

The Town Administrator shall, subject to confirmation by vote of the Board of Selectmen, have the power to rescind for cause, including excessive and unexcused absenteeism, any appointment made by him to any board, commission, committee, or individual officer under authority of this Charter, provided that the appointee shall first have been served with a written notice of the Town Administrator's intention, specifying the reasons for the proposed removal, and informing the appointee of his right to be heard, if requested in writing, at a public meeting of the Board of Selectmen.

**Section 6-4. Merit principle.**

All appointments and promotions of Town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.

**Section 6-5. Appointments by the Town Administrator—~~;~~ procedure.**

- (A) Procedure for Appointment of department heads: Fire Chief; Director of Department of Public Works; Police Chief.
- (A) Upon vacancy, the Town Administrator shall appoint a five-member search committee, consisting of the following: (1) Town Administrator, (2) two voters not currently employed by the Town appointed by the Town Administrator, (3) two members qualified to assist in the search process and appointed by the Town Administrator. The search committee shall screen all applicants, interview the top applicants at a legally advertised public meeting, and the Town Administrator shall select the best applicant for appointment, subject to confirmation by the Board of Selectmen.
- (B) Procedure for the appointment of Town employees. The Town Administrator shall advertise all available positions, screen all applicants, and select the best qualified applicant for appointment subject to confirmation by the Board of Selectmen.

ARTICLE 7

**ADMINISTRATIVE ORGANIZATION.**

**Section 7-1. Department of Public Works.**

There shall be a Department of Public Works appointed by the Town Administrator in accordance with Section 6-1. The Director of the Department of Public Works so appointed shall be a person especially fitted by education, training, and/or previous experience to perform the duties of the office.

The Director of the Department of Public Works shall be responsible for the supervision and coordination of all public works operations of the Town which are placed under his control by this Charter, by bylaw, by vote of the Town, or otherwise.

The Department of Public Works shall be responsible for the following Town functions: engineering, highways, water system, sewerage system, maintenance of Town properties including cemeteries and recreation areas and other related functions assigned by the Town Administrator or Director of Public Works.

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### Section 7-2. Principal Assessor.

There shall be a full-time Principal Assessor appointed by the Town Administrator subject to confirmation by a majority vote of the Board of Selectmen. The Principal Assessor shall be appointed for a term of three years and shall be a person especially fitted by education, training, and/or previous experience to perform the duties of the office. The responsibility of the Principal Assessor will include the daily operation of the Assessors' Department.

## ARTICLE 8 GENERAL PROVISIONS.

### Section 8-1. Relation of Charter to Town bylaws, rules, regulations, orders and special laws.

Where provisions of this Charter conflict with provision of Town bylaws, rules, regulations, orders and special laws, the Charter provisions shall govern. All provisions of Town bylaws, rules, regulations, orders and special laws not superseded by this Charter shall remain in force.

### Section 8-2. Severability.

If any provisions of this Charter are held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

### Section 8-3. Specific provisions shall prevail.

To the extent that any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### Section 8-4. Publication of Charter and Bylaws.

The Board of Selectmen shall, within one year of the adoption of this Charter and subsequent revisions thereafter, cause to be prepared copies of said Charter and Town Bylaws to be available to the public in a suitable format in the office of the Town Clerk and posted on the ~~web site~~website established as the official web site for the Town of Sturbridge.

### Section 8-5. Charter revision.

Amendments to this Charter relating in any way to the composition of the Town Meeting or the composition or mode of election or terms of office of the Board of Selectmen may be proposed only by a Charter Commission elected under the General Laws of the Commonwealth.

Amendments to this Charter relating to other matters may be proposed at a duly called Town Meeting. Proposed amendments approved by a two-thirds majority Town Meeting vote shall be acted upon by ballot of the whole Town at a regular election of Town officers held in accordance with the General Laws. The effective date of revisions will be the date the Town Clerk certifies that the proposed amendment was approved by a majority of valid ballots cast.

The Board of Selectmen shall, every five years, form a committee to study the working of Town government. The committee shall recommend procedures to revise the Charter, if that is deemed advisable.

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### Section 8-6. Resignations.

Any person holding an appointive or elective office may resign the office by filing a letter of resignation with the Town Clerk. The effective date of resignation shall be upon receipt by the Town Clerk unless a time certain is specified therein when it shall take effect. The Town Clerk shall notify the Town Administrator, and/or Board of Selectmen within 24 hours of receipt of a letter of resignation by forwarding a copy of the letter with date received. The Town Clerk shall resign the office by submitting a letter so stating to the Board of Selectmen.

### Section 8-7. Numbering of Charter provisions.

The numbering of sections, subsections, paragraphs and subparagraphs in this Charter is deemed ~~non-~~substantive~~nonsubstantive~~ and ministerial in nature, and the Town Clerk, after consultation with Town Counsel, may make appropriate revisions to the same solely for the purpose of ensuring consistent and appropriate sequencing of such numbering; provided, however, that the Town Clerk shall keep a record of all such revisions, which record shall include the date and substance of all such revisions. Note: This section, though approved by AG, still needs to be voted on by ballot.

## ARTICLE 9 TRANSITIONAL PROVISIONS.

### Section 9-1. Continuation of existing laws.

All general laws, special laws, Town bylaws, votes, rules and regulations of or pertaining to the Town which are in force when the Charter takes effect and which are not repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

### Section 9-2. Continuation of government.

- (A) All Town officers and all members of all boards, commissions, and committees who have heretofore been elected and who will henceforth be appointed under the provisions of this Charter, shall serve for the balance of the term for which they were elected but their successors shall be appointed.
- (B) All ~~committee~~committees, commissions, boards, departments, offices and other agencies of the Town shall continue to perform their duties until reappointed, or until successors to their respective positions are duly appointed or elected or their duties have been transferred in accordance with the provisions of the Charter.

### Section 9-3. Continuation of administrative personnel.

Any person holding an office or position in the administrative service of the Town, or any person serving in the employment of the Town shall retain such office or position and shall continue to perform the duties until provisions shall have been made in accordance with the Charter for the performance of the said duties by another person or agency. Nothing contained in the Charter shall be construed as to grant to the incumbent of any office at the time the Charter is adopted any right or privilege to be retained in the employment of the Town.

### Section 9-4. Transfer of records and property.

All records, property and equipment whatsoever of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency shall be transferred

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forthwith to the office, department or agency to which such powers and duties are assigned.

**Section 9-5. Effective date.**

This Charter shall take effect upon its adoption by the voters of Sturbridge.

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Chapter 1 - GENERAL PROVISIONS

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

General Penalty

[formerly Ch. 9 of the Bylaws]

§ 1-1. Criminal complaint.

Any person who violates the provisions of any bylaw of the Town of Sturbridge, may be penalized by ~~the~~ indictment or on the complaint brought in District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the penalty for each violation or offense shall be not less than \$25, nor more than \$300.

§ 1-2. Noncriminal complaint.

- A. Any person who violates the provisions of any bylaw of the Town of Sturbridge, the violation of which is subject to a specific penalty, may be penalized by a ~~non-criminal~~noncriminal disposition as provided in MGL c. 40, § 21D. The ~~non-criminal~~noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.
- B. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws, rules or regulations are to be included within the scope of this ~~subsection~~section, that the specific penalties as listed hereunder shall apply in such cases, and that the municipal official listed for each ~~ordinance~~bylaw, rule or regulation shall be the enforcing person for such ~~ordinance~~bylaw, rule or regulation. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ~~ordinance~~bylaw, rule or regulation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

§ 1-3. Violations subject to specific penalties.

Violation	Enforcing Agents	Penalty
Chapter 115, Animal Control	Animal Control Officer, Police Department	First and subsequent <del>Offense</del> offenses: warning/\$50/\$100
Chapter 129, Article II, Building Numbering	Police Department, Building Inspector and Fire Chief or their designees	First <del>and</del> subsequent offenses: warning/\$20
Chapter 161, § 161-6, Logging violation	Police Department	First and subsequent <del>Offense</del> offenses: \$50
Chapter 167, Gambling	Police Department	First and subsequent <del>Offense</del> offenses: \$50
Chapter 194, Littering	<del>Director of Inspections</del> Building Inspector, Police Department	First and subsequent <del>Offense</del> offenses: \$200
Chapter 216, Peace and Good Order	Police Department	First and subsequent <del>Offense</del> offenses: \$200
Chapter 221, Peddling and Soliciting	Police Department	First and subsequent <del>Offense</del> offenses: \$50



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Violation	Enforcing Agents	Penalty
Chapter 250, Article I, § 250-1, Obstructing <del>the</del> public way by snow	<del>Director of Inspections</del> <u>Building Inspector</u> , Police Department	First and subsequent <del>Offense</del> <u>offenses</u> : \$50
Chapter 250, Article I, § 250-4, Rubbish on streets	<del>Director of Inspections</del> <u>Building Inspector</u> , Police Department	First and subsequent <del>Offense</del> <u>offenses</u> : \$20
Chapter 250, Article IV, § 250-15, Clearing of snow and ice from sidewalks	<del>Director of Inspections</del> <u>Building Inspector</u> , Police Department	First and subsequent <del>Offense</del> <u>offenses</u> : \$10
Chapter 250, Article VI, Parking Ban	Police Department	First and subsequent <del>Offense</del> <u>offenses</u> : \$50
Chapter 279, Abandoned Motor Vehicles	<del>Director of Inspections</del> <u>Building Inspector</u> , Police Department	First and subsequent <del>Offense</del> <u>offenses</u> : warning/\$25/\$50
Chapter 286, Wetlands Protection	Conservation Commission or its designee, Board of Health Agent, <del>Director of Inspections</del> <u>Building Inspector</u> , Police Department	First, second and subsequent offenses: written warning from Conservation Commission/\$25/\$50/\$100
Chapter 300, Zoning	<del>Director of Inspections</del> <u>Building Inspector</u>	First <del>offense</del> : verbal or written warning Second and subsequent <del>Offense</del> <u>offenses</u> : \$50
<u>Chapter 340, Planning Board Rules and Regulations</u>	<u>DPW Director, Town Engineer</u>	<u>First violation: \$50 Second and subsequent violations: \$100</u>
MGL c. 85, § 11B, Bicycle Helmet Law	Sturbridge Police Department	First offense—: written warning #Second offense—: \$10 #Third and subsequent offenses—: \$20
Chapter 4, Outdoor Water Restriction	DPW Director or Water Plant Operator	First offense— <del>Written Warning</del> : <u>written warning</u> Second and subsequent offenses—: \$25 per day

### Chapter 7 - BOARDS, COMMISSIONS AND COMMITTEES

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]**

#### ARTICLE I General Provisions—

##### § 7-1. Appointments to Town committees, boards and commissions by single appointing authorities. [formerly Ch. 1, § 1.8, of the Bylaws]

- A. All appointed openings on Town committees, boards and commissions must be posted in the Town Hall, on the cable access channel and on the official Town website for a minimum of a fifteen-day open application period or such lesser period as may be specified in the Town Charter to solicit applications. The last day for which applications will be accepted must be clearly posted. The open application period may be repeated until the position is filled.
- B. Candidates for openings must submit a written or electronic application on the Town of Sturbridge Committee Application Form to the Town Administrator's office prior to the closing of the open

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application period or must have submitted a Town of Sturbridge Committee Application Form prior to the open application period for the Town to retain on file as an indication of ongoing interest in an appointment. All applications placed on file will expire and become inactive two years after they are submitted. Copies of all active applications shall become matters of public record held available for review in the Town Administrator's office.

- C. Copies of all active applications will be promptly referred to the appropriate appointing authority and confirming authority (when confirmation by the Board of Selectmen is required). Applicants seeking confirmation of receipt of their applications may send the application by certified mail, deliver it by hand, or verify that their application has been placed in the application file in the Town Administrator's office.
- D. For each opening, the appointing authority must prepare a report listing the three candidates judged most qualified for the opening (or fewer if there are not at least three applicants) and present the rationale for selecting the candidate that is chosen. If no one is chosen, the open application period may be repeated until the position is filled. When confirmation by the Board of Selectmen is required, this material shall be submitted to the Board of Selectmen. Within 10 business days after the appointment is made, this report shall become a matter of public record held for review at the Town Administrator's office. When the appointing authority is the Board of Selectmen, the records of the meeting(s) at which the appointment is discussed and made shall serve as the report. The candidate chosen for the position will receive written or electronic notification of his appointment by the appointing authority.
- E. All candidates who are not appointed to the open position will receive written or electronic notification of such by the appointing authority within 10 business days after the appointment is made.

### § 7-2. Disposition of fees collected. ~~[formerly Ch. 1, § 1.60, of the Bylaws]~~

All Town officers are required to pay all fees received by them, by virtue of their office, into the Town treasury. This ~~by-law~~ bylaw is authorized by MGL c. 40 § 21(13) and is intended to include all those fees otherwise to be kept under any section of the General laws of the Commonwealth of Massachusetts.

## ARTICLE II Finance Committee-

~~[formerly Ch. 1, § 1.20, of the Bylaws]~~

### § 7-3. Membership; appointment.

There shall be a Finance Committee consisting of nine legal voters of the Town, who shall be appointed by the Moderator as hereinafter provided. No Town employee or special employee may serve on the Finance Committee during the term of such employment. At its initiative, the Finance Committee may nominate one or more of its members for appointment(s) to a specific committee, without such appointment(s) jeopardizing the status of ~~nominee~~ nominee's(s) membership on the Finance Committee, if so appointed.

### § 7-4. Terms; officers; records.

~~The Moderator of the next Annual Town Meeting after this Bylaw is approved shall, within 30 days after such Bylaw becomes effective, appoint three members of said Committee for a term of one year, three members for a term of two years and three members for a term of three years. At each Annual Town Meeting thereafter~~ At each Annual Town Meeting, the Moderator thereof shall appoint three members of said Committee for the term of three years. The terms of office of said members shall commence immediately

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upon qualification and shall expire at the end of the fiscal year in the year their respective term ends. Said Committee shall choose its own officers and shall serve without pay, and it shall cause to be kept a true record of its proceedings.

### § 7-5. Meetings; vacancies.

The Finance Committee shall meet as often as needed to complete its assigned responsibilities. At a minimum, the Finance Committee shall meet at least once prior to any Special Town Meeting to consider the warrant for the Special Town Meeting. The Finance Committee shall also meet as needed to deliberate the budgets and warrant articles prior to the Annual Town Meeting. If any member is absent from six consecutive regular meetings of said Committee, his position may, on vote of said Committee, be deemed vacant and filled as hereinafter provided. The Chairman of said Committee shall notify the Town Clerk in writing of any vacancy in its membership, and the Moderator shall appoint a successor to fill the ~~the~~ expired/unexpired term.

### § 7-6. Scope of authority.

All department budgets, transfer requests, warrant articles, zoning articles and bylaw articles shall be referred to the Finance Committee for its recommendations. The Selectmen, after drawing any such warrant, shall transmit immediately a copy thereof to each member of said Committee. Said Committee shall, after due consideration of the subject matter of such articles, report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interests of the Town and its citizens. The Finance Committee's recommendation shall be the main motion before any Town Meeting on all articles and budgets.

### § 7-7. Budget duties.

It shall be the duty of the Finance Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the several boards, officers, and committees of the Town as prepared by them (or by the Finance Department) in such form and detail as may be prescribed by said Committee. The said Committee shall add to such statements of expenditure and estimates another column, giving the amount which in its opinion should be appropriated for the ensuing year, and shall further and thereto add suggestions relating to the proposed appropriations as it may deem expedient, and report thereon as provided in § 7-6.

### § 7-8. Access to records.

In the discharge of its duty, said Committee shall have access to all books of records and accounts, bills and vouchers on which money has been or may be paid from the Town treasury. Officers, boards and committees of the Town shall, upon request, attend meetings of the Finance Committee and furnish said Committee with facts, figures and any other information pertaining to their several activities. The Town Accountant, when requested by the Chairman of the Finance Committee, shall attend meetings of the Finance Committee with his/her books and accounts, to furnish information as is desired by the Committee.

## ARTICLE III

### Council on Aging

[formerly Ch. 1, § 1.40, of the Bylaws]

### § 7-9. Membership; terms; vacancies.

There shall be a Council on Aging consisting of nine registered voters of the Town appointed by the Selectmen for ~~the following terms: three for the term of three years, three for a term of two years, and three~~

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~~for the term of one year, and upon expiration of said initial terms, subsequent appointments to be for a term of three years, staggered terms of three years.~~ The term of office of any member shall expire on the day of the Annual Town Meeting in the last year of his/her term. The Selectmen shall fill any vacancies that may occur.

### § 7-10. Organization and quorum.

The Council shall annually elect a Chairperson and other such officers as it deems appropriate. The quorum for the transaction of business shall be a majority of the Council, but a number less than the majority may adjourn.

### § 7-11. Powers and duties.

The Council shall have all the powers and duties conferred and imposed upon councils on aging in MGL c. 40 § 8B and any amendments thereof now or hereafter enacted. The Council shall identify the total needs of the elderlyaging community, enlist the support and participation of all interested citizens concerning those needs, design, promote ~~and participation of all interested citizens concerning~~ or implement services to fill those needs, and support any other programs designed to assist the elderlyaging in the community. The Council shall cooperate with the ~~Aging Bureau of the State~~ Department of CommunityElder Affairs and shall endeavor to be cognizant of all federal and state legislation concerning funding, information exchange and program planning for better community programming for the elderlyaging.

### § 7-12. Reports.

The Council shall submit an annual report to the Town and shall send copies thereof to the ~~State Commission on Aging and the Aging Bureau of the State~~ Department of CommunityElder Affairs.

## ARTICLE IV

### Local Cultural Council

[formerly Ch. 1, § 1.50, of the Bylaws]

### § 7-13. Establishment; membership; appointment; terms.

By the adoption of this bylaw, the Town of Sturbridge has established a local cultural council to be known as "Sturbridge Cultural Council". The ~~Counsel~~Council shall consist of at least five and not more than nine members, to be appointed by the Board of Selectmen for staggered terms of three years, with no member to be appointed to more than two consecutive terms.

### § 7-14. Operation, powers and duties.

The composition, operations, powers and duties of ~~which~~the Council shall be determined by and shall conform with the requirements of MGL c. 10 § 58, as most recently amended and as that statute may be amended from time to time, as well as with all applicable regulations of the Massachusetts Cultural Council.

## ARTICLE V

### Community Preservation Committee

[formerly Ch. 1, § 1.70, of the Bylaws]

### § 7-15. Establishment; membership; appointment; terms.

A. There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to MGL c. 44B, § 5. The Town Administrator shall appoint all members of the

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Committee whose appointment is not otherwise provided for, ~~of the Committee,~~ subject to ~~the~~ confirmation by the majority vote of the Board of Selectmen. The composition shall be as follows:

- (1) One member from the Conservation Commission as designated by the Commission, for a term of three years.
  - (2) One member from the Historical Commission as designated by the Commission, for a term of three years.
  - (3) One member from the Planning Board as designated by the Board, for a term of three years.
  - (4) One member from the Recreation Committee as designated by the Committee, for a term of three years.
  - (5) One member from the Open Space Committee as designated by the Committee, for ~~an initial~~a term of ~~one year and thereafter for terms of~~ three years.
  - (6) One member of the Housing Partnership Committee as designated by the Committee, for ~~an initial term of one year and thereafter for~~ a term of three years.
  - (7) Three additional at-large members to be appointed by the Town Administrator, ~~with the confirmation of the Board of Selectmen. One of which will be appointed for an initial term of one year and thereafter for three years and two members to be appointed for an initial term of two years and thereafter for terms of three years.~~ for terms of three years.
- B. Should any of the commissions, boards or committees listed above, no longer exist for whatever reason, the appointment shall become an at-large appointment in addition to the three listed above.

### § 7-16. Duties.

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation, including the consideration of regional projects for community preservation. The Committee shall consult with existing municipal boards, including the Board of Selectmen, Conservation Commission, the Historical Commission, the Planning Board, Recreation Committee and the Housing Partnership Committee. As part of its study, the Committee shall hold one or more public informational meetings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published at least two weeks before the public meeting in the official newspaper.
- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition ~~and~~, preservation, rehabilitation and restoration of historic resources, for the acquisition, creation ~~and~~, preservation, rehabilitation and restoration of land for recreational use, for the acquisition, creation, preservation and support of affordable housing and for rehabilitation or restoration of such open space, ~~historic resources, land for recreational use~~ and affordable housing that is acquired or created as provided by this ~~section~~article. With respect to affordable housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed lots. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.
- C. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside, for later spending, funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending, funds for general purposes that are consistent with community preservation.

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### ARTICLE VI

#### Agricultural Commission

[formerly Ch. 1, §§ 1.80-1.82, of the Bylaws]

##### § 7-17. Purpose.

The purpose of the Agricultural Commission, sometimes hereinafter referred to as "the Commission," is to support commercial agriculture and other farming activities in the Town of Sturbridge. The Commission's duties shall include, but are not limited to, serving as facilitators for encouraging the pursuits of agriculture in Sturbridge; promoting agricultural-based economic opportunities in Town; acting as mediators, advocates, educators and/or negotiators on farming issues; working for preservation of prime agricultural lands; advising the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors and Open Space Committee, or any other appropriate Town boards, on issues involving agriculture and pursuing all initiatives appropriate to creating a sustainable agricultural community.

##### § 7-18. Membership; appointment; terms; vacancies.

- A. The Agricultural Commission shall consist of five members appointed by the Town Administrator, subject to the confirmation by the majority vote of the Board of Selectmen. The majority of ~~which~~the Commission's membership shall be substantially engaged in the pursuit of agriculture or have previously been engaged in the pursuit of agriculture, or those that have a combination of education and/or experience that qualifies them to serve in this capacity. All members of the Commission must either be residents of the Town or owners and farmers of agricultural property within the Town.
- B. There may be up to three alternates appointed to the Commission by the Town Administrator, subject to the confirmation of the Board of Selectmen. Said alternates shall be designated by the Chair of the Commission to fill any vacancies at meetings of the Commission, regardless of the reason for vacancy.
- C. In making appointments, the Town Administrator shall consider the intent of the Commission to represent the agricultural interests of the Town.
- D. The members shall serve overlapping terms of three years. ~~For the first Agricultural Commission, the Town Administrator shall appoint two members for a term of three years, two members for a term of two years and one member for a term of one year. Thereafter, appointments shall be made for three-year terms.~~
- E. The Town Administrator shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based upon the recommendations of the Commission.

### ARTICLE VII

#### Tree Warden Advisory Committee

[formerly Ch. 1, §§ 1.83-1.89, of the Bylaws]

##### § 7-19. Intent.

The Town of Sturbridge establishes the following bylaws for the protection and preservation of Town trees (trees on public land and Town parks, including shade trees as defined in ~~By Law~~bylaw, trees protected by ~~the~~Chapter 230, Scenic Roads ~~By Law~~of the Town bylaws, and Chapter 87 of the General Laws).

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### § 7-20. Establishment; membership; terms.

There is hereby created and established a Tree Committee, which shall consist of a minimum of five voting members appointed by the Town Administrator for three-year terms.

### § 7-21. Purpose.

It is the purpose of this Committee to:

- A. Protect and maintain Town trees in order to promote environmental, aesthetic, historical and community values.
- B. ~~To~~ Continue renewing Town trees by replanting for the benefit of future generations in Sturbridge.
- C. ~~To~~ Execute projects suggested by the Tree Warden and/or the Tree Committee consistent with protecting and maintaining Town trees for the purposes described in Subsection B above.
- D. Work towards sound policy formulation, administration, management, representation and advocacy regarding Town trees and all matters related thereto.
- E. Assist the Tree Warden in the completion of a yearly inventory of Town trees; identifying all "heritage trees" ~~and~~ a public shade tree specifically designated by the Department of Environmental Management, Urban Forestry Program, upon recommendation by the Town Tree Warden to be a heritage tree.
  - (1) Heritage trees may qualify for state funds for maintenance under this program.
  - (2) A tree may qualify as a heritage tree if it meets one or more of the following criteria:
    - (a) Old age ~~of~~ 100 years or greater; size ~~of~~ 32 inches diameter or greater;
    - (b) Species rarity;
    - (c) Association with a specific historical event or person;
    - (d) Healthy abnormality; e.g., shape, etc.;
    - (e) Scenic enhancement; e.g., trees around Sturbridge Common;
    - (f) Wildlife value.

### § 7-22. Duties and responsibilities.

- A. It shall be the responsibility of the Committee to aid the Tree Warden to study, investigate, counsel and develop and/or update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.
- B. The Committee, shall consider, investigate, make ~~finding~~ findings, report and recommend upon any special matter of question coming within the scope of its work.

### § 7-23. Operation.

The Committee shall choose its own officers, make its own rules and regulations and keep minutes of its meetings. The Committee shall meet at least four times a year. A majority of the voting members shall be a quorum for the transaction of business.

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### § 7-24. Interference with Committee.

It shall be unlawful for any person to prevent, delay or interfere with the Tree Committee or any of its agents, while engaging in and about the gathering of information, planting, cultivating mulching, pruning, spraying, or removing of any trees on public grounds, as authorized in this bylaw.

## ARTICLE VIII

### Sturbridge Tourist Association

[formerly Ch. 1, §§ 1.90-1.92, of the Bylaws]

### § 7-25. Purpose; budget; meetings.

A. The purpose of the Sturbridge Tourist Association is:

- (1) To have creative and budgetary oversight of the hotel/motel tax percentage that is placed in the Sturbridge Tourist Association Revolving Fund for the promotion of tourism. These funds are to be used for the marketing and implementation of tourism for the benefit of Sturbridge.
- (2) To maintain fiscal control by accepting and distributing, as necessary, the monies appropriated by the Annual Town Meeting for the purpose of planning, promoting and implementing tourism in Sturbridge. An amount approved by the Town Meeting shall be designated as broadly as possible to be dispersed by the Committee as outlined below.

B. The Sturbridge Tourist Association shall propose a budget that provides the following:

- (1) Funding for the promotion of tourism, with a portion directly for the marketing of all Sturbridge businesses involved in tourism.
- (2) Funding of an economic development/tourism position(s) as established by the Town Administrator and approved by the Board of Selectmen, and funding of any and all activities, as deemed appropriate by the Sturbridge Tourist Association, which aidsaid in the increased revenues to the Town of Sturbridge through the hotel/motel taxes.
- (3) Funding for multiple tourist-related events and activities in Sturbridge.

C. Goals. The Association:

- (1) Shall aid and support Sturbridge businesses directly involved in the Sturbridge tourism industry.
- (2) Shall promote, expand and facilitate tourism in Sturbridge, keeping in mind the general character of the Town and its natural resources.
- (3) In order to fulfill its obligations to the tourism industry and businesses in Sturbridge, it may, as necessary, request and conduct studies to understand the tourist climate, request/submit articles for review and inclusion in the Town Meeting Warrant with relation to its mandated purpose, and approach Town boards for permits necessary to implement its events/promotions and products.
- (4) Shall develop goals and a vision for tourism in Sturbridge, keeping in mind the general character of the Town and its natural resources, the commercial tourist and historical commercial zones and the best interestinterests of Sturbridge tourist-related businesses.

D. The Association shall meet quarterly at a minimum to review projects, budget and requests from Sturbridge townships and other groups.



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### § 7-26. Establishment; membership; terms.

- A. There is hereby created and established a Sturbridge Tourist Association (STA) which shall consist of five voting members. ~~Upon the effective date of this Bylaw the Town Administrator shall appoint or reappoint five members as detailed below. After the initial terms of these members, each future appointment shall be for a three-year term, serving staggered three-year terms.~~
- B. The Town Administrator shall appoint all members, subject to the confirmation by the majority vote of the Board of Selectmen, as follows:
- (1) Two members which either may be owners (or representatives) of a hotel/motel/inn/B&B located within the geographic boundary of Sturbridge, or owners or representatives of a tourist-related business (retail, restaurant or similar tourist-related activity) located within the geographic boundary of Sturbridge. ~~One of the appointees shall be appointed for an initial term of one year, and one to be appointed for an initial term of two years.~~
  - (2) Three Sturbridge residents at large, ~~one to be appointed for an initial term of three years, one to be appointed for an initial term of two years and one to be appointed for an initial term of one year.~~
- C. In the event that a vacancy exists for more than 60 days without a finding a qualified person to fill a particular category (resident or hotelier/tourist business), the Town Administrator may fill that vacancy with a qualified person from the other category until the next annual appointments are made.

## ARTICLE IX

### Sturbridge Lakes Advisory Committee

[formerly Ch. 1, §§ 1.95-1.97, of the Bylaws]

### § 7-27. Purpose and duties.

- A. The purpose of the Sturbridge Lakes Advisory Committee is to advise the Board of Selectmen on matters regarding the six Great Ponds (Big Alum Pond, Cedar Pond, Lead Mine Pond, Long Pond, South Pond and Walker Pond) in regard to protection, improvements or enhancements, to study and maintain records regarding the lakes and to serve as a mechanism to coordinate between the affiliated lake associations.
- B. The Committee will:
- (1) Serve as a coordinating committee between various Town departments, boards and the lake associations.
  - (2) Seek to improve public access to the Great Ponds.
  - (3) Develop consistent policies throughout each of the Great Ponds in matters of common interest (i.e., boating regulations or "rules of the road").
  - (4) Make recommendations regarding weed control through chemical and ~~non-chemical~~ nonchemical treatment and prevent spread between lakes through boater education.
  - (5) Identify funding opportunities and grants to improve lake and watershed quality.
  - (6) Prepare educational packages for Town residents on the lakes and watersheds.

### § 7-28. Membership.

The Committee shall consist of two members from each of the Lake Associations to be designated by the

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Lake Association to serve a three-year term; one member of the Conservation Commission designated by the Conservation Commission; ~~and~~ one member of the Board of Selectmen designated by the Board of Selectmen; and one member that is a representative of either the East Brimfield Dam or abutter to Long Pond.

### Chapter 19 - FINANCES

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]

#### ARTICLE I

##### Valuation Books

[formerly Ch. 8, § 8.20, of the Bylaws]

##### § 19-1. Annual publication.

The Board of Assessors shall annually publish a valuation book.

##### § 19-2. Availability.

This publication shall be available in the Assessor's office and at the public library.

#### ARTICLE II

##### Departmental Revolving Funds

[formerly Ch. 8, § 8.60, of the Bylaws]

##### § 19-3. Purpose.

This ~~by-law~~bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

##### § 19-4. Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this ~~by-law~~bylaw without appropriation subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance in the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during the fiscal year by the Board of Selectmen and Finance Committee.

##### § 19-5. Interest.

Interest earned on monies credited to a revolving fund established by this ~~by-law~~bylaw shall be credited to the general fund.

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### § 19-6. Procedures and reports.

Except as provided in MGL c. 44 § 53E 1/2, and this ~~by-law~~bylaw, the laws, Charter provisions, ~~by-laws~~bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this ~~by-law~~bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charge to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

### § 19-7. Authorized revolving funds.

#### A. Recreation Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Recreation Revolving Fund" authorized for use by the Recreation Committee.
- (2) Revenues. The Town Accountant shall establish the Recreation Revolving Fund as a separate account and credit to the fund all of the program fees, donations, gifts, private sponsorships, and facilities fees charged and received by the Recreation Committee in connection with the recreational programs and activities offered.
- (3) Purposes and expenditures. During each fiscal year, the Recreation Committee may incur liabilities against and spend monies from the Recreation Revolving Fund all of the costs associated with recreational programs, activities and facility improvements in connection with the recreational programs and activities offered.
- (4) Fiscal years. The Recreation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

#### B. HazMat Cleanup Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "HazMat Cleanup Revolving Fund" authorized for use by the Fire Chief.
- (2) Revenues. The Town Accountant shall establish the HazMat Cleanup Revolving Fund as a separate account and credit to the fund all of the insurance proceeds and other proceeds charged and received by the HazMat Team for services in connection with HazMat situations.
- (3) Purposes and expenditures. During each fiscal year, the Fire Chief may incur liabilities against and spend monies from the HazMat Revolving Fund for addressing hazardous materials spills and providing the Fire Department the means to bill insurance companies and refurbish supplies used in HazMat spills in connection with HazMat situations.
- (4) Fiscal years. The HazMat Cleanup Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

#### C. Board of Health Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Board of Health Revolving Fund" authorized for use by the Board of Health.
- (2) Revenues. The Town Accountant shall establish the Board of Health Revolving Fund as a separate account and credit to the fund all of the amounts received for temporary permits and licenses, fines levied by the Board of Health and fees for initial restaurant consultations, excess food service inspections, beach testing, and fees from complex Title 5 engineering services

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charged and received by the Board of Health in connection with the operation of the Board of Health.

- (3) Purposes and expenditures. During each fiscal year, the Board of Health may incur liabilities against and spend monies from the Board of Health Revolving Fund for payment for clerical support and staff required to service large events such as festivals and fairs, initial restaurant consultations and restaurant inspections beyond two per year, public health inspections, engineering, public health nursing and emergencies in connection with the operation of the Board of Health.
- (4) Fiscal years. The Board of Health Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### D. Board of Health Pay-As-~~you~~You Throw Program Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Board of Health Pay-As-You-Throw Revolving Fund" authorized for use by the Board of Health.
- (2) Revenues. The Town Accountant shall establish the Board of Health Pay-As-You-Throw Revolving Fund as a separate account and credit to the fund all of the program fees, including, but not limited to, receipts for program bags, stickers or other fees, that may be established from time to time and donations charged and received by the Board of Health in connection with the operation of the Pay-As-You-Throw Program- (PAYT).
- (3) Purposes and expenditures. During each fiscal year, the Board of Health may incur liabilities against and spend monies from the Board of Health Pay-As-You-Throw Revolving Fund for any and all costs associated with ~~the~~ planning, promoting or implementing the PAYT Program, or the operational expenses, equipment or supplies of the PAYT Program in connection with the operation of the PAYT Program.
- (4) Fiscal years. The Board of Health Pay-As-You-Throw Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### E. Senior Center Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Senior Center Revolving Fund" authorized for use by the Council on Aging.
- (2) Revenues. The Town Accountant shall establish the Senior Center Revolving Fund as a separate account and credit to the fund all of the program fees, private sponsorship, donations and participation fees charged and received by the Council on Aging in connection with the operation of the Senior Center.
- (3) Purposes and expenditures. During each fiscal year, the Council on Aging may incur liabilities against and spend monies from the Senior Center Revolving Fund for payment to instructors, presenters, service providers, supplies for special programs and repairs in connection with the operation of the Senior Center.
- (4) Fiscal years. The Senior Center Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### F. Planning Department Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Planning Department Revolving Fund" authorized for use by the Town Planner.

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- (2) Revenues. The Town Accountant shall establish the Planning Department Revolving Fund as a separate account and credit to the fund all of the fees for GIS support services, including fees collected for the development and printing of maps and other GIS data requests charged and received by the Planning Department in connection with GIS support services.
- (3) Purposes and expenditures. During each fiscal year, the Town Planner may incur liabilities against and spend monies from the Planning Department Revolving Fund for payment ~~for of~~ any and all costs associated with the Town's Geographic Information System, including the acquisition of software, hardware and maintenance of the same and supplies, data and the development and/or conversion of data, including the costs of consultant services to develop GIS -related products for the Town, or other related expenses in connection with the GIS support services.
- (4) Fiscal years. The Planning Department Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### G. Public Lands Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Public Lands Revolving Fund" authorized for use by the Conservation Commission.
- (2) Revenues. The Town Accountant shall establish the Public Lands Revolving Fund as a separate account and credit to the fund all of the fees from forestry management and donations charged and received by the Conservation Commission in connection with public lands.
- (3) Purposes and expenditures. During each fiscal year, the Conservation Commission may incur liabilities against and spend monies from the Public Lands Revolving Fund for the development and implementation of forestry management plans, trail development and maintenance, signage, trail maps, construction of foot bridges, purchase of supplies and development of access for public use, educational purposes and general maintenance of open space parcels owned by the Town in connection with public lands.
- (4) Fiscal years. The Public Lands Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### H. Sturbridge Tourist Association Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "Sturbridge Tourist Association Revolving Fund" authorized for use by the Sturbridge Tourist Association.
- (2) Revenues. The Town Accountant shall establish the Sturbridge Tourist Association Revolving Fund as a separate account and credit to the fund all of the revenue generated through tourist events and promotions; program fees and donations charged and received by the Sturbridge Tourist Association in connection with tourism.
- (3) Purposes and expenditures. During each fiscal year, the Sturbridge Tourist Association may incur liabilities against and spend monies from the Sturbridge Tourist Association Revolving Fund for any and all costs associated with planning, promoting or implementing Sturbridge tourist-related events in connection with tourism.
- (4) Fiscal years. The Sturbridge Tourist Association Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### I. CPR Revolving Fund.

- (1) Fund name. There shall be a separate fund called the "CPR Revolving Fund" authorized for

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use by the Fire Chief.

- (2) Revenues. The Town Accountant shall establish the CPR Revolving Fund as a separate account and credit to the fund all of the program fees and donations charged and received by the Fire Department in connection with CPR classes.
- (3) Purposes and expenditures. During each fiscal year, the Fire Chief may incur liabilities against and spend monies from the CPR Revolving Fund for all costs for the support of the CPR classes offered by the Sturbridge Fire Department, including replacement of training materials in connection with CPR classes.
- (4) Fiscal years. The CPR Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

### J. House Numbering Revolving Account.

- (1) Fund name. There shall be a separate fund called the "House Numbering Revolving Fund" authorized for use by the Fire Chief.
- (2) Revenues. The Town Accountant shall establish the House Numbering Revolving Fund as a separate account and credit to the fund all of the program fees and donations charged and received in connection with the house numbering program.
- (3) Purposes and expenditures. During each fiscal year, the Fire Chief may incur liabilities against and spend monies from the House Numbering Revolving Fund for all costs for the support of the house numbering program offered by the Sturbridge Fire Department in connection with house numbering program.
- (4) Fiscal years. The House Numbering Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

## Chapter 43 - OFFICERS AND EMPLOYEES

[formerly Ch. 1, § 1.10, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

### § 43-1. Officers to be elected annually.

In addition to the officers required by law to be chosen at the Annual Town Meeting, the Town shall elect by ballot a Moderator for a term of three years and Library Trustees consisting of nine persons, 1/3 of whom shall be chosen annually and continue in office for three years without compensation.

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### Chapter 50 - PROPERTY, SALE OF

[formerly Ch. 8, § 8.10, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

#### § 50-1. Disposal procedures.

All personal property of the Town which is of no further use to the particular board, officer or department in charge of the same shall be disposed of in the following manner:

- A. The particular board, officer or department shall submit to the Selectmen a report in writing itemizing such property with an estimated value for each item.
- B. The Selectmen may transfer such property to another board, officer or department having a use for the same.
- C. The Selectmen shall from time to time sell or cause to be sold all such property not so transferred at a public sale after first giving notice of the time and place of sale by publication in the Southbridge Evening News and the Worcester Telegram and Gazette at least seven days before such sale. The Selectmen may scrap any property for which there was no buyer at such sale. All sale proceeds shall be paid into treasury of the Town upon receipt by the Selectmen.

#### § 50-2. Property in charge of Selectmen.

Any such property in the charge of the Selectmen shall be disposed of in accordance with § 50-1B and C of this bylaw.

### Chapter 62 - TOWN MEETINGS

[formerly Ch. 1, §§ 1.1-1.7, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

#### § 62-1. Dates of Annual Town Meeting and Election.

The Annual Town Meeting for the election of Town officers shall be held on the second Monday in April. The Annual Town Meeting for the transaction of business shall be held on the first Monday in June.

#### § 62-2. Meeting notice.

Notice of every Town Meeting shall be given by posting up three attested copies of the Warrant ~~therefore~~therefor: one at the Post Office in the center of Town, one at the Post Office in Fiskdale, and one in the lobby of the Town Hall, 14 days at least before the time for holding the meeting.

#### § 62-3. Poll hours and location.

The Annual Town Meeting for the election of Town officers shall be called to order at 6:30 a.m. and the polls shall be opened immediately thereafter, and shall be kept open until 8:00 p.m. The Board of Selectmen shall designate a suitable place therefor.

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### § 62-4. Town Meeting time.

All Town Meetings for the transaction of business shall be called to order at 7:00 p.m. and shall be held at a suitable place designated by the Board of Selectmen. Any Special Town Meeting held on the same day as the Annual Town Meeting shall start immediately following the adjournment of the Annual Town Meeting.

### § 62-5. Attendance by unregistered persons; check of registered voters.

There shall be a designated place for people not registered as voters at each Town Meeting, and a check of all registered voters shall be made under the supervision of the Town Clerk at the entrance to each Town Meeting. Persons not registered as voters shall be required to sit in the place designated and set apart from the registered voters.

### § 62-6. Supermajority votes.

Whenever a two-thirds vote is required on any matter, the Moderator may declare a motion passed by voice vote of at least two-thirds in favor and a count need not be taken unless otherwise required by law or these bylaws. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds vote in favor.

### § 62-7. Parliamentary procedures.

~~That~~ The Town shall use Town Meeting Time as its reference for parliamentary procedure.

### § 62-8. Town Meeting requirements.

All Town officers, boards, committees, commissions, employees and all other parties submitting warrant articles for consideration at Town Meeting shall be required to comply with the following:

- A. The Planning Board shall prepare all Zoning Bylaw articles, hold a public hearing and forward the Planning Board's recommendations on said amendments to the Town Administrator no later than April 15 of the year in which the Annual Town Meeting ~~that~~ will consider the proposed articles.
- B. All other warrant articles to be considered by the Annual Town Meeting shall be submitted to the Town Administrator no later than March 1 of the year in which the Annual Town Meeting will consider said articles.
- C. The Town Administrator shall draft and prepare the warrant for the Board of Selectmen's consideration no later than March 15 of the year in which the Annual Town Meeting will consider said warrant.
- D. The Board of Selectmen shall close the warrant at ~~their~~its first meeting in the April of the year in which the Annual Town Meeting will consider said articles. Petitioned warrant articles will be accepted until the Board of Selectmen closes said warrant.
- E. Articles to be submitted for a Special Town Meeting held on the same date as the Annual Town Meeting shall be submitted to the Town Administrator no later than March 15 of the year in which the Special Town Meeting will consider said articles. The Town Administrator shall prepare a Special Town Meeting warrant and forward it to the Board of Selectmen no later than the last day of March of the year in which the Special Town Meeting will consider the said warrant. The Selectmen shall close said Special Town Meeting warrant at their first meeting in April preceding said Special Town Meeting.



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- F. The Board of Selectmen shall conclude ~~their~~ deliberations and include ~~their~~ recommendations to the Annual Town Meeting on both the Annual and Special Town Meeting warrants no later than the last Friday of April of the year in which the Annual Town Meeting will consider said warrant.
- G. The Finance Committee shall conclude ~~their~~ deliberations and include ~~their~~ recommendations to the Annual Town Meeting on both the Annual and any Special Town Meeting (if one is scheduled the same night as the Annual Town Meeting) warrants no later than the first Monday of May of the year in which the Annual Town Meeting will consider said warrant.
- H. The Board of Selectmen may, by majority vote, re-open the Town Meeting warrant at any time to add or remove articles until such time that the warrant is posted.

### Chapter 105 — ALARMS

[formerly Ch. 8, §§ 8.40-8.52, of the Bylaws]

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**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

#### § 105-1. Definitions.

For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the following ~~meaning~~~~meanings~~. The word "shall" is always mandatory and not merely directory.

**ALARM APPEAL BOARD** — The Board of Selectmen shall be designated the Alarm Appeal Board. The Chairman of the Board shall be the Chairman of the Alarm Appeal Board.

**ALARM DEVICE** — An assembly of equipment and devices or a single device such as solid-state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. In addition, any device which when activated by a criminal act calling for police response: (a) transmits a signal to the Safety Complex; (b) transmits a signal to a person who relays information to the Safety Complex; or (c) produces an audible or visible signal to which the police are expected to respond. Excluded from this definition and the scope of this bylaw are devices which are designed to alert or signal only persons within the premises in which the device is installed.

**ALARM USER** — Any person on whose premises an alarm system is maintained within the Town; the owner of any premises on which an alarm device is used, provided that an occupant who expressly accepts responsibility for an alarm device by registration pursuant to § 105-3 shall be deemed the alarm user. Excluded from this definition are:

- A. Town, county, state and federal agencies;
- B. Persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. However, if such an alarm system employs an audible signal or flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this bylaw; and
- C. The provisions of this bylaw shall not apply to alarm devices on the premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

**AUTOMATIC DIAL ALARM** — A telephone device or attachment that mechanically or electrically selects a telephone line to the Safety Complex and reproduces a prerecorded voice message to report a

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criminal act or other emergency calling for police response. Excluded from this definition are devices which relay a digital code signal to the Safety Complex.

CONTRACTOR — Any firm or corporation in the business of supplying and installing alarm devices or servicing the same.

FALSE ALARM — ~~(a)~~ The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents; or ~~(b)~~ any signal or oral communication transmitted to the Safety Complex requesting, or requiring, or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises. Excluded from the definition are activation of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, lightning and similar conditions.

POLICE CHIEF — The Chief of Police of the Town of Sturbridge or his designated representative.

POLICE or POLICE DEPARTMENT — The Town of Sturbridge Police Department, or any authorized agent thereof.

PUBLIC NUISANCE — ~~For the purpose of this bylaw, the term "Public Nuisance" means~~ Anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.

TOWN — The Town of Sturbridge.

### § 105-2. Administrative rules.

The Chief of Police may promulgate such rules as may be necessary for the implementation of this bylaw.

### § 105-3. Registration required.

Each alarm user shall register his alarm device or devices with the Chief of Police prior to use; ~~provided that alarm devices in use as of the effective date of this bylaw may be registered no later than 60 days from such date.~~

### § 105-4. Registration procedure.

- A. Every alarm user shall register by means of filling out a form provided by the Chief of Police listing the names, addresses and telephone numbers of the users, installer or contractor and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. The list of the names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and shall be updated immediately. The Chief of Police shall issue the alarm user written acknowledgment of proper registration.
- B. There shall be a one-time registration fee ~~as set by the Board~~ of ~~\$25~~Selectmen, payable at the time of registration, and such funds shall be added to the Town's general fund.

### § 105-5. Confidential information.

All information in the possession of the Chief of Police concerning particular alarm users and alarm devices shall be confidential and shall not be divulged without the written consent of the alarm user or users concerned.

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### § 105-6. Systems using audible bells or horns.

- A. All alarm systems which use an audible bell or horn shall be equipped with an automatic shut-off device which will deactivate the alarm system within 10 minutes. ~~All Alarm users with an audible bell or horn must comply with this section within 90 days of the adoption of this bylaw.~~
- B. Any alarm which fails to comply with the above ~~paragraph~~Subsection A and emits a continuous ~~and~~ uninterrupted signal for more than 30 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under the above ~~paragraph~~Subsection A of this section, and which disturbs the peace, comfort and repose of a community or neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user, or the members of the alarm user's family or those persons designated by the alarm user under this ~~section~~bylaw in an effort to abate the nuisance. The Police Chief shall record the time each complaint was made.
- C. In the event that the Police Chief is unable to contact the alarm user or member of the alarm user's family or those persons designated by the alarm user under Subsection B of this section ~~or~~ the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Chief is otherwise unable to abate the nuisance, he may direct a police officer or firefighter or a qualified alarm technician to enter upon property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.
- D. After entry upon property has been made in accordance with this section and the nuisance abated, the Police Chief shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, ~~said assessment not to exceed \$50.~~ These funds shall be deposited in the Town's general fund.

### § 105-7. Testing of equipment.

No alarm system designed to transmit emergency messages directly to the Police Department shall be worked on, tested or demonstrated without obtaining permission from the Police Department. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a false alarm.

### § 105-8. Automatic dial alarm interconnection to Safety Complex.

- A. No automatic dial alarm may be installed after the effective date of this bylaw without the prior approval of the Chief of Police.
- B. The automatic dial alarm shall be regulated so as to not repeat the message more than two times.

### § 105-9. False alarm charges.

When the Chief of Police determines that the Police Department has responded to a false alarm, he shall impose a charge on the responsible alarm users ~~according to the following schedule.~~ The Board of Selectmen shall determine the charges.

~~A. — 1st to 3rd false alarm: \$25.~~

~~B. — Each subsequent false alarm: \$50.~~

**§ 105-10. Notification of false alarm; right to appeal.**

- A. The Police Chief shall notify the responsible alarm user of any false alarm charges by mail. Within 14 days after the mailing of such notice, the alarm user may file written notice with the Chief of Police to include information to show that the alarm was not a false alarm within the meaning of this bylaw.
- B. The Chief of Police shall consider such information, reaffirm or rescind the false alarm charge, and notify the alarm user of his decision by mail. Each notice of a false alarm charge or a reaffirmation of such a charge by the Police Chief to the alarm user shall refer to and provide instructions concerning the alarm user's right to further recourse by filing an appeal with the Appeal Board.
- C. Within 14 days after mailing of such notice, the alarm user may file with the Board of Selectmen, ~~herein after~~hereinafter referred to as the "Alarm Appeal Board," an appeal in writing.

**§ 105-11. Appeal to Alarm Appeal Board.**

- A. Upon the receipt of a timely appeal from a false alarm charge, the Alarm Appeal Board shall hold a hearing to consider it and shall mail notice of the time and place of said hearing to the alarm user making the appeal at his last known address at least 14 days before the hearing.
- B. On the basis of information provided by the alarm user and other information introduced at the hearing, the Board shall affirm the charge if it finds that the charge was properly imposed or rescind the charge if the charge was not properly imposed.
- C. If the Board finds that the charge was properly assessed, the charge shall be paid immediately.

**§ 105-12. Disposition of charges and fees.**

Charges for false alarms will be collected by the Town Treasurer and deposited into the Town's general fund.

**§ 105-13. Limitation on Town liability.**

- A. Notwithstanding the provisions of this bylaw, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or of the alarm monitoring facilities at the Safety Complex.
- B. No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm device.
- C. Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device.

**§ 105-14. Enforcement.**

The Town, upon authorization by the Selectmen, may institute civil proceedings to enforce the provisions of this bylaw.

**§ 105-15. Severability.**

The invalidity of any part or parts of this bylaw shall not affect the validity of the remaining parts.

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**Chapter 110 - ALCOHOLIC BEVERAGES**

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Server Training**

[formerly Ch. 7, § 7.60, of the Bylaws]

**§ 110-1. Training required.**

Any licensee holding an all alcohol, including seasonal, ~~efor~~ beer and wine license shall participate in a program designed to train employees who engage in either package sales, pouring and/or serving in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. This program will be based on the type of license issued.

**§ 110-2. Eligible programs.**

Listed below are programs that are currently available that meet the requirements of this policy:

- A. Techniques of Alcohol Management (~~T.A.M.~~TAM), sponsored by the Massachusetts Package Store Association~~;~~
- B. Training for Intervention Procedures by Servers of Alcohol (TIPS)~~),~~ offered by Health Communications and Alcohol Intervention Methods (AIM) Campbell/Trent~~, OR;~~ or
- C. Any insurance industry approved and qualified program offered by a certified trainer and approved by the Board of Selectmen.

**§ 110-3. Applicability; time frame for compliance.**

All personnel shall be required to participate in a training program based on the type of license issued. ~~Establishments will have six months to comply with this policy from the date of its adoption or by the 1999 license renewal by having 75% of their eligible employees trained and certified. After that time, New employees will have 90 days from the date of employment to complete one of the training programs. Each establishment must have all personnel trained and certified by the 2000 license renewal.~~

**§ 110-4. Roster of trained personnel.**

All establishments must maintain~~u~~ during operating hours in an accessible place, a roster or certificate of trained personnel.

- A. An updated roster shall be submitted with the annual application for renewal of the license.
- B. The roster shall include:
  - (1) Employee name.
  - (2) Employee date of birth.
  - (3) Type of training.
  - (4) Date valid.
  - (5) Date of expiration.

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- (6) Date of hire.

### § 110-5. Recertification.

All personnel shall be required to be ~~re-certified~~recertified once every three years by an approved program, above noted.

### § 110-6. Violations and penalties.

Failure to comply with this policy may result in revocation of the license. Fines may also be levied against the license holder should any violation of this policy occur.

## Chapter 115 - ANIMAL CONTROL

[formerly Ch. 5 of the Bylaws]

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**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

### § 115-1. Definitions.

The following words and phrases ~~areas~~ used in this bylaw, unless the context otherwise requires, shall have the following meanings:

**DOMESTIC ANIMALS** — For the purpose of this bylaw the following animals will be considered domestic animals: cats, dogs, rabbits, guinea pigs, mice, hamsters, ferrets, gerbils, fish, reptiles, horses, llamas, birds (not to include chickens, turkeys and birds of prey).).

**FARM ANIMALS** — All non-domestic animals shall be considered farm animals.

**FIELD TRIAL** — The use of a dog for hunting or gaming purposes.

**KEEPER** — A person other than the owner, ~~;~~ harboring or having in his possession any animal.

**PERSON** — Includes ~~;~~ corporations, societies, associations, individuals and partnerships.

**PUBLIC NUISANCE**

- A. An animal, whether licensed or unlicensed, owned or kept in the Town of Sturbridge, which:
- (1) Is elsewhere than on the premises of its owner or keeper or on the premises of another person with the knowledge and express permission of such person, unless such animal is:
    - (a) Attached to and restrained by a suitable restraining device and is under the care and custody of a person competent to restrain it so that it shall not be a threat to public safety.
    - (b) Engaged in hunting, or training ~~therefore~~therefor, and is supervised by a person competent to restrain it so that it shall not be a threat to public safety.
  - (2) Persistently and prolongedly barks or howls or makes other noises between the hours of 10:00 p.m. and 7:00 a.m. for more than two consecutive days.
- B. The mere muzzling of an animal shall not prevent it from being a public nuisance.

**§ 115-2. Prohibited conduct.**

- A. No owner or keeper of an animal shall permit such animal to be a public nuisance in the Town of Sturbridge.
- B. No owner or keeper of an animal shall place or store animal wastes adjacent to property lines or in such a manner as to create ~~and any~~ odor and/or health problem for adjoining property owners.

**§ 115-3. Enforcement.**

The Animal Control Officer shall enforce the provisions of ~~the~~this bylaw and to that end he shall have authority to seek complaints in the District Court for violations thereof. He shall investigate complaints of alleged violations of this bylaw. He shall also apprehend any animal found by him to be a public nuisance and impound such animal in a suitable place or order the owner or keeper thereof to restrain it.

**§ 115-4. Procedure following impoundment.**

- A. Notice to owner or keeper. The Animal Control Officer shall immediately notify the owner or keeper of any animal impounded by him under the provisions of this bylaw if such owner or keeper is known by him. If such owner or keeper is not known by him, no notice shall be necessary.
- B. Redemption of impounded animals. The owner or keeper of any animal impounded under the provisions of this bylaw may redeem such dog ~~provided~~ he first:
  - (1) Reimburses the Animal Control Officer for his expenses at the rate ~~of \$35~~set by the Board of Selectmen for his handling and care of the animal.
  - (2) Procures from the Town Clerk a license and tag for any such animal that requires a license and is not licensed.
- C. Disposition of unredeemed animals. Any animal which has been impounded under the provisions of this bylaw and has not been redeemed by its owner or keeper within 10 days shall be disposed of. Dogs shall be disposed of in accordance with the provisions of MGL c. 140, § 151A-§ \_\_\_\_\_, as amended.

**§ 115-5. Field trials.**

No person shall conduct a field trial involving dogs in the Town of Sturbridge without first procuring a permit therefor from the Animal Control Officer. Any such permit shall contain such limitations as the Animal Control Officer shall deem reasonably necessary to prevent such dogs from being a threat to public safety or a public nuisance.

**§ 115-6. Handling of receipts.**

The Animal Control Officer shall keep an account of all money received by him under the provisions of this bylaw and shall forthwith pay over such moneys to the Town Treasurer. He shall file with the Town Accountant a monthly statement of all fees/fines collected during the preceding month.

~~**Violations and penalties.**~~

~~Each day in which a violation of this bylaw is permitted to continue shall be deemed a separate offense.~~

- ~~A. Violations of § 115-2. Any person violating the provisions of § 115-2 of this bylaw shall be liable to a fine in accordance with the following schedule of fines: If it is the first offense committed by such~~

## Town of Sturbridge Final Draft (Red-Line)

~~person within a calendar year, there shall be verbal warning; if it is the second offense (written warning) so committed in the Town in the calendar year, the fine shall be \$25; if it is the third offense so committed in the Town in the calendar year, the fine shall be \$50; and if it is the fourth or subsequent offense so committed in the Town in the calendar year, the fine shall be \$100.~~

~~B. Violations of § 115-5. Any person violating the provisions of § 115-5 of this bylaw shall be liable to a fine not exceeding \$25 for the second offense and \$50 for each offense thereafter.~~

### § 115-7. Licensing of dogs.

- A. Every owner of a dog that is over the age of six months ~~or older~~ must license the dog and ensure that its rabies vaccination is up-to-date.
- B. An owner must secure a license each year and provide proof of vaccination at the time of licensing.
- C. The licensing year will run from January 1 to December 31 of each year.
- D. Licenses must be obtained by March 31 of each year or the owner will be assessed a late fee.
- E. Fees for licensing and late fees shall be set by the Town Clerk and may be amended from time to time, consistent with state law.
- F. A dog license may be obtained by mail by providing a copy of the dog's rabies vaccination, the fee and owner and address information, as per the instruction on the Annual Town Census which is mailed out to every household in January of each year.

### § 115-8. ~~Unlicensed dogs~~ Violations and penalties.

~~The owner of any dog found without a current license shall be subject to a fine of \$25. Whoever violates and provision of this bylaw is subject to a penalty as set forth in Chapter 1, Article I, § 1-3 of the Town bylaws.~~

## Chapter 123 - BOATS AND BOATING

[formerly Ch. 3, § 3.4, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 123-1. Wakes.

No person shall operate any boat or other vehicle in such a manner as to create a wake during periods of high water on Quamquasit Lake (South Pond). "High water" is defined as water that is at or above 601 feet above sea level.



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**Chapter 129 - BUILDINGS AND BUILDING CONSTRUCTION**

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Building Code**

[formerly Ch. 8, § 8.30, of the Bylaws]

**§ 129-1. State Building Code adopted.**

The Building Code of the Town of Sturbridge shall be the most recent issue of the Building Code for the Commonwealth of Massachusetts, as amended from time to time.

**ARTICLE II**

**Building Numbering**

[formerly Ch. 7, § 7.70, of the Bylaws]

**§ 129-2. Numbers required; specifications.**

Under the provisions of MGL c. 148, § 59, Display of Street Address Number on Buildings: Use in Enhanced 911 Service, every building in the Town of Sturbridge, including, but not limited to, dwellings, apartment buildings, condominiums and business establishments, shall have affixed thereto a number representing the address of such building. Said number, as assigned by the Board of Assessors, shall comply with the requirements of the State Building Code and shall be of a permanent weatherproof material, at least threefour inches in height and 2 1/2 inches wide with a stroke width of 0.5 inch, and shall be situated on the building so that it is legible from the nearest street or road providing vehicular access to such building. Said number shall be Arabic numbers and/or alphabet letters in colors contrasting to the background.

**§ 129-3. Number not legible from street.**

Should the numbers on a building not be legible from the street on which the building fronts, as determined by the Fire Chief or his representative, a second number of the same minimum requirements shall be placed on two sides of a post or mailbox near the property line adjacent to the main entrance to the building site from a public or private way.

**§ 129-4. Number required for occupancy permit; time frame for compliance.**

No occupancy permit for any structure shall be issued until the number has been properly affixed. It shall be the responsibility of each property owner in the Town of Sturbridge to display and maintain the assigned street number within 90 days of the adoption of this bylaw.

**§ 129-5. Violations and penalties.**

Whoever violates any provision of this section bylaw is subject to a penalty of \$20, under a non-criminal disposition, as contained set forth in the Town of Sturbridge General Bylaws, Chapter 1, Article I, § 1-3 of the Town bylaws.

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### § 129-6. Enforcement.

Notwithstanding any Town of Sturbridge bylaw to the contrary, the municipal personnel for enforcement of this ~~section~~bylaw shall be the Police Department, Building Inspector or the Fire Chief; or their designees. Each day in which any violation exists shall be deemed a separate offense.

### Chapter 137 - DEMOLITION DELAY

[formerly Ch. 2, §§ 2.30-2.37, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 137-1. Intent and purpose.

This bylaw is enacted for the purpose of preserving and protecting significant buildings and structures within the Town of Sturbridge which constitute or reflect distinctive features of the architectural, historical or cultural history of the Town and to limit the detrimental effect of demolition on the character of the Town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes, the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this bylaw.

### § 137-2. Definitions.

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

APPLICANT — Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION — An application for the demolition of a building.

BUILDING — Any combination of materials forming a shelter for persons, animals, or property.

BUILDING INSPECTOR — The person occupying the Office of Building Inspector or otherwise authorized to issue demolition permits.

COMMISSION — The Town of Sturbridge Historical Commission or its designee.

DEMOLITION — Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT — The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED — Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the six-month demolition delay period of this bylaw.

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**SIGNIFICANT BUILDING** — Any building within the Town which is in whole or in part 100 years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- A. The building is listed on, or is within an area listed on, the National Register of Historic Places; or
- B. The building has been found eligible for the National Register of Historic Places; or
- C. The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- D. The building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder), either by itself or in the context of a group of buildings.

### § 137-3. Procedure for issuance of demolition permits.

- A. No demolition permit for a building which is found to be a "significant building" shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this bylaw.
- B. An applicant proposing to demolish a building subject to this bylaw shall file with the Building Inspector an application containing the following information:
  - (1) The address of the building to be demolished.
  - (2) The owner's name, address and telephone number.
  - (3) A description of the building.
  - (4) The reason for requesting a demolition permit.
  - (5) A brief description of the proposed reuse, reconstruction or replacement.
  - (6) A photograph or photograph(s) of the building.
- C. The Building Inspector shall, within seven days, forward a copy of the application to the Commission. The Commission shall, within 30 days after receipt of the application, make a written determination of whether the building is significant.
  - (1) Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.
  - (2) Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building ~~Commissioner~~Inspector within 30 days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.
  - (3) If the Commission finds that the building is significant, it shall hold a public hearing within 30 days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in Town Hall for a period of not less than seven days prior to the date of said hearing, and the applicant and the Building Inspector shall be notified in writing of the meeting time and place.

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- D. The Commission shall decide at the close of the public hearing or within 14 days after the close of the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.
- (1) If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.
  - (2) If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within 21 days after the close of the public hearing, the Building Inspector may issue the demolition permit.
  - (3) Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.
- E. No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy, including without limitation any necessary zoning variances, special permits or other relief, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.
- (1) The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.
  - (2) Following the six-month delay period, the Building Inspector may issue the demolition permit.

### § 137-4. Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may proactively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

### § 137-5. Emergency demolition.

If, after an inspection, the Building Inspector finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

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### § 137-6. Enforcement; violations and penalties.

- A. The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.
- B. Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than \$300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.
- C. If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

### § 137-7. Historic District Act.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the provisions of Massachusetts General ~~Law, Laws~~ Chapter 40C, the Historic Districts Act. The steps required under MGL Chapter 40C shall be followed prior to the establishment of a Local Historic District. Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District Act, MGL Chapter 40C. If any of the provisions of this bylaw do so conflict, that Act shall prevail.

### § 137-8. Severability.

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

## Chapter 142 - DESIGN REVIEW

[formerly Ch. 1, § 1.30, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 142-1. Purpose; advisory role of Design Review Committee.

The purpose of this bylaw is for the regulation of the architectural, signage, and landscaping design in all nonresidential zoning districts to preserve for the citizens of Sturbridge the natural and architectural qualities and historical assets that the Town has developed throughout the years. The Design Review Committee shall serve as an advisor to the Building Inspector and in the cases of projects requiring special permits and/or site plan approval shall serve as an advisor to the Planning Board and/or the Zoning Board of Appeals as may be appropriate.

### § 142-2. Interpretation.

This bylaw is hereby declared to be remedial and protective and is to be so construed as to secure the beneficial interest and purpose thereof.

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### § 142-3. Design Review Committee.

The Town Administrator shall appoint a Design Review Committee consisting of five members; such appointments shall be subject to confirmation by a majority vote of the Board of Selectmen. The Board members shall be appointed for a three-year term, with one member's term to expire in each of the three years.

### § 142-4. Review of plans by Committee.

The ~~Board~~Committee shall meet when plans have been submitted for its review. The ~~Board~~Committee shall determine the acceptability or unacceptability of the plans and notify the applicant, Building Inspector, Planning Board and/or Zoning Board of Appeals, as may be appropriate, of its decision within 30 days of receipt of the plans.

### § 142-5. Standards for judging plans.

The Design Review Committee shall apply the following standards in considering plans; that the:

- A. Proposed project is consistent with the Design Review Committee Handbook and Design Guidelines (adopted March 8, 2011, as may from time to time be amended).
- B. Specific site is appropriate for the proposed design.
- C. Design will not create a hazard for traffic or pedestrians.
- D. Proposed design is in keeping with the character of the Town in general, and with the specific neighborhood in particular. (As a general guide, considering the historical nature of the central portion of the Town, buildings should be of style which would have been used in the middle of the 19th Century.)
- E. Proposed project and landscaping will provide buffers, if required, from the surrounding properties.
- F. Planned parking is adequate.
- G. Proposed lighting is satisfactory.
- H. Plans are in accord with other bylaws of the Town.

### § 142-6. Review prior to issuance of permits.

- A. All new construction of nonresidential buildings and/or landscaping in the Commercial, General Industrial and Industrial Park Districts shall be reviewed by the Design Review Committee prior to the issuance of a building permit.
- B. All nonresidential alterations affecting 10% of the street facade or 25% of the exterior of an existing building in a Commercial District will require that the plans be submitted to the Committee for review prior to the issuance of a building permit by the Building Inspector.
- C. Changes in exterior plans will require ~~re-submission~~resubmission to the Design Review Committee for review. Design changes without this review shall result in the cancellation of the building permit by the Building Inspector.
- D. Each plan shall be judged on its own merits and shall not be considered a precedent.

§ 142-7. Appeals.

A person aggrieved by the refusal of the Building Inspector to approve a submitted plan may appeal to the Zoning Board of Appeals.

§ 142-8. Severability.

If any section, subsection, sentence, clause, or portion of this bylaw is held, for any reason, to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

Chapter 148 - EARTH REMOVAL

[formerly Ch. 3, §§ 3.9-3.20, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

§ 148-1. Permit required; exceptions.

The removal of sand, earth or gravel, ~~sub-soil, top soil or earth~~ and the processing and treating of said materials shall be conducted only by a permit issued by the Board of Selectmen. This bylaw is being applied in conjunction with § 300 4.6 of the Zoning Bylaws Chapter 300, Zoning, Article XII, of the Town bylaws. This bylaw shall not apply to such operations which are incidental to and in connection with the construction of a building on a lot.

§ 148-2. Exceptions.

A. This chapter shall not apply to the following:

- (1) The excavation of a foundation or site preparation 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.
- (2) The grading and/or landscaping in connection with the construction of a new structure as approved by the Planning Board.
- (3) The construction or reconstruction of a residential driveway if otherwise permitted.
- (4) The excavation and grading in connection with construction of a subdivision as approved by the Planning Board.
- (5) The removal of less than 50 cubic yards in a twelve-month period.
- (6) The grading in connection with a bona-fide agriculture operation.

B. 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:

- (1) The application must be accompanied by a plan or plans showing:
  - (a) The property lines.
  - (b) The area to be excavated.

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- (c) The distance from the property lines to the area to be excavated.
  - (d) The approximate contours before and after excavating.
- (2) The excavation is to be at least 20 feet from the lot lines unless the Board of Selectmen deems otherwise.

### § 148-3. Permit for removal.

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 permit for the removal of more than 50 cubic yards in a twelve-month period.

#### ~~Permit; applicability.~~

~~Removal of sand, earth or gravel and the processing and treating of said materials shall be conducted only by a permit from the Board of Selectmen. This chapter shall not apply to such operations which are incidental to and in connection with the construction of a building on a lot.~~

### § 148-4. Application contents.

Any application for a 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 § 148-2, 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, reseeded as necessary to ensure uniform growth and soil surface stabilization;
- C. Finished grades are 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.

### § 148-5. Conditions.

Any 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. Removal and processing operations shall not be conducted closer than 50 feet to a public street or to any property line, except in the case of dams, swimming pools or where retaining walls are to be constructed.
- B. 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 ~~from~~ to any public street or ~~from~~ to any adjoining property lines.
- C. Any access to excavated area or areas in the process of excavation shall be adequately posted with KEEP OUT - DANGER signs.
- D. Any work or bank that slopes more than 30° downward adjacent to a public street shall be adequately fenced at the top.



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- E. 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.
- F. Adequate provision is to be made for drainage during and after the completion of operations.
- G. Adequate lateral support shall be maintained for all adjacent properties.
- H. 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 ~~Public Safety~~Fire Services and the Sturbridge Fire Department.
- I. Provision shall be made for the adequate control of dust during operation.
- ~~J. 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.~~
- ~~K~~J. Finished grades shall not exceed a slope of one -foot vertical to two feet horizontal.
- ~~L~~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 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 reasonably 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.
  - (4) A bond in an amount stated by the Board of Selectmen shall be posted to ensure the satisfactory implementation of the reuse plan.

### § 148-6. Impact on property value.

Excavation and grading shall be executed in such a 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.

~~- Finished slopes in excavated areas shall not exceed one foot vertical to two feet horizontal.~~

#### ~~Distance from street and property lines.~~

~~Except in the case of dams, swimming pools, or where retaining walls are to be constructed, no removal or excavation shall be within 50 feet of any street or property line.~~

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### § 148-7. Equipment storage.

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.

### § 148-8. Site restoration.

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 manner that the finished grade is below the water table.

### § 148-9. 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, and 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.

### § 148-10. 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 of~~ excavating, removal, grading or ~~re-grading~~regrading is not being performed in accordance with said forms.

### § 148-11. Violations and penalties.

The Board may revoke or suspend at any time any permit issued hereunder for violation of any provisions or conditions of this bylaw. Penalties for violation of any provision or conditions of this bylaw shall be provided under MGL c. 40, § 21, Clause 17.

## Chapter 156 – FARMING

[formerly Ch. 3, §§ 3.80-3.85, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 156-1. Legislative purpose and intent.

- A. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3(4), first paragraph; MGL c. 90, § 9 ~~and~~, MGL ~~Ch. 3c. 111~~, § 125A and MGL c. 128, § 1A. We the citizens of the Town of Sturbridge restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

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- B. This ~~General~~-bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities and protects farmlands within the Town of Sturbridge by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas with the Town.

### § 156-2. Definitions.

The following words and terms shall have the meaning stated below:

- A. Farm. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture or accessory thereto, provided that the lot is not less than five acres. Small-scale specialty operations that do not meet the five-acre requirement will be reviewed on a case-by-case basis by the Agricultural Commission.
- B. The words "farming" or "agricultural" or their derivatives shall include but not be limited to the following:
- (1) Farming in all its branches and the cultivation and tillage of the soil;
  - (2) Dairying;
  - (3) Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities;
  - (4) Growing and harvesting of forest products upon forest land and by any other forestry or lumbering operations in accordance with the Town of Sturbridge Forestry Bylaw;
  - (5) Raising of livestock, including horses;
  - (6) Keeping of horses as a commercial enterprise; and
  - (7) Keeping and raising of poultry, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees and ~~fur-bearing~~ fur-bearing animals.
- C. "Farming" shall encompass activities including, but not limited to, the following:
- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
  - (2) Control of pests, including but not limited to insects, weeds, predators and disease ~~organism~~ organisms of plants and animals;
  - (3) Application of manure, fertilizers and pesticides; organic farming is encouraged;
  - (4) Conducting agriculture-related educational and farm-based recreational activities, including ~~agri-tourism~~ agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
  - (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
  - (6) Maintenance, repair or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products; and
  - (7) On-farm relocation of earth and the clearing of ground for farming operations.

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### § 156-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Sturbridge. The above-described agricultural or farming activities may occur on holidays, weekdays and weekends by day or night and shall include attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that the impact that may be caused to others through the normal and lawful practice of agriculture is offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this bylaw are intended to apply to those commercial agricultural and farming operations and other noncommercial farming activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed to effectuate an acquisition of any interest in land or as the imposition of any land use regulation which is properly the subject of state statute, regulations or local zoning law.

### § 156-4. Disclosure notification.

Within 30 days after this bylaw becomes effective, the Selectmen shall prominently post within the Town limits the following disclosure: "It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a Town where farming activities occur. Such farming activities may include, but are not limited to, activities that may cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations."

### § 156-5. Resolution of disputes.

- A. Any person who seeks to complain about the operation of a farm, or its effects may, notwithstanding any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, Zoning Board of Appeals, Conservation Commission or Board of Health, depending on the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Town authority so notified shall forward a copy of the grievance to the Agricultural Commission or its agent, which may review and facilitate the resolution of the grievance and report its recommendations to the referring Town authority within an agreed-upon time frame.
- B. The Board of Health, especially in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which may review and facilitate the resolution of the grievance and report its recommendations to the Board of Health within an agreed-upon time frame.

### § 156-6. Severability.

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Sturbridge hereby declares the provisions of this bylaw to be severable.

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Chapter 161 - FOREST HARVESTING

[formerly Ch. 3, §§ 3.30-3.35, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

§ 161-1. Purpose and scope.

The purpose of this bylaw is to conserve the forest landscape and prevent over-harvesting while protecting sensitive areas and encouraging good forestry practices. This bylaw shall apply to forest harvesting operations within the Town of Sturbridge.

§ 161-2. Definitions.

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

CLEAR-CUTTING — A harvesting and regeneration technique that removes all the trees, regardless of size, on an area in one operation. Clear-cutting is most often used with species like aspen or black cherry, which require full sunlight to reproduce and grow well, or to create specific habitat for certain wildlife species. Clear-cutting produces an even-aged forest stand.

SELECTIVE HARVESTING — A regeneration cut designed to create and perpetuate an uneven-aged forest. Trees may be removed singly or in small groups. A well-designed selection cut removes trees of lesser quality and trees in all diameter classes along with merchantable and mature high-quality sawlog trees. Should be differentiated from "select" or "selective cuts, which often equate to high-grading.

§ 161-3. Best practices.

It is strongly recommended that the harvester follow the practices in the latest edition of the Massachusetts Forestry Best Management Practices of Timber Harvesting Water Quality Handbook Manual.

§ 161-4. Notification required.

The Town shall be notified for selective harvesting of forest products on more than four acres of land in any twelve-month period and for clear-cutting on more than two acres of land.

§ 161- 5. Approval procedure.

No loggingharvesting operation shall commence unless the landowner has received the Board of Selectmen's written consent (the "certificate of approval"). The landowner shall comply with the terms and conditions set forth herein, except to the extent modified in the certificate of approval.

- A. To obtain a certificate of approval, the applicant must submit the following materials to the office of the Town Administrator:
  - (1) Copy of state-certified cutting plan signed by State Forester and copy of overall plot plan.
  - (2) Proof of notification to the Sturbridge Conservation Commission.
  - (3) Correspondence from the DPW Director regarding driveway permitpermits as required by Sturbridge General Bylaws, Section 6.60Chapter 250, Article IV, Driveway Construction Permits, of the Town bylaws and proposed bonding for road repairs and/or erosion control.

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- (4) Certified list of abutters within 200 feet of the cutting area.
  - (5) Proof of landownership and/or a notarized letter from the landowner giving permission to harvest or to gain access to harvesting operations if the operation requires access from property other than that being harvested.
  - (6) Copy of Massachusetts state timber harvester's license.
  - (7) Reforestation plan for clear-cutting projects.
  - (8) Filing fee in an amount set by the Board of ~~\$10~~Selectmen.
- B. The office of the Town Administrator shall forward the applicant's information to the Board of Selectmen, Department of Public Works and Conservation Department for review and comment.
- C. The Board of Selectmen shall hold a public hearing on each application for a certificate of approval, notice of which hearing shall be published in a local newspaper. The cost of such notice is to be borne by the applicant. The applicant must mail notice of said public hearing by certified mail, return receipt requested, to all parties on the certified abutters list at least seven days prior to the hearing date. The form of said notice shall be provided by the office of the Town Administrator.

### § 161-6. Hearing.

The applicant shall appear at the time and date of the scheduled hearing and shall furnish proof of notification to abutters by certified mail. At this time, the applicant may bring dated photographs showing the condition of all access roadways prior to the operation in order to document the condition of said roadways and avoid repair claims post-operation. The Board of Selectmen shall hear comments from any and all interested parties.

### § 161-7. Restrictions and conditions.

- A. The Board of Selectmen has established certain reasonable restrictions and conditions for loggingharvesting permits issued within the Town. They are:
- (1) LoggingHarvesting operations shall be allowed Monday through Friday (with no harvesting on recognized Massachusetts legal holidays) from 7:00 a.m. to dusk; and on Saturdays from 8:00 a.m. until 12:00 ~~p.m.~~ noon; no Sunday or holiday hours;.
  - (2) Prior to the commencement of loggingharvesting operations, the applicant shall coordinate transportation with the Town's school bus schedule to avoid conflict between loggingharvesting operations and school bus operations;.
  - (3) Work shall be performed when the ground is dry, frozen or otherwise stable;.
  - (4) A ~~\$5,000~~ road maintenance bond in an amount set by the Board of Selectmen after consultation with the DPW Director shall be submitted to the Town Administrator before work commences to ensure that repairs are made to any Town roads damaged as a result of the subject forestry harvest project, and the Town may additionally require a performance bond to ensure erosion control measures before, during and, for a reasonable period of time, after the proposed operation. Said bond shall be released by the Treasurer upon inspection and a satisfactory finding by the DPW Director.
  - (5) A licensed timber harvester is identified prior to commencement.
  - (6) The DPW Director and Conservation Agent must be notified before starting work.

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- B. In addition, the Selectmen may issue additional restrictions and conditions as deemed necessary by the Board of Selectmen.

### § 161- 8. Violations and penalties.

Every person or contractor violating any provision of this bylaw shall be punished by a fine of \$50. Every violator of any provision of this bylaw shall be guilty of a separate offense for every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every separate offense.

## Chapter 167 – GAMBLING

[formerly Ch. 7, § 7.40, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 167-1. Compliance with statutory requirements.

All ~~sponsoring~~ organizations and their members sponsoring raffles, bazaars, Monte Carlo, Las Vegas, Casino Gambling or other similar functions shall comply with MGL c. 271 § 7A, and the Rules and Regulations of the Massachusetts State Lottery Commission, and any additional regulations ~~of the Massachusetts State Lottery Commission, and any additional regulations~~ pertaining to the raffles, bazaars, Monte Carlo, Las Vegas, Casino Gambling, or other similar functions ~~and further~~.

### § 167-2. Permit required.

Every organization sponsoring an above-described function must hold a valid raffle and bazaar permit.

### § 167-3. Submission and investigation of permit application.

Every organization contemplating holding an above-described function shall notify the Town Clerk, in writing by application, of its intent at least 15 days prior to the function. Upon receipt of such application, the Clerk shall determine whether it is in conformity with MGL ~~Chc.~~ 271, § 7A. If the Clerk so determines, he or she shall forward the application to the Chief of Police of the Town of Sturbridge, who shall determine whether the applicant is qualified to operate raffles and bazaars under MGL c. 271, § 7A. If the Chief of Police so determines, he shall endorse the application and return it to the Clerk, who shall forthwith issue a permit.

### § 167-4. Application information.

Every organization contemplating holding an above-described function shall submit the following information to the Chief of Police in writing, at least 15 days prior to the function:

- A. A list of all the members of the organization and the date those persons became members;
- B. The name of the member in charge of the function;
- C. A list of the members who are to be working at the function and a description of their duties;
- D. The time and place at which the function is to be held;
- E. A sketch of the premises in which the event is to be held, including the location of all tables, cashier

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booths and ~~counting rooms~~; counting rooms;

- F. The name of the vendor supplying the game equipment;
- G. The name of the representative of the vendor who may be on the premises during the function. Such person shall not work on the floor or game during the function. No further permits will be issued to an organization which violates this provision;
- H. A copy of the rental agreement relative to the game equipment~~;~~;
- I. A copy of the rental agreement for the premises in which the function is to be held, unless held in the organization's own quarters, in which case that fact must be stated.

### § 167-5. Occupancy limits.

The owner or authorized occupant of the premises used for the function shall ensure that the number of people on the premises does not exceed that which is stipulated by the occupancy permit.

### § 167-6. Hours of operation.

The function shall not commence before 7:00 p.m. and it shall terminate no later than 1:00 a.m., but in no event shall the function run longer than five hours.

### § 167-7. Participation by minors prohibited.

No person under 18 years of age shall take part in any of these functions.

### § 167-8. Acceptable games.

The only acceptable games at the function shall be as follows:

- A. Category 1: Craps, Black Jack, Roulette.
- B. Category 2: Big Six, Wheel Games, Money Wheel.
- C. Category 3: Chuck-a-Luck, Under and Over Seven, Beat the Dealer.

### § 167-9. Security.

A uniformed off-duty police officer shall be employed by the organization at the expense of the organization. Such officer shall be designated by the Chief of Police. The officer's duties shall include protecting the patrons and ensuring compliance with these provisions. The officer shall remain on the premises until the function is closed.

### § 167-10. Limit on number of games.

No organization shall sponsor more than one function per six-month period.

### § 167-11. Posting of approval.

Approval of the function must be posted in the place at the time of the function.



**§ 167-12. Severability.**

If any provision of this bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision of the said bylaw, or the application thereof, which can be given effect without the said invalid provisions or application thereof, and for this purpose the provisions of the bylaw are severable.

**Chapter 183 - LAND DEVELOPMENT AND REMEDIATION**

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I

**Cleanup and Redevelopment of Contaminated Sites Zoned for Commercial or Industrial Development**

[formerly Ch. 3, §§ 3.90-3.93, of the Bylaws]

**§ 183-1. Intent.**

It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites that are zoned for industrial and/or commercial use that are contaminated with oil and/or other hazardous materials.

**§ 183-2. Authority to negotiate agreements.**

The Town Administrator is hereby authorized to work to negotiate agreements regarding the payment of outstanding real estate ~~tax~~tax obligations, interest and ~~penalties~~costs, including abatement of those amounts needed to make a cleanup and redevelopment project economically feasible. Said agreement may also contain additional incentives, financial and otherwise, as may be deemed appropriate.

**§ 183-3. Scope, terms and conditions of agreements.**

- A. Agreements may cover property contaminated with oil or other hazardous materials and must be zoned for commercial or industrial use.
- B. Agreements may be entered into only with new, innocent purchasers who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release.
- C. Agreements must specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue, if any, amount of monthly payments, payment schedule, late penalties and other terms. These obligations may consist of outstanding real estate taxes or other financing packages negotiated with the Town.
- D. Agreements must be signed by the Board of Selectmen and property owner and must be notarized and attested to by the Town Clerk. Copies must be provided to the ~~Massachusetts Commissioner of Revenue~~, Massachusetts Department of Environmental Protection, United States Environmental Protection Agency, Board of Assessors and the property owner.

**§ 183-4. Approval of agreements.**

All agreements must be approved by a majority vote of the Board of Selectmen.

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Chapter 189 - LICENSES AND PERMITS

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Criminal History Background Checks

[formerly Ch. 7, § 7.80, of the Bylaws]

§ 189-1. Scope of authority.

This bylaw ~~is~~

~~The by-law further~~ authorizes the Board of Selectmen, in consultation with the Chief of Police, to promulgate regulations to implement this ~~by-law~~bylaw, which may include, but shall not be limited to, establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing decision as a result of the criminal history check, procedures for assessing, correcting or amending any such record, criteria for fitness determinations, security of information obtained and penalties for failure to comply with this ~~by-law~~bylaw.

§ 189-2. Licenses requiring checks; procedure.

- A. The Police Department shall, as authorized by MGL c. 6, § 172B 1/2, conduct state and federal fingerprint-based criminal history checks for individuals listed on the license application, for the following licenses, including renewals and transfers thereof:
- (1) Solicitors and peddling or other door-to-door salespeople, in accordance with the licensing requirements set forth in ~~General Bylaw~~ Chapter 221, Peddling and Soliciting, of the Town bylaws;
  - (2) Pawn dealers;
  - (3) Hackney and livery drivers; and
  - (4) Ice cream ~~Truck~~trucks.
- B. At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual's criminal history records and, prior to such fingerprinting, obtain the individual's consent. After the applicant completes a consent form, provides his/her fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this ~~by-law~~bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services ("~~DCJIS~~") and/or the FBI, or the successors of such agencies, as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks for the license applicants specified in this ~~by-law~~bylaw.
- C. The Town authorizes the Massachusetts State Police, the DCJIS and the FBI and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this ~~by-law~~bylaw. The Town authorizes the Police Department to receive and utilize state and FBI records in connection with such background checks, consistent with this ~~by-law~~bylaw and ~~its~~sits implementing regulations.

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- D. In accordance with its implementing regulations as adopted pursuant to ~~Section 7.81~~ § 189-1 of this bylaw, the Police Department shall communicate the results of fingerprint-based criminal record background checks only to authorized governmental licensing authority within the Town, as necessary. The Town's regulations shall also provide that state and FBI criminal history obtained pursuant to this ~~by-law~~ bylaw is confidential, will not be disseminated to unauthorized entities, shall be stored in a secure and confidential manner and shall be destroyed pursuant to DCJIS requirements.

### § 189-3. Use of criminal record by licensing authorities.

- A. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this ~~by-law~~ bylaw. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.
- B. Licensing authorities of the Town are hereby authorized to deny an application for any license specified herein and in the implementing regulations, including renewals and transfers of said licenses, from any person who is determined unfit for the license due to information obtained pursuant to this ~~by-law~~ bylaw. Factors that shall be considered in making a determination of fitness shall include, but not be limited to, whether the record subject has been convicted of, or is under pending indictment for, a crime, that bears upon the subject's ability or fitness to serve in that capacity, including any felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, or sex-related offense.

### § 189-4. Fees.

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100 for each fingerprinting and criminal history check. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

### § 189-5. When effective.

This ~~by-law~~ bylaw shall take effect after compliance with MGL c. 40, § 32 have been met.

## ARTICLE II

### Denial, Revocation or Suspension for Failure to Pay Fees and Charges

[formerly Ch. 8, § 8.00, of the Bylaws]

### § 189-6. List of delinquent taxpayers.

The Finance Director (Treasurer/Collector) shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority", that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party", that has neglected or refused to pay any ~~loals~~ local taxes, fees, assessments, betterments or other municipal charges and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

**§ 189-7. Authority to deny, revoke or suspend.**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Finance Director (Treasurer/Collector) or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised ~~for~~ is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority ~~from~~ the Finance Director (Treasurer/Collector); provided, however, that written notice is given to the party and the Finance Director (Treasurer/Collector), as required by applicable provision of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Finance Director (Treasurer/Collector) shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this ~~section~~ bylaw shall not be reissued or renewed until the license authority receives a certificate issued by the Finance Director (Treasurer/Collector) that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, ~~payables~~ payable to the municipality as the date of issuance of said certificate.

**§ 189-8. Payment agreements.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**§ 189-9. Waivers.**

The Selectmen may waive such denial, suspension or revocation if they find there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family as defined in MGL c. 268A § 1, in the business activity conducted in or on said property.

**§ 189-10. Exceptions.**

That following licenses and permits shall be exempt from the provisions of this bylaw:

<del>Chapter</del> <u>MGL c. 48, Section-§ 13</u>	Open burning
<del>Chapter 85, Section 11A</del>	<del>Bicycle Permits</del>
<del>Chapter</del> <u>MGL c. 101, Section-§ 33</u>	Sales or articles for charitable purposes
<del>Chapter</del> <u>MGL c. 149, Section-§ 69</u>	Children work permits
<del>Chapter</del> <u>MGL c. 140, Section-§ 21E</u>	Clubs, association dispensing food or beverage licenses.
<del>Chapter</del> <u>MGL c. 140, Section-§ 137</u>	Dog license
<del>Chapter</del> <u>MGL c. 131, Section-§ 12</u>	Fishing, hunting, trapping licenses
<del>Chapter</del> <u>MGL c. 207, Section-§ 28</u>	Marriage license
<del>Chapter</del> <u>MGL c. 140, Section-§ 181</u>	Theatrical events, public exhibition permits

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**Chapter 194 – LITTERING**

[formerly Ch. 3, §§ 3.5-3.8, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

**§ 194-1. Littering prohibited.**

No person shall place or cause to be placed upon public or private land not owned by the responsible party, litter, trash, earth, construction or other materials without the landowner's consent.

**§ 194-2. Violations and penalties.**

Whoever violates this bylaw shall be punished by a fine of ~~\$200~~\$300, according to MGL c. 40, § 21D.

**§ 194-3. Continuing offenses.**

Each day during which such violation is permitted to continue shall be deemed a separate offense.

**Chapter 199 - MANUFACTURED HOUSING COMMUNITIES**

[formerly Ch. 4, § 4.10, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

**§ 199-1. Purpose.**

The purpose of this ~~chapter~~bylaw is to provide standards for the licensing, construction and operation of manufactured housing communities to protect the health and safety of the occupants of those communities and of the public in the Town of Sturbridge.

**§ 199-2. License and special permit required; hearing; issuance.**

Every person, firm or corporation desiring to operate a manufactured housing community within the Town of Sturbridge shall make application to the Sturbridge Board of Health for a license to operate said community. The Sturbridge Board of Health, after a public hearing, reasonable notice of which shall be published once in the local newspaper, may grant a license for the operation of the manufactured housing community. However, action on the license shall be withheld until the applicant has secured a special permit from the Planning Board for the construction of the community.

**§ 199-3. License term; annual renewal.**

The license, unless suspended or revoked, shall expire on the 31st day of December in the year of first issue, but may be renewed annually upon application without such notice and hearings. Upon the granting of a license of renewal for the operation of a manufactured housing community, the Sturbridge Board of Health will forward a copy of said license or renewal to the Sturbridge Town Clerk.

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### § 199-4. Fees.

The fee for the original license and for each renewal license shall be established by the Board of Health. In addition to the above license fee, each ~~trailer-coach-park~~manufactured housing community owner or operator shall pay an additional fee per month or major fraction thereof, on account of each occupying space within the said community. Said license fee shall be collected by the operator from the owner or occupant of each home so occupying space in such community at the end of each said month or major fraction thereof, ~~and~~and shall be deposited with the Collector of Taxes in the Town of Sturbridge no later than the 10th day of the month next following. The manufactured housing community operator shall, no later than the ~~5th~~fifth day of each month, file with the Sturbridge Board of Health, a list containing the amount collected along with the name and address of each owner or occupant of a home occupying space during the preceding month. The Sturbridge Board of Health shall forthwith commit the list to the Collector of Taxes in the Town of Sturbridge for collection. The Collector of Taxes shall, once in each week or oftener, pay over to the Treasurer all money received by him in the preceding week or lesser period on account of such license fees. Each subject to the license fee provided for in this section shall be exempt from any property tax as provided in MGL c. 59, § 5, Paragraph 36.

### § 199-5. Definitions.

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

COMMUNITY — Any lot or tract of land upon which three or more structures occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with the community.

MANUFACTURED HOME — A structure designed, built, and installed in conformance with the National Construction and Safety Standards, which is transportable in one or more sections and which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation, when connected to the required utilities and includes plumbing, heating, air conditioning and electrical systems contained therein.

### § 199-6. Regulations.

~~Any person, firm or corporation~~In order to obtain a license for the operation of a manufactured housing community, any person, firm or corporation shall comply with the following regulations:

- A. The applicant for a manufactured housing community shall provide the Board of Health with all documents submitted to the Planning Board with the special permit application.
- B. The applicant shall provide a plan that contains at a minimum, the following:
  - (1) Parcel boundaries, North arrow, date, legend, title;
  - (2) 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 abutters as determined from the most recent Assessor's records;
  - (4) The names, approximate location and widths of adjacent streets;
  - (5) Lot lines with areas, frontage and depth dimensions, unit placements and common areas;
  - (6) Proposed roadway grades, street profile and cross-section details for all roads in the development. All roadways shall be designed in accordance with Chapter 350, Subdivision Regulations.

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- (7) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Board of Health and 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.
  - (8) A plan prepared by a Massachusetts-certified professional engineer detailing the proposed stormwater management system along with stormwater calculations that support the design.
  - (9) A narrative explanation prepared by a Massachusetts-certified professional engineer, detailing the proposed drinking water supply system.
  - (10) A description of all open space and community facilities proposed.
  - (11) A landscaping plan prepared by a certified landscape architect.
- C. Lots in a community shall not be less than 75 feet wide or less than 100 feet deep. Only one home will be allowed on a lot.
  - D. The operator shall provide a supply of potable water sufficient in quantity and pressure to meet the needs of residents.
  - E. All manufactured housing ~~Community's~~communities shall be served by a hard-surfaced road, not less than 20 feet in width and with a radius at all turns of not less than 50 feet, ~~measuring~~measured at the center line of the roadway.
  - F. The manufactured housing community owner or operator will provide for the parking of vehicles entirely off the paved roadway.

### § 199-7. Management of community; posting of rules and regulations.

- A. No person shall conduct, control, manage or operate, directly or indirectly, a manufactured housing community unless he is the holder of a license for the same, and said license shall be posted in a conspicuous place within the confines of the manufactured housing community.
- B. Every person who shall conduct, control, manage or operate, directly or indirectly, any licensed manufactured housing community shall post in a conspicuous place near the entrance to the manufactured housing community a copy of the rules and regulations adopted under MGL c. 40, § 32B, as most recently altered and amended.

### § 199-8. Recreational facilities.

Any manufactured housing community containing a minimum of 50 homes must have a recreational building of no less than 1,000 square feet, with an additional 500 square feet for each additional 50 homes or fraction thereof. The recreational facility must provide heat, electricity, kitchen and sanitary facilities at a minimum.

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### § 199-9. Health requirements.

The Sturbridge Board of Health shall notify the State Department of Public Health of the granting or renewal of the manufactured housing community license and said Department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said Department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be unsanitary, or both of such conditions, said Department shall forthwith notify the Sturbridge Board of Health and such licensee that is ~~effected~~affected by registered mail, and the Sturbridge Board of Health shall forthwith prohibit the use of any water supply found by said Department to be polluted.

### § 199-10. Correction of violations; suspension or revocation of license.

Unless such ~~licenses~~licensees shall, within 30 days following the giving of such notice, correct the conditions at such premises to the satisfaction of both the State Department of Public Health and the Sturbridge Board of Health, the license so granted shall be suspended or revoked by the Sturbridge Board of Health. Any license so suspended may be reinstated by such Board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to the State Department of Health and the Sturbridge Board of Health. The Sturbridge Board of Health may adopt, and from time to time alter or amend, rules and regulations to enforce this section.

### § 199-11. Inspections.

The Sturbridge Board of Health shall from time to time examine all manufactured housing communities licensed by it, and if, upon such examination, such manufactured housing community is found to be in an unsanitary condition, said Board of Health may, after notice and a hearing, suspend or revoke the license.

### § 199-12. Violations and penalties.

Whoever conducts, controls, manages or operates a manufactured housing community in the Town of Sturbridge, Massachusetts, which is not licensed by the Sturbridge Board of Health, shall be punished by a fine as may be established by the Board of Health.

### § 199-13. Appeals.

Any person aggrieved by any act, rule, order or decision of the Sturbridge Board of Health, may appeal to the Superior Court. After suspension or revocation, the license may be reinstated or reissued if the conditions leading to the suspension have been remedied and the park is being maintained and operated in full compliance with the law.

## Chapter 205 - NEWSPAPER DISPENSING DEVICES

[formerly Ch. 2, §§ 2.0-2.2, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 205-1. Definition.

The term "newspaper dispensing device" as used in this bylaw shall mean a mechanical, coin-operated container constructed of metal or other material of substantially equivalent strength and durability, not more



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than 50 inches in height and not more than 26 inches in length and width.

### § 205-2. Permit and application.

- A. Applications for rental permits allowing the maintenance or installation of newspaper dispensing devices on public property along the streets and thoroughfares within the Town may be made to, and on forms approved by, the Building Inspector.
- B. The Building Inspector shall approve or deny the application. Denial shall only be for reasons of public safety, stating the reasons for such denial. Approval shall be subject to the following terms.

### § 205-3. Location restrictions.

Newspaper dispensing devices shall be placed at such locations as applied for and determined by the Building Inspector neither to (1) cause an undue safety hazard, nor (2) interfere with the right of the public to safe use of the streets and thoroughfares, nor (3) constitute a nuisance as a dangerous structure as described in MGL c. 139, § 1; provided further, however, that no newspaper dispensing devices shall be placed, installed, used, or maintained:

- A. Within 10 feet of any fire hydrant or other emergency facility;
- B. Within 10 feet of any intersecting driveway, alley or street;
- C. Within three feet of any marked crosswalk;
- D. At any location where the width of the clear space in any direction for the passage of pedestrians is reduced to less than four feet;
- E. Within 250 feet of another newspaper dispensing device containing the same newspaper or periodicals, except that (subject to Subsection B above) the Building Inspector may permit two such dispensing devices near an intersection where such placement would not impair traffic or otherwise create a hazardous condition; or
- F. In any location where three newspaper dispensing devices are already located;
- G. Anchored or secured to any tree.

### § 205-4. Conditions.

Any rental permit granted shall be upon the following conditions:

- A. The permittee shall pay a rental fee ~~of \$10 per year or any part thereof, as set by the Board of Selectmen~~ for each of its devices at each location where a newspaper dispensing device is installed.
- B. The permittee, upon the removal of a newspaper dispensing device, shall restore the public property to the same condition as when the device was initially installed, ordinary wear and tear excepted.
- C. The permittee shall maintain the device in good working order and in a safe and clean condition, and shall keep the immediate area surrounding such device free from litter and debris resulting from the device or its intended or foreseeable use.
- D. The permittee shall not use a newspaper dispensing device for advertising signs or publicity ~~purposes~~ other than that dealing with the display, sale or purchase of the newspaper sold thereby.
- E. The permittee shall save and hold the Town harmless from any and all liability and expense, including

## Town of Sturbridge Final Draft (Red-Line)

attorneys' fees, for any reason whatsoever occasioned by the installation, maintenance or use of each newspaper dispensing device and shall furnish, at the permittee's expense, such general comprehensive liability insurance as will protect the permittee and the Town from all claims for damage to property of bodily injury, including death, which may arise from the operation under the permit or in connection therewith. Such policy shall name the Town as an additional insured and shall be in the amount of not less than \$100,000 combined single limit for injury to persons and/or for damage to property and shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without 30 days' prior written notice to the Town. A certificate of such insurance shall be provided to the Town prior to the issuance of the permit and shall be maintained before and at all times during the installation of such devices;.

- F. Rental permits shall be for a term of one year and shall not be assignable.

### § 205-5. Appeals.

A person aggrieved by a decision by the Building Inspector in refusing to grant or revoking a rental permit shall have a right to appeal to the Board of Selectmen. Such appeal shall be taken by filing a notice of appeal, including a statement of the grounds for appeal, with the Board of Selectmen within 10 calendar days after notice of the decision by the Building Inspector has been given. The Board of Selectmen shall set the time and the place for hearing such appeal and notice of such time and place shall be given. The Selectmen shall have the power to reverse, affirm or modify the decision of the Building Inspector, and any decision made by the Selectmen shall be final.

## Chapter 216 - PEACE AND GOOD ORDER

[formerly Ch. 7, § 7.20, of the Bylaws]

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**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

### § 216-1. Prohibited conduct for theaters, concerts and premises serving alcoholic beverages.

No person shall offer to view, set up, maintain, carry on, or engage in, in accordance with MGL c. 140, § 181 or § 183A or MGL c. 138, § 12, or any amendment or revision thereof, such acts or conduct being deemed as contrary to the public need, the common good and the preservation of public order.

- A. Except as otherwise authorized by law, it is forbidden to employ or permit any person, including entertainers, in or on the licensed premises while unclothed or in such attire so as to expose to view or to display the naked areola, pubic hair, the cleft of the buttocks, the anus, vulva, or genitals.
- B. It is forbidden to employ or permit any person, including entertainers, to mingle with patrons while unclothed or in attire prescribed in Subsection A.
- C. It is forbidden for any person, including entertainers, in or on the licensed premises to touch, caress or fondle the breasts, buttocks or genitals of any other person.
- D. It is forbidden for any person, including the entertainers, to wear or use any device openly exposed to view as described in Subsection A which simulates the breasts, buttocks, pubic hair, genitals, vulva, anus or any portions thereof.
- E. It is forbidden to employ or permit any person, including entertainers, in or on the licensed premises to perform any act or acts, or simulates the act or acts of:

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- (1) Sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or other sexual acts prohibited by law.
- (2) Touching, caressing or fondling of the breasts, buttocks, or genitals of another.

### § 216-2. Visual displays.

It is forbidden to employ or permit any person, including entertainers, in or on the licensed premises to show motion-picture films, ~~television type cassettes~~, still pictures or other photographic reproductions depicting any of the acts, or simulation of acts, prohibited in § 216-1.

### § 216-3. Violation of other laws.

In addition to the foregoing, no person licensed under MGL c. 140, § 181 or § 183A or MGL c. 138, § 12 or any revision or amendment thereof, shall employ, use the services of or permit on licensed premises any employee, including entertainers, or other persons who by lack of attire or conduct violates any like General Law, Special Act, or bylaw of the Town of Sturbridge.

### § 216-4. Severability.

If any provision of this bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision of the said bylaw, or the application thereof, which can be given effect without the said invalid provisions ~~and~~ application thereof, and for this purpose the provisions of the bylaw are severable.

## Chapter 221 - PEDDLING AND SOLICITING

[formerly Ch. 7, §§ 7.0-7.10, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 221-1. Definitions.

The following words as used in this bylaw, unless the context otherwise requires, shall have the following ~~meaning:~~ meanings:

CANVASSING — The act of asking people in an area what they think about a candidate, project, idea, etc.

HAWKING — The selling of items on foot, from a vehicle or a portable stand, on or adjacent to a public way or property.

PEDDLING — The same as soliciting.

SOLICITING — The traveling by foot, automobile or any other type of conveyance from place to place, or from house to house for the purpose of:

- A. Taking or attempting to take orders for the sale or lease of goods, wares, merchandise, or services;
- B. Requesting or attempting to request contributions for any purpose, including the selling, distributing or exposing for sale or taking orders for magazines, books, periodicals, or other items of a commercial nature; or
- C. The contracting for home improvements or for services to be performed in the future.

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### § 221-2. License required.

No person shall engage in the activity of soliciting, peddling or hawking in the Town of Sturbridge, without first obtaining a license in accordance with the provisions of § 221-4.

### § 221-3. Exemptions.

The provisions of this bylaw shall not apply to:

- A. Salesmen or agents of wholesale houses or firms who solicit orders from retail dealers for resale or from manufacturers for manufacturing purposes.
- B. Bidders for public works or supplies.
- C. Local charitable, religious, fraternal, service and civic organizations (~~("local"~~ meaning origin within the community).
- D. The soliciting for any charitable, benevolent, fraternal, religious or political activities or organizations by a resident of the Town of Sturbridge.
- E. Any person exempted by the General Laws.
- F. Person who deals with established customers whom they periodically call upon to solicit an order for future delivery.
- G. Real estate brokers and insurance salesmen.

### § 221-4. License application, review and issuance.

- A. Any applicant for a license to engage in soliciting, peddling or hawking shall obtain an application form from the Town Administrator requiring the following information:
  - (1) Name of applicant.
  - (2) Address of applicant.
  - (3) Applicant's height, eye and hair color.
  - (4) ~~Applicant~~Applicant's social security number.
  - (5) The period of time for which the activity will be carried on in the Town of Sturbridge.
  - (6) The location(s) within the Town of Sturbridge on which the activity will be carried out.
  - (7) A brief description of the activity or business to be carried on, with a description of the goods or other materials to be sold, leased, or otherwise distributed.
  - (8) The name and home office of the applicant's employer. If self-employed, the applicant shall so state.
  - (9) If hawking is involved, a letter of permission signed by the landowner, or if a public way is to be used, a letter signed by the Chief of Police shall be attached to the application.
  - (10) If operating a motor vehicle, the applicant shall indicate the year, make, color, model, vehicle identification number (VIN) registration number, state of registration, and the address of said owner.

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- (11) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor within the past 10 years.
- B. When the application is completely filled out, the applicant shall personally take the application and any required letter(s) of permission to the Chief of Police who will, upon presentation of identification, take two, two inches by two inches photographs of the applicant showing the head and shoulders in a frontal view. One photograph shall be attached to the application. The applicant's fingerprints shall be taken and retained by the Chief of Police.
- C. ~~The fee for said license shall be \$25 for one week or any portion thereof or \$150 for one year or less.~~ License fees for one-week or one-year licenses shall be set by the Board of Selectmen and shall be payable to the Town of Sturbridge.
- D. Following the receipt of the applicant's reputation as to morals and integrity, the Chief of Police shall approve or disapprove the application within a period of 10 days from the date it is filed.
- E. The Chief of Police shall forward the application together with his recommendation ~~to the Town Administrator.~~ If the recommendation is favorable, the Town Administrator shall issue the license. If the Chief of Police recommends denial of the license, the Town Administrator may deny the license and the license fee shall be returned to the applicant.
- F. Each license shall contain the name and address of said licensee, the date of issuance, the license number, and the length of time the license shall be operative, and shall be signed by the Town Administrator.
- G. The Town Administrator shall keep a record of all the licenses issued for a period of six years from the date of original issuance.
- H. No license may be extended beyond the original terminating date. If additional time is required, a new application must be initiated.
- I. All licenses shall expire on December 31 of the year of issuance.

### § 221-5. Badge.

All persons engaged in an activity constituting soliciting, canvassing, peddling or hawking are required to display an identifying badge by wearing said badge on an outer garment. The Chief of Police shall issue these badges to a license holder upon the payment of a ~~\$5~~ deposit in an amount set by the Board of Selectmen. The deposit shall be refunded to the licensee upon return of the badge to the Chief of Police.

### § 221-6. Restrictions.

No person shall:

- A. Solicit or peddle before the hour of 8:00 a.m. of any day or after the hour of 8:00 p.m. of any day except by individual appointments.
- B. Solicit or peddle or pretend to solicit or peddle by ringing, calling or knocking at any building which contains a sign or other marking indicating in open view that such activities shall not take place on that premises. Such signs as "No Soliciting", "No Salesmen" and the like shall be sufficient warning to those persons who might otherwise engage in the activity of soliciting.
- C. Misrepresent his own identity, his employer's identity, if any, or his partner's identity, if any, while soliciting or peddling or hawking, in the Town of Sturbridge. No person shall fraudulently represent that he or she is the agent, employee, or partner of some other individual firm, corporation, or other

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entity when in fact no such relationship exists.

### § 221-7. Revocation of license.

- A. Licenses issued pursuant to this bylaw may be revoked by the Chief of Police of the Town of Sturbridge after notice and hearing for any of the following reasons:
- (1) Fraud, misrepresentation, or any false statements made to the Police Department in furnishing the information required in § 221-4.
  - (2) Any violation of this bylaw.
  - (3) Conviction of the license holder of any felony or crime involving morals, embezzlement or any other crimes of this nature.
  - (4) Soliciting, peddling, canvassing or hawking in an unlawful manner or in such a manner as to constitute a breach of the peace, or be a threat or danger to the health, safety or general welfare of the people of the Town of Sturbridge.
  - (5) Conducting activities different than those covered by the license or in a different location than that shown on the license.
- B. Notice of hearing for revocation of a license shall be given by the Chief of Police in writing, stating the grounds of the complaint and the time and the place of the hearing. Such notice shall be mailed, postage prepaid, to the license holder at the address given on the application form, at least five days prior to the date set for the hearing.

### § 221-8. Appeals.

Any person aggrieved by the decision of the Chief of Police shall have the right to appeal said decision to the Board of Selectmen. Such appeal shall be taken by filing with the Town Clerk a written statement ~~on~~of the ground for the appeal within 14 days after the receipt of the notice of the decision of the Chief of Police. The Board of Selectmen shall set the time and place for hearing such appeal. Notice of such time and place shall be given by the Town Clerk to the aggrieved party in the manner herein above provided for hearing of notice of revocation by the Chief of Police.

### § 221-9. Violations and penalties.

Every person violating any provision of this bylaw shall be punished by a fine not exceeding \$50 under a noncriminal disposition, as contained in Chapter 1, Article I, of the Town bylaws. Every violator of any provision of this bylaw shall be guilty of a separate offense for every day such violation shall continue and shall be subject to the penalty imposed by this section ~~and~~for each and every separate offense.

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Chapter 230 - SCENIC ROADS

[formerly Ch. 3, §§ 3.70-3.77, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

**§ 230-1. Purpose.**

The purpose of this bylaw is to protect the scenic quality and character of certain roads within the Town of Sturbridge by establishing regulations that control physical alterations within public rights-of-way.

**§ 230-2. Definitions.**

In the absence of contrary meanings established through legislative or judicial action, pursuant to MGL c. 40, § 15C, the following terms contained in this bylaw shall be defined as follows:

CUTTING OR REMOVING TREES — The removal of one or more trees.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK — Any work done within the right-of-way by any person or agency, public or private. Within this definition is included any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing driveways is included, insofar as it takes place within the right-of-way.

ROADS — A right-of-way of any way used and maintained as a public way, including the vehicular traveled way plus necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without ~~of~~ the way, the trees and stone walls shall be presumed to be within the way until the contrary is shown.

TEARING DOWN OR DESTRUCTION OF STONE WALLS — The destruction of more than 15 linear feet of stone wall involving more than one cubic foot of wall material per linear foot above the existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same material.

TREES — Includes any living tree whose trunk has a diameter of four inches or more as measured one foot above the ground.

**§ 230-3. Designation of scenic roads.**

The Planning Board, Conservation Commission and Historical Commission may petition the Board of Selectmen for additions or deletions to the list of scenic roads for consideration at Town Meeting. Any petition for "scenic road" designation must be accompanied by a written description of the characteristics of the road as a justification for the protection afforded by this bylaw.

**§ 230-4. Restrictions on designated scenic roads.**

- A. Within the public right-of-way of designated scenic roads, the following activities shall require written approval of the Planning Board in accordance with the provisions of this bylaw:
  - (1) The tearing down, painting or destruction of stone walls.

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- (2) The cutting or removal of trees the scope of which is outside the responsibility of the Tree Warden as defined in the Massachusetts General Laws or the Town of Sturbridge General Bylaws.
  - (3) Repair, maintenance, reconstruction or paving work, including the construction of new driveways or alteration of existing driveways, insofar as they affect stone walls or trees within the public right-of-way, as defined above.
- B. In cases where a threat to public safety does not allow sufficient time to obtain approvals from the Planning Board, the Planning Board must be notified within five business days of any action which, had the threat not existed, would be a violation of this bylaw.
- C. Any person, firm or corporation violating the provisions of this section shall be punished by a fine of \$300, enforceable through noncriminal disposition as set forth in Chapter 1, Article I, of the Town bylaws.

### § 230-5. Hearings; considerations for designation; compensatory actions.

- A. The Planning Board shall, as required by statute, give notice of its public hearings by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place and purpose of the hearing, with a reasonable description of the action and its location proposed by the applicant. Copies of this notice shall also be sent to the Town Clerk, Conservation Commission, the Historical Commission, the Tree Warden, the Director of Public Works and the owners of property within 100 feet of the proposed action.
- B. The Planning Board shall hold a public hearing within 30 days of receipt of an application and shall approve, conditionally approve or deny an application within 60 days of receipt. In making its decision, the Planning Board shall consider the following criteria and shall not grant approval if the proposed action will be in violation of one or more of the following:
- (1) Preservation of historic values.
  - (2) Preservation of the scenic and aesthetic quality of the area.
  - (3) Protection of natural resource and environmental systems.
  - (4) Public safety.
  - (5) Compatibility with the surrounding neighborhood.
- C. Compensatory actions. In making its decision, the Planning Board may grant an approval that otherwise would be denied if the overall effect of the proposed alteration, including compensatory action, such as the planting of new trees or the reconstruction of stone walls, is to maintain or improve the scenic quality or historical character of the road.

### § 230-6. Public Shade Tree Act.

Whenever feasible, notice shall be given and Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL c. 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden or vice versa. The Planning Board decision shall contain a condition that no work may be undertaken until all applicable provisions of the Public Shade Tree Law, MGL c. 87, and ~~the Town's General Bylaws,~~ Chapter 270, Trees, of the Town bylaws have been complied with.



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### § 230-7. Enforcement.

The Building Inspector, Tree Warden or other person designated by the Town Administrator may issue a citation for violation of these regulations. A failure to respond to properly issued citations, or the issuance of three or more citations in a twelve-month period or failure to take responsible compensatory action shall be construed as a violation of this bylaw, to be enforced via ~~non-criminal~~noncriminal disposition, subject to a fine of ~~not more than~~ \$100. Each day that such a violation continues shall constitute a separate offense.

### § 230-8. Additional regulations.

The Planning Board may adopt additional regulations for carrying out the provisions of this bylaw.

## Chapter 235 - SEASONAL/TEMPORARY USES

[formerly Ch. 2, §§ 2.20-2.21, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 235-1. Definition.

A "seasonal/temporary use ~~definition.~~" shall be defined as a temporary use or occupancy on an intermittent or short-term basis, primarily during the summer months and/or weekends, the total time of which use or occupancy shall not exceed 30 days during any one calendar year.

### § 235-2. Districts where allowed; permit required.

Seasonal/~~temporary use.~~ Temporary uses are allowed in all commercial or industrial zones, but they do require a permit from the Board of Selectmen. Such uses shall not require site plan review.

### § 235-3. Application requirements.

- A. An applicant for a temporary use permit shall make application on the forms provided by the office of the Board of Selectmen.
- B. The application shall require, at a minimum:
- (1) A written description of the seasonal/temporary use proposed.
  - (2) The name and address of the applicant and the owner of the property.
  - (3) A site plan, drawn to scale, showing any existing and proposed uses, parking areas, tent locations or other proposed structures or areas.
  - (4) A filing fee as set by the Board of Selectmen.

### § 235-4. Conditions of approval.

The Board of Selectmen may impose reasonable conditions on a permit for a temporary/seasonal use, including, but not limited to, duration of event, hours of operation and length of permit.

Chapter 240 - STORAGE CONTAINERS

[formerly Ch. 2, § 2.10, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

**§ 240-1. Definition and specifications.**

A "storage container," for the purpose of this bylaw, shall mean any unit which is erected separately from the main structure on the premises for the purpose of providing storage space for permitted uses on the site. A storage container should be a commercial storage unit or other such structure clearly intended for use as storage space. Each unit may be a maximum of 20 feet by 10 feet by 10 feet. The unit may not be maintained on wheels. Tractor-trailer backs shall not be considered acceptable storage container units.

**§ 240-2. Permit required; term; limit on number of units per lot.**

Storage containers, authorized via a storage container permit issued by the Building Inspector, may be erected for a period of no longer than six months, with one three-month extension. No more than three storage units may be located on a lot at one time.

**§ 240-3. Application for permit.**

An application for a storage container permit must be made to the Building Inspector. The party erecting the storage container must provide proof of permission from the property owner to erect the unit.

**§ 240-4. Fees.**

The fee for a storage container permit ~~is \$30 per unit~~ shall be set by the Board of Selectmen.

**§ 240-5. Location restrictions; maintenance.**

All storage containers shall be erected in conformance with the setback and other requirements as stated in all applicable Sturbridge bylaws. Storage containers shall not occupy and/or hinder active parking or traffic circulation areas. The units shall be located in areas which are not visible from roadways and shall be properly maintained so as not to create an eyesore.

**§ 240-6. Inspection of containers.**

The Building Inspector shall inspect the installation and maintenance of all storage containers to protect the safety of occupants in and around the unit(s), and may revoke a permit for maintenance of any unsafe, disordered or unsanitary condition in or about the units.

**§ 240-7. Site plan review required for long-term use.**

Should a property owner have a compelling need, which may not be satisfied through other reasonable means, to keep the unit on site for a period longer ~~than~~ nine months, this may be allowed, provided the owner undergoes a full site plan review process, as set forth in ~~the~~ Chapter 300, Zoning, of the Town bylaws and incorporated herein, to locate the unit on the site.

Chapter 245 - STORMWATER MANAGEMENT

[formerly Ch. 6, §§ 6.5-6.11, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

**§ 245-1. Purpose and intent.**

The purpose of this bylaw is to reduce pollutants from stormwater to the maximum extent practicable and to minimize flooding or other nuisances or property damage resulting from improper management of stormwater. The goal is to have private development seek to manage stormwater privately, within the confines of each private property whenever possible. Permits for connection to Town drainage facilities will only be considered when private solutions are not feasible.

**§ 245-2. Applicability; permit required.**

- A. No person shall construct an improvement on any land abutting a way which may increase the volume of surface water draining from the land onto the way unless the owner of the land has first obtained a permit from the Town Engineer or DPW Director.
- B. No person shall uncover, excavate, block access to, or make a connection to any pipe, culvert, catch basin, manhole, or other structure under the control of the Town without first having obtained a permit from the Town Engineer or DPW Director.
- C. No person shall construct on any land abutting a way, the surface of an abutting portion of which land is lower than the surface of the way, unless the owner shall first have:
  - (1) Obtained a permit from the Town Engineer/DPW Director.
  - (2) Delivered to the Town Engineer/DPW Director an executed release on a form approved by Town Counsel suitable for recording in the Worcester District Registry of Deeds releasing the Town ~~form~~ from all claims for damage to the land or improvement thereon resulting from surface water drainage from the way onto the land.
- D. Projects or activities approved by the Planning Board and/or Conservation Commission shall be deemed in compliance with the intent and provisions of this bylaw.

**§ 245-3. Discharge restrictions.**

No person shall discharge any water from construction sites into any public street or part of the Town drainage system without first having obtained a permit for that purpose from the Town Engineer or DPW Director. This permit shall be in addition to any other required state or federal permit. No person shall discharge, cause the discharge, ~~of~~ or divert a natural flow of surface water or ~~ground water~~groundwater in such a manner that it will cause an icing condition on a public way.

**§ 245-4. Illegal discharges.**

No person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catch basin, manhole, pipe, retention or detention pond, earth channel, structural control, infiltration chamber, or any other component of the Town's drainage system, any solid waste, construction debris, paint or painting product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial or industrial cleaners, soaps, detergents, ammonia, food

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and food waste, grass or yard waste, leaves, animal feces, dirt, sand, gravel or other pollutant.

### § 245-5. Stormwater management standards.

All development and redevelopment projects must comply with the Stormwater Management Standards issued by the Massachusetts Department of Environmental Protection dated March 1997 and the United States Environmental Protection Agency's Phase II Stormwater Regulations, as each may be from time to time amended.

### § 245-6. Enforcement.

The Town Engineer/DPW Director shall administer, implement and enforce this bylaw under the direction of the Board of Selectmen. Town boards, including, but not limited to, the Conservation Commission, Planning Board, Zoning Board of Appeals, Department of Public Works, Building Department, Board of Health and others who issue permits and/or approvals for projects and/or activities under their specific jurisdiction, shall review projects in accordance with this bylaw and the regulations to enforce this bylaw as adopted and as may be amended from time to time by the Board of Selectmen. Projects or activities approved by the Planning Board and/or Conservation Commission shall be deemed in compliance with the intent and provisions of this bylaw.

### § 245-7. Violations.

Each day that a violation of this bylaw continues shall constitute a separate violation under ~~Article V of the Town's General Bylaws~~ Chapter 1, Article I, of the Town bylaws.

### § 245-8. Penalties.

Penalties for violation of this bylaw may be imposed in accordance with the Town of Sturbridge Stormwater Management Regulations as may be amended from time to time.

## Chapter 250 - STREETS, SIDEWALKS AND PUBLIC WAYS

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### ARTICLE I General Provisions

#### § 250-1. Obstructing public ways by snow prohibited. [formerly Ch. 6, §§ 6.0-6.1, of the Bylaws]

Whoever plows or otherwise removes snow in such manner as to obstruct any public way within the Town shall be liable to a penalty not exceeding \$50 for each offense. Violations of this section may also be enforced by noncriminal disposition as set forth in Chapter 1, Article I, of the Town bylaws.

#### § 250-2. Streetlights. [formerly Ch. 6, §§ 6.20-6.21, of the Bylaws]

Articles relating to requests for new streetlights shall be inserted only in the Annual Town Meeting warrant, except as provided for by MGL c. 39, § 10.

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**§ 250-3. Posting of bridges.** [formerly Ch. 6, § 6.25, of the Bylaws]

The Board of Selectmen may establish maximum weight load limitations for Town-owned bridges. Those vehicles exceeding such weight limitations are prohibited from using such bridges ~~and~~. The Board of Selectmen may direct the Director of Public Works to post and maintain signs indicating ~~the~~ bridge capacity.

**§ 250-4. Placing of rubbish on streets and sidewalks.** [formerly Ch. 6, § 6.40, of the Bylaws]

- A. No person shall sweep, rake, or throw or otherwise place any rubbish or like substance on any public sidewalk or street in the Town except in a container used for the sole purpose of being collected by the Town, its employees, or agents during designated collection periods.
- B. The penalty for violation of the provisions of this bylaw shall be \$20 for each violation thereof. Violations of this bylaw may also be enforced by noncriminal disposition as set forth in Chapter I, Article I, of the Town bylaws.

ARTICLE II

**Repairs to Private Ways**

[formerly Ch. 6, §§ 6.15-6.18, of the Bylaws]

**§ 250-5. Authorized temporary repairs.**

- A. The Town may, subject to the appropriation therefor at the Annual Town Meeting, make temporary repairs on private ways which have been opened to public use for six years or more. Such repairs shall consist only of the filling in of holes or depressions in the surface of such ways with suitable materials and shall not include reconstruction or repair of drainage facilities.
- B. No such repairs shall be made unless:
  - (1) All the abutters sign agreements to release the Town from any claims for damage caused by such repairs and covenanting not to sue the Town for any such damages; and
  - (2) The Selectmen have declared such repairs to be a required public necessity.

**§ 250-6. Scheduling repairs; betterment charges or cash deposits.**

The Selectmen shall schedule such repairs based upon the annual appropriation therefor. No betterment charges shall be assessed, and no cash deposit shall be required for such repairs.

**§ 250-7. Limit on Town liability.**

The liability limit of the Town on account of damages sustained by any person, other than an abutting owner, caused by such repairs shall be \$1,000.

ARTICLE III

**Snow and Ice Removal**

**§ 250-8. Snowplowing of private ways.** [formerly Ch. 6, § 6.30, of the Bylaws]

The Town may plow certain private roads under the conditions and exclusions outlined below.

- A. That main Lake Roads be plowed; said roads to be accessible to the Town highway equipment and in suitable conditions for plowing and on which year-round residents reside.

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- B. That the Board of Selectmen determines the roads to be plowed under Subsection A, and ~~postposts~~ a list of said roads on the Town bulletin board and the Town website.
- C. In determining the roads to be plowed under this ~~article~~bylaw, the Board of Selectmen shall specifically exclude any private roads which may be classified as a driveway ~~or~~ other similar access to private property; and in addition shall exclude any private road in a current subdivision or development, except that any private road in a current subdivision may be plowed ~~provide, provided~~ the road has been prepared under the authority and approval of the DPW Director and is awaiting the formality of Town acceptance.

**§ 250-9. Clearing of snow and ice from sidewalks. [formerly Ch. 6, § 6.50, of the Bylaws]**

- A. Any tenant or owner occupying any building or any lot of land abutting on a sidewalk, which is situated within the limits of the highways or Town ways, and in case such building or lands are unoccupied, the owner or owners thereof shall cause all snow and ice to be removed from such walk as soon as practicable but no later than 48 hours after the same shall have accumulated thereon.
- B. Any person violating the provisions of this bylaw shall be punished by a fine of not more than \$10 to be recovered by complaint before any trial justice, police or District Court having jurisdiction within the county and forfeited and paid to the Treasury of the Town unless ~~when~~ different provisions are made by the laws of the Commonwealth. Violations of this bylaw may also be enforced by noncriminal disposition as set forth in Chapter 1, Article I, of the Town bylaws.
- C. Waiver of enforcement.
  - (1) The Board of Selectmen, or the Town Administrator, following consultation with the Director of Public Works, may waive enforcement of this bylaw for sidewalks located within a state highway layout in the event of extraordinary conditions.
  - (2) Any waiver hereunder shall be promptly communicated through:
    - (a) Conspicuous placement of a notice on the homepage of the Town's official ~~Web site, website;~~
    - (b) Posting on the Town Clerk's bulletin board in Town Hall;~~;~~
    - (c) Distribution to local media outlets;~~;~~
    - (d) Posting a notice on the cable television message board;~~;~~ and
    - (e) Posting on the emergency management sign board if available.

**ARTICLE IV**

**Driveway Construction Permits**

[formerly Ch. 6, § 6.60, of the Bylaws]

**§ 250-10. Definitions.**

~~(For the purpose of this and following sections having to do with driveway permits only),~~ the following terms shall have the meanings indicated:

ABUTTING PROPERTY OWNER — A person or entity owning property bordering on a way.

DRIVEWAY — Privately owned access to and from a way.

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**PUBLIC WAY** — A way laid out by a public agency, or dedicated to public use or laid out for public use or used and maintained as a public way.

**WAY** — Any public way which is not subject to MGL c. 81, § 21 (state curb cut permit).

### § 250-11. Purpose.

The purpose of this bylaw is:

- A. To provide maximum protection to the public through the orderly control of traffic moving onto and from a way.
- B. To provide a uniform practice in the design and construction of entrances and exits.
- C. To provide necessary drainage.
- D. To protect public shade trees.

### § 250-12. Permit required; application.

A driveway permit shall be required for any regularly used access to a public way. Any abutting property owner desiring to gain access to a way shall do so only in accordance with the provisions of a permit issued by the municipal Department of Public Works. Additionally, the ~~Director of Inspections~~Building Inspector shall require a driveway permit as a condition for issuing an occupancy permit.

- A. Procedures. Before beginning construction, the abutting property owner shall make written application to the Department of Public Works, including:
  - (1) A sketch or engineered (if necessary) plan:
    - (a) For any driveway that is to be created, substantially altered or closed.
    - (b) With details on drainage as necessary to prevent runoff from entering the public ways.
    - (c) With locations of public shade trees within 10 feet from all areas to be disturbed in the process of constructing the driveway.
  - (2) A fee to be established from time to time by the Director of Public Works.
- B. All work shall be inspected during and after construction. The Public Works Department may halt any work not done in accordance with the permit.
- C. Any public shade tree which is damaged or is to be removed for construction shall have a public hearing as required under MGL c. 87, referring to public shade tree laws, as well as Chapter 270, Article II, of the Town ~~Code~~bylaws.

### § 250-13. Design requirements.

- A. The municipal Department of Public Works shall consider the requirements of the ~~state DPW~~MassDOT Manual on Uniform Traffic Control Devices, but shall modify these to accord with:
  - (1) Local conditions.
  - (2) Compatibility with local road design.
  - (3) Size of the proposed project.

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- B. Driveways shall be at least 12 feet in width and should be located to the best advantage with regard to alignment with the way, profile, sight distance conditions, public shade trees and the like. Unless conditions require it, a driveway should not be located at the extreme edge of a property (side setbacks) or within 10 feet of an existing structure or utility. In no instance shall the driveway intersect the way at less than a 60° angle. In no instance shall a driveway exceed 12% grade or be less than 0.5% grade, except with the written approval of the DPW Director and the Fire Chief.
- C. No more than two driveways shall normally be allowed for any one property unless there is clear necessity for more. Leasing of a portion of the property does not affect this requirement. If a number of establishments will be constructed on one parcel, a service road may be required, to connect with allowable exit and entrance.
- D. A channelizing island may be required for an entrance to a high-volume traffic generator such as a shopping center. Acceleration and deceleration lanes may also be required for driveways to such projects. (The Department of Public Works may require a bond to guarantee the satisfactory construction of such driveways, in an amount not to exceed the estimated cost.)
- E. Driveways shall not normally be approved within 50 feet of intersections, particularly signalized intersections, because of the potential safety hazard which arises when a driver enters a road from a corner driveway and is not faced with a direct signal indication. Access directly into a rotary is also discouraged.
- F. In no instance shall a driveway have a pitch towards the roadway of greater than one inch per foot, unless adequate provisions have been made and approved by the DPW for the diversion of driveway surface runoff away from the roadway. The DPW may require methods of diversion for driveways having a pitch of greater than one inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way. The driveway apron shall match the street center line grade at the property line.
- G. All driveways shall access on the way on which legal frontage for that lot is established. Common driveways serving more than one lot shall not be permitted for residential purposes, unless otherwise permitted by Chapter 300, Zoning, of the Town bylaws.

### § 250-14. Exceptions.

No permit shall be required for driveways already in existence, except for significant alterations.

### § 250-15. Construction methods.

- A. When ~~existing~~ existing curbing and/or sidewalk has to be removed to construct a driveway, such sidewalk or curbing shall be removed for its full depth and to formed joints. The breaking and removal of parts of sidewalk slabs or parts of curbing other than at existing joints will not be permitted. Existing granite curbing and inlets shall be carefully removed and not damaged and shall remain the property of the Town and disposed of in accordance with the instructions from the Public Works Director. The applicant is responsible for the proper disposal of other excavated materials. When public shade trees need to be removed, or are damaged during construction, the applicant shall comply with Chapter 270, Article II, of the Town ~~Code~~ bylaws. Remaining public shade trees shall be protected during construction through a plan approved by the Tree Warden.
- B. The subgrade for driveways in the Town right-of-way shall be shaped parallel to the proposed surface and thoroughly compacted. After the subgrade has been prepared, a foundation of gravel shall be placed upon it. After thorough compacting, the foundation shall be at least 12 inches in thickness and parallel to the proposed surface of the walk, applied in layers of six inches, each layer compacted



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before the application of the subsequent layer.

- C. Driveways within the Town right-of-way shall be surface treated as to existing material unless otherwise approved. For existing concrete surfaces, the new concrete shall be placed in such quantity that, after being thoroughly consolidated in place, it shall have a depth of six inches. Cement concrete shall be Class D, 3000 lb. test. At the time of pouring, a welded mesh, 10 inches by 10 inches, No. 12 gauge shall be imbedded in the concrete. The final surface shall have a broom finish.
  - (1) For new and existing bituminous surfaces, a minimum thickness of two inches, after compacting, of bituminous concrete, Type I-1 shall be required, applied in two one-inch layers.
  - (2) Adequate provisions by petitioners are to be made to prevent water and silt from entering existing public ways during and after construction.
- D. Driveway drainage design shall be determined by the Director of Public Works or his agent upon review of the driveway plan and a site inspection.
- E. For residential properties in steep areas, the Department of Public Works may require that driveways have a minimum twenty-foot-long area with maximum grades of 2% for the parking of at least two passenger vehicles.
- F. Upon completion of the work, the applicant shall be required to have final inspection of the driveway by the Director of Public Works or his agent.

### § 250-16. Enforcement.

- A. A driveway permit shall be found to be abandoned and invalid unless all of the construction authorized by it shall have been completed within two years after its issuance.
- B. Any person who continues to violate any provision of this bylaw or of any permit issued hereunder after the expiration of 10 days following receipt by him of a written notice of violation shall be liable to a penalty not exceeding \$50 for each offense. Each day that such violation continues after said ten-day period shall constitute a separate offense.
- C. The Department of Public Works Director and/or the Building Inspector shall enforce the provisions of this bylaw.

## ARTICLE V

### Parking Ban

[formerly Ch. 6, § 6.70, of the Bylaws]

### § 250-17. Authority to implement ban.

The Town of Sturbridge, acting through its Board of Selectmen or Town Administrator, shall have the authority to implement and enforce a community-wide parking ban on public ways located within the Town as said Board or Town Administrator may deem necessary, for the purpose of facilitating travel on or over said public ways and the removal of snow and ice thereon, subject to the following ~~provision~~provisions.

### § 250-18. Limitations.

The Board of Selectmen and/or Town Administrator may implement such a parking ban on a per-storm or seasonal basis; provided, however, that the implementing of such a parking ban shall be limited to the period between the dates of November 15 through April 1 of the ensuing year.

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ARTICLE VI

**Street Excavations**

Formerly Ch. 6, § 6.90, of the Bylaws]

**§ 250-19. Word usage; definitions.**

A. Word usage. As used in this articlebylaw and when not inconsistent with the context, words in the present tense include the future, words in the plural include the singular, words in the singular include the plural, and the masculine shall include the feminine and the neuter. The word "shall" is always mandatory and not merely directory.

B. Definitions. As used in this articlebylaw, the following terms shall have the meanings indicated:

APPLICANT — Any person who makes application for a permit.

DPW DIRECTOR — The person in charge of the Department of Public Works operations for the Town of Sturbridge or his authorized representative.

EMERGENCY — Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or property.

PERMITTEE — Any person who has been issued a permit and has agreed to fulfill all the terms of this articlebylaw.

PERSON — Any natural person, partnership, firm, association, utility or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

STREET — A public street, public easement, public right-of-way, public highway, public alley, public way, public road or public sidewalk accepted or maintained by the Town.

**§ 250-20. Permit required for excavation; emergency openings.**

It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface or any street without first securing a permit from the Town for each separate undertaking; provided, however, that any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practically have been obtained beforehand. Such person shall thereafter apply for a permit on the first regular business day on which the office of the DPW is open for business, and said permit shall be retroactive to the date when the work was begun.

**§ 250-21. Size of opening limited.**

No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that upon the prior approval of the DPW Director, additional work may be done under the provisions of the permit. ~~except that upon the prior approval of the DPW Director, additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit.~~ Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limit mentioned herein.

**§ 250-22. Commencement of work.**

Work for which a permit has been issued shall commence within 14 days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

**§ 250-23. Nontransferability of permit or location.**

Permits are not transferable from one person to another, and the opening shall not be made in any place other than the locations specifically designated in the permit.

**§ 250-24. Expiration of permit; extension.**

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to the expiration of the permit, present in writing to the DPW Director a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the DPW Director, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

**§ 250-25. Exception for municipal utilities.**

All street openings required by utilities owned or operated by the Town shall be made and restored under the direction and supervision of the DPW Director. The permit, fee, deposit, insurance and bond requirements of this [article bylaw](#) shall not be applicable to any openings made by such municipally owned or operated utilities.

**§ 250-26. State exemptions.**

The provisions of this [article bylaw](#) shall not be applicable in those instances where the highway is maintained by the Commonwealth of Massachusetts.

**§ 250-27. Right to use of street.**

Every permit granted shall be subject to the right of the Town and of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, not inconsistent with the permit.

**§ 250-28. Revocation of permit.**

- A. Any permit may be revoked by the DPW Director after notice to the permittee, for:
  - (1) Violation of any condition of the permit or of any provision of this article.
  - (2) Violation of any provision of any other applicable [ordinance bylaw](#) or law relating to the work.
  - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
- B. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit, and a permittee may be granted a period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be

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notified.

- C. When any permit has been revoked and the work authorized by the permit has not been completed, the DPW Director shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Town shall be recovered from the deposit or bond the permittee has made with the Town.

### § 250-29. Duties and responsibilities of applicants.

It shall be the duty and responsibility of any applicant to:

- A. Make a written application for such permit to the DPW Director on a form providing all information necessary for the administration and enforcement of this ~~article~~ bylaw. No work shall commence until the DPW Director has approved the application and plan and has issued a permit, nor until the permittee has paid and provided all fees, deposits and certificates required by this ~~article~~ bylaw.
- B. Furnish in duplicate a plan showing the work to be performed under said permit. If approved by the DPW Director, one copy of such plan shall be returned to the applicant at the time the permit is granted.

### § 250-30. Duties and responsibilities of permittee.

It shall be the duty and responsibility of any person receiving a permit to:

- A. Pay a permit fee, established by resolution of the Board of Selectmen, per lineal foot of street opening measured along the length of the street opening; provided, however, that public utilities or authorities shall be billed quarterly for such fees as they shall accrue.
- B. Make a deposit to cover the cost of restoring the street damaged by such work. The amount of deposit or bond shall be established by the Board of Selectmen from time to time by resolution.
- C. Furnish a certificate of insurance, as required by § 250-38.
- D. Submit, when required by the DPW Director, a list of owners and tenants of all properties abutting the area where the work authorized by the permit is to be performed.
- E. Present evidence that all materials, labor and equipment needed to complete such work as authorized by the permit are available.
- F. Keep the original copy of the permit and an approved copy of the plan at all times while such work is in progress at the location for which said permit was granted, and show such permit and plan upon demand by Town authorities.

### § 250-31. Opening and excavation restrictions.

- A. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
- B. No more than 250 feet, measured longitudinally, shall be opened in any street at any one time without special permission in writing from the Board of Selectmen, and only in instances where a special hardship can be shown.
- C. All utility facilities shall be exposed sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.

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- D. Pipe drains, pipe culverts or toilet facilities encountered shall be protected by the permittee.
- E. In the event permittee damages the property or facilities of another, the permittee shall repair this damage within 12 hours in the case of a utility and within 48 hours in the case of any other private party. If the damage has not been repaired within these time limits, the party sustaining the damage shall undertake to have the repairs made ~~a~~ at his own expense and report to the Town as soon as possible the amount of expense incurred. This amount may be withheld from the permittee's deposit or bond by the DPW Director pending final determination and settlement of any liability for this damage. Whenever damage occurs, the injured party shall notify the DPW Director within 24 hours so that steps can be taken to determine the extent of the damage and plans can be made for its repair.
- F. When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the ~~satisfaction~~ satisfaction of the DPW Director.
- G. Safety devices.
- (1) Every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the DPW Director to be necessary for the protection of the public. Additional safety requirements may be prescribed by the DPW Director and, where applicable, a police detail shall be required.
  - (2) Whenever any permittee fails to provide or maintain the safety devices required by the DPW Director, such devices may be installed and maintained by the Town. The amount of the cost incurred shall be paid by the permittee or deducted from his deposit or bond. Such costs shall be determined by the Town.
  - (3) No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this ~~article~~ bylaw.
- H. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the permittee obtains written consent from the DPW Director to do the work at an earlier or later hour. Such permission shall be granted only in case of an emergency.
- I. In no case shall any opening made by a permittee be considered in the charge of the Town or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it is necessary to protect life and property.

### § 250-32. Deposit or bond

- A. When payable; purpose. The deposit or bond shall be made at the time the permit is received, and the deposit or bond shall be used to reimburse the Town for the cost of any work and materials furnished by it in connection with the work authorized by the permit and for any other purpose set forth in this ~~article~~ bylaw.
- B. Form of deposit or bond. The deposit or bond may be either in the form of a certified treasurer's or cashier's check or in lawful money of the United States.
- C. Insufficient deposit or bond. If any deposit or bond is less than sufficient to pay all costs, the permittee shall, upon demand, pay to the Town an amount equal to the deficiency. If the permittee refuses or fails to pay such deficiency, the Town may institute an action to recover the same in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.

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- D. Amount of deposit or bond. The amount of deposit or bond for street openings shall be as established from time to time by resolution of the Board of Selectmen.
- E. Waiver of deposit or bond. The deposit and bond requirement set forth in this ~~article~~bylaw may be waived by the Board of Selectmen if the work of excavation is being performed by the Town itself.
- F. Refund of deposit or bond. Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening and final inspection, the DPW Director shall refund to the permittee his deposit or release his bond less all costs incurred by the Town in connection with said permit and any other expenses required by this ~~article~~bylaw for which final settlement has not been made. In no event shall the permit fee be refunded once work has been undertaken.

### § 250-33. Insurance requirements.

Each applicant, upon the receipt of a permit, shall provide the Town with an acceptable certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work. Such insurance shall cover any and all possible hazards of whatsoever kind or nature and shall include protection against liability arising ~~from~~from completed operations. The amount of the insurance shall be prescribed by the Town in accordance with the nature of the risk involved; provided, however, that the liability insurance in effect shall be in an amount of \$1,000,000 for bodily injury, \$250,000 for damages to private property and \$250,000 for damages to Town property. Public utilities and authorities may be relieved of the obligation of submitting such a certificate if they are insured in accordance with the requirements of this ~~article~~bylaw.

## ARTICLE VII

### Curbs and Gutters

[formerly Ch. 6, § 6.91, of the Bylaws]

### § 250-34. Approval of construction.

It shall be unlawful for anyone to lay, construct or establish any walk, curb or gutter upon any portion of the public domain of the Town of Sturbridge without the approval of the DPW Director, who shall determine and establish the line and grade where such walk, curb or gutter may be laid and constructed.

### § 250-35. Removal of unapproved construction.

Any construction that is not approved by the DPW Director shall be removed at the expense of the person who made or caused to be made such walk, curb or gutter.

## Chapter 270 — TREES

[formerly Ch. 6, § 6.80, of the Bylaws]

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### § 270-1. Findings.

Trees are recognized as an asset to the community, providing a more healthful and beautiful environment in which to live. Trees and other vegetation provide oxygen, shade, protection from wind, glare, and noise, view barriers, wildlife habitat, aesthetics and a priceless psychological counterpoint to the man-made urban

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setting. Preserving trees is economically beneficial in attracting new residents, visitors and industry. When grown in the right place and proper varieties, trees enhance the value and marketability of property and promote the stability of desirable neighborhoods and commercial areas.

### § 270-2. Scope.

This bylaw is to be used for the removal of any ~~non-hazardous~~nonhazardous public shade tree by any individual, utility, organization, corporation, or agency other than the Town of Sturbridge. Actual removal shall only be performed by those permitted by the Tree Warden. Public shade trees shall, for the purpose of this bylaw, only include those trees which are within a public way or on the boundaries of any public way, as defined under MGL c. 87.

### § 270-3. Replacements required.

- A. Public shade trees shall not be removed other than by or on behalf of the Town, without suitable compensation to the Town by the applicant, for replacements. The value of existing shade trees for compensation purposes, is to be calculated on an inch-by-inch basis, measured at ~~D.B.H.~~DBH (diameter at breast height). All replacements shall be at least two-inch diameter DBH, nursery-grown stock. Cost of replacement trees is to be obtained from the ~~latest edition of the McMahon Heavy Construction Guide, or any successor thereto or any equivalent~~current cost guide approved by the Tree Warden.
- B. At the discretion of the Tree Warden, the applicant shall either:
  - (1) Arrange to plant suitable replacements using his own contractor, working to the Town's specifications; or;
  - (2) Make a cash contribution to the Town based upon the replacement cost estimate described above, to be used exclusively for the purchase and planting of replacement trees to the satisfaction of the Tree Warden.

### § 270-4. Exceptions.

This bylaw is to be followed for all public shade trees except:

- A. Trees that are determined by the Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one that is likely to fall, or significant portions are likely to fall under mild environmental conditions.
- B. Deciduous trees that are less than five inches in diameter that are, in the opinion of the Tree Warden, of no significant value. Diameter is measured at breast height (~~D.B.H.~~DBH).
- C. Conifer trees less than eight inches ~~D.B.H.~~DBH.
- D. Any size tree of the following species with prior approval of the Tree Warden: Poplar, Cherry, Locust, Gray Birch and Black Birch.

### § 270-5. Liability for expenses.

Any applicant who wishes to remove a ~~non-hazardous~~nonhazardous public shade tree is responsible for the following expenses:

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- A. Legal advertising.
- B. Cost of removal of tree stump, including the hauling away of all debris, and filling the stump hole.
- C. Planting of sufficient replacement trees to fulfill the requirements of this bylaw.
- D. Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility service.
- E. All other costs related to removal and replanting.

§ 270-6. Work in protected root zone of public shade trees.

If an applicant proposes to trim, prune, dig, trench, or alter the existing ground line by filling or excavating within the protected root zone of a public shade tree, and if, in the opinion of the Tree Warden, the proposed work will adversely affect the health, beauty, structural integrity or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as removal of the tree. In those cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an immediate hazard. In either case, the appropriate replacement plantings must be provided by the applicant in accordance with §§ 270-1 through 270-4 hereof. The protected root zones for all trees subject to this bylaw are as shown on the table below.

Protected Root Zones	
Tree Diameter at 4.5 Inches (inches)	Radius of <del>P.R.Z.</del> PRZ (feet)
2.0 to 4.40	2.0
4.1 to 9.0	5.0
9.1 to 14.0	10.0
14.1 to 20.0	12.0
20.1 or greater	15.0

§ 270-7. Approval of tree removal contractors.

The tree removal contractor to be paid for by the applicant, must be approved by the Tree Warden as to equipment, qualifications and experience. The tree removal contractor shall provide certificates of insurance, satisfactory to the Town, in the following amounts:

- A. \$100,000 ~~Workmen's~~worker's compensation.
- B. \$300,000 bodily injury.
- C. \$300,000 property damage.
- D. \$1,000,000 excess liability.

§ 270-8. Bonding.

If, at the sole discretion of the Tree Warden, it is determined that the applicant shall submit a bond to secure performance of the tree removal services, the applicant shall submit such a performance bond, in a form and amount approved by the Tree Warden, issued by a bonding company authorized to do business within the Commonwealth of Massachusetts, prior to the commencement of any work pursuant to this bylaw. Said bond shall specifically secure the following costs and services:



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- A. Cost of removal of tree and stump, including the hauling away of debris, and the proper filling of the stump hole.
- B. Cost of police traffic details, repair of ~~streets~~street surface and the road shoulder, protection and restoration of utility services.
- C. All other costs related to the removal and planting.

### § 270-9. Minimum standards for work.

All tree work shall be performed in compliance with ANSI Z-133 and National Arborist Association standards. The applicant must guarantee the health of the replacement tree for three years from the date of planting.

### § 270-10. Size, species and location of replacement trees.

Replacement trees shall be of such size and species as specified by the Tree Warden, and will be planted on public property, along ~~right~~rights-of-way and on setbacks as allowed by MGL ~~Chc.~~ 87, § 7. All planting locations shall be determined by the Tree Warden.

### § 270-11. Refusal to grant permission to remove trees.

Nothing in this bylaw shall be deemed to compel the Tree Warden to permit the removal of any ~~non-hazardous~~nonhazardous tree. The Tree Warden may refuse to grant the permit for the removal of a ~~non-hazardous~~nonhazardous tree if, in his opinion, the tree is of historical or scenic value, is of a size or species not commonly found along the roadways of Sturbridge, has significant wildlife value, or is an unusually healthy or significant specimen.

### § 270-12. Appeals.

All decisions of the Tree Warden may be appealed to the Board of Selectmen.

## Chapter 279 - VEHICLES, ABANDONED

[formerly Ch. 3, § 3.0, of the Bylaws]

**[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]**

### § 279-1. Outdoor storage prohibited.

No person shall accumulate, keep, store, park, place, deposit or permit to remain upon exterior premises owned by him or under his control, any dismantled, unserviceable, junked or abandoned motor vehicle or parts thereof, unless he has a valid license to do so under the General Laws.

### § 279-2. Violations and penalties.

- A. Whoever violates or continues to violate this bylaw after having been notified by registered mail of such violation shall be punished by a fine as follows:
  - (1) ~~1st Offense~~First offense: verbal or written warning.

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- (2) ~~2nd~~Second offense: \$25.
  - (3) Each successive offense: \$50.
- B. Each day during which such violation is permitted to continue shall be deemed a separate offense.

### Chapter 286 – WETLANDS

[formerly Ch. 3, §§ 3.50-3.65, of the Bylaws]

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[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

#### § 286-1. Purpose and intent.

- A. The purpose of this bylaw is to protect the wetlands, related water resources and adjoining land areas in Sturbridge by controlling, via prior review and approval, activities deemed by the Sturbridge Conservation Commission (hereinafter referred to as "Conservation Commission") as likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, recreation values, agriculture and aquaculture, deemed important by the community (collectively, the "resource area values protected by this bylaw").
- B. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and its associated regulations (310 CMR 10).

#### § 286-2. Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps; seasonal wetlands; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; land under water bodies; land subject to flooding or inundation by surface water or ~~ground water~~groundwater; and lands within 200 feet of any of the aforesaid resource areas (collectively the "resource areas protected by this bylaw"). Said resources shall be protected whether or not they border surface waters.

#### § 286-3. Exceptions.

- A. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or the Town of Sturbridge, provided that notice, oral or written, is provided to the Conservation Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission certifies the work as an emergency project, and provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that protective measures required by the Conservation Commission are complied with, and provided that, within 21 days of the commencement of an emergency project, a permit application shall be filed with the Commission for

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review as provided by this bylaw.

- B. Other than stated in this section, the exceptions provided in the Massachusetts Wetlands Protection Act shall not apply.

### § 286-4. Applications for permits and requests for determination.

- A. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Conservation Commission to describe the proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Conservation Commission will accept applications with a level of detail consistent with that required by the Massachusetts ~~Wetland~~Wetlands Protection Act, but reserves the right to require additional information as required to adequately review the proposed activity and determine its effect on the protected areas.
- B. When the Conservation Commission deems it appropriate, it will accept a combined application under this bylaw and the Massachusetts Wetlands ~~Protect~~Protection Act. If a combined application is accepted, the additional filing fee will be waived.
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may, in writing, request a determination from the Conservation Commission. Such a request for determination of applicability (RDA) shall contain data and plans as are deemed necessary by the Conservation Commission.
- D. At the time of a permit application or RDA, the applicant shall pay a filing fee specified in the regulations adopted by the Conservation Commission. This fee is in addition to any fee required by the Massachusetts Wetlands Protection Act.
- E. Upon receipt of a permit application or RDA, or at any time during the hearing process, the Conservation Commission is authorized to require the applicant to pay for the reasonable costs and expenses of any consultant(s) deemed necessary by the Conservation Commission to review the application or RDA. These costs and expenses shall be paid directly to the consultant by the applicant. The exercise of discretion by the Conservation Commission in making a determination that outside consultant expertise is required shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. The specific consultant services may include, but are not limited to, performing area survey and delineation; analyzing wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.
- F. The Conservation Commission may waive the filing fee for an application or request filed by a government agency and shall waive the filing fee for a request for determination of applicability filed by a person with no financial connection with property which is the subject of the request.

### § 286-5. Notice and hearings.

- A. Any person filing a permit application or ~~aan~~ RDA with the Conservation Commission shall, at the same time, give written notice thereof, by certified mail ~~to~~, with return receipt, to all abutters according to the most recent records of the Assessors, including those across a traveled way or body of water. The notice to abutters shall include a copy of the application or request, with plans, or shall state where plans can be examined and obtained by abutters free of charge. When a person requesting a determination of applicability is other than the owner, the request, the notice of hearing and the determination of applicability itself shall be sent by the Conservation Commission to the owner as

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well as the person making the request.

- B. The Conservation Commission shall conduct a public hearing on any permit application or RDA. Written notice of the date and time shall be published in a newspaper of general circulation in the municipality at least five working days prior to the hearing. The cost of the publication shall be paid by the applicant.
- C. The Conservation Commission shall conduct a hearing within 21 days of receiving a complete permit application or request for determination of applicability unless an extension is authorized by the applicant.
- D. The Conservation Commission, in an appropriate case, may combine the hearing under this bylaw and the Massachusetts Wetlands Protection Act.
- E. The Conservation Commission shall have the authority, with the consent of the applicant, to continue the hearing to a date and time certain announced at the hearing, for reasons stated at the hearing, such as conducting a site visit or obtaining additional information. If the applicant does not consent to a continuation of the hearing, the hearing shall be closed and a decision rendered based on the information available to the Conservation Commission.

### § 286-6. Coordination with other boards.

Any person filing a permit application or RDA with the Conservation Commission shall provide, at the same time, a copy to the Board of Selectmen, Planning Board, Board of Health, Building Inspector, and Town Engineer. The Conservation Commission shall not take final action for at least 14 days to allow the above to submit written comments and recommendations with the Conservation Commission, which the Conservation Commission shall take into account but shall not be binding on the Conservation Commission. The applicant shall have the right to receive any such comments and recommendations, and respond to them at a hearing of the Conservation Commission, prior to final action.

### § 286-7. Permits, determinations and conditions.

- A. The Conservation Commission, within 21 days of closing a public hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Conservation Commission shall impose conditions it deems necessary or desirable to protect the ~~wetlands~~ resource area values protected by this bylaw. The applicant shall conduct all permitted activities in accordance with those conditions. The Conservation Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities. Lands within 200 feet of rivers, ponds, lakes, and other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time as a consequence of daily operation or existence of activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Conservation Commission therefor may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 200-foot area unless the applicant convinces the Conservation Commission that the area or part of it may be disturbed without harm to the values protected by ~~the~~ this bylaw.
- B. In the review of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that:

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- (1) There is no practicable alternative to the proposed project with less adverse effects;
  - (2) Such activities, including mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw.
- C. The Conservation Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives and overall project costs.
- D. To prevent wetlands loss, the Conservation Commission shall require applicants to avoid wetlands alterations wherever feasible; shall minimize wetlands alteration; and where alteration is unavoidable, shall require full mitigation. The Conservation Commission may authorize or require replication of wetlands as a form of mitigation.
- E. The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to meet the performance standards of the bylaw; or when the Conservation Commission determines that it is not possible to conduct the requested activity without unacceptable wetlands alterations; or for any other grounds consistent with this bylaw and the Massachusetts Wetlands Protection Act, and within the Conservation Commission's authority under MGL c. 40, § 8C. A permit shall expire three years from the date of issuance. The Conservation Commission, at its discretion, may renew a permit for a period of time deemed appropriate by the Conservation Commission, providing written request for renewal is received by the Conservation Commission at least one month prior to the date of expiration.
- F. The Conservation Commission may, for good cause, revoke or modify a permit issued under this bylaw after public notice and public hearing, and notice to the permit holder.
- G. The Conservation Commission, in an appropriate case, may combine the permit or other action on the permit application issued under this bylaw with the order of conditions or denial issued under the Massachusetts Wetlands Protection Act.
- H. No work proposed in any permit application shall be undertaken until the permit issued by the Conservation Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the Registry Section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Conservation Commission that the permit has been recorded.

### § 286-8. Regulations.

- A. After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their validity by a court of law shall not act to suspend or invalidate the effect of this bylaw.
- B. Until such rules and regulations are issued by the Conservation Commission, the rules and regulations of the Massachusetts Wetlands Protection Act (310 CMR 10) shall be considered to apply to any permit applications or requests for determination filed under this bylaw.

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### § 286-9. Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw:

ALTER — Includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns or flood retention characteristics;
- C. Drainage or other disturbance of water level or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill, or removal of material, which would alter elevation;
- F. Driving of piles, or construction or repair of buildings, or structures of any kind;
- G. Placing of obstructions or objects in water;
- H. Destruction of plant life, including cutting of trees. Compliance with the Massachusetts Forest Cutting Practices Act (MGL c. 132, §§ 40-46) does not relieve any person from compliance with this bylaw. For purposes of this bylaw, "destruction" shall mean uprooting, or cutting down below the leaf or needle region of the plant. It shall not be interpreted to mean periodic mowing or pruning. This provision of the bylaw shall apply to plant life greater than two inches in diameter at a distance of four feet above the ground;
- I. Changing water temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water;
- J. Any activities that may cause or contribute to pollution of any body of water or groundwater;
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

BANK — Includes the land area which normally abuts and confines a water body.

PERSON — Includes any individual, group of individuals, business or social organization, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of Massachusetts or political subdivision thereof, administrative agency, public or quasi-public corporation or body and any other legal entity, its legal representatives, agents or assigns.

RARE SPECIES — Includes, without limitation, all vertebrate and invertebrate animals and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

SEASONAL WETLAND — Shall define areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snow melt or heavy precipitation, and support populations of ~~non-transient~~nontransient macro-organisms or serve as breeding habitat for select species of amphibians.

SELECT SPECIES OF AMPHIBIANS — Shall define species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystoma* ~~*maeculatum*~~*maculatum*, *A. jeffersonianum*~~*jeffersonianum*~~, *A. laterale*, and *A. opacum*); four-toed salamanders (*Hemidactylum scutatum*); eastern spadefoot toads (*Scaphiopus* ~~*holbrookii*~~*holbrookii*); American and Fowler's toads (*Bufo*

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a. americanus and B. woodhousii fowleri), spring peepers (Hyla c. crucifer); gray treefrogs (Hyla versicolor), and wood frogs (Rana sylvatica).

VERNAL POOL — Includes a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.

### § 286-10. Security.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or ~~estate~~ board, agency or official, the Conservation Commission may require that the performance and observance of the conditions impose hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission;
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of Sturbridge, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

### § 286-11. Enforcement; violations and penalties.

- A. The Conservation Commission shall have the authority to enforce this bylaw, its rules and regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.
- B. Upon request of the Conservation Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law.
- C. Any person who violates any provisions of this bylaw, rules and regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, rules and regulations, and permit violated shall constitute a separate offense.
- D. In the alternate to criminal prosecution, the Conservation Commission may elect to utilize the ~~non-criminal~~ noncriminal disposition procedure set forth in MGL c. 40, § 21D and as set forth in Chapter 1, Article I of the Town bylaws.

### § 286-12. Burden of proof.

The applicant for a permit shall have the burden of proof by a preponderance of the credible evidence that the work proposed in the application will not unacceptably alter the ~~wetland~~ resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.

### § 286-13. Relation to Massachusetts Wetlands Protection Act.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Massachusetts ~~Wetland~~ Wetlands Protection Act, MGL ~~Ch.~~ c. 131, § 40,

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and regulations thereunder.

### § 286-14. Applicability to previously approved projects.

Any projects possessing a valid order of conditions issued under the Massachusetts Wetlands Protection Act at the time of adoption of this bylaw shall not be subject to re-review under this bylaw. Any revisions to the projects after adoption of this bylaw that require an amended order of conditions will be subject to review under this bylaw.

### § 286-15. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

## Chapter 300 - ZONING

[HISTORY: Adopted by the Town Meeting of the Town of Sturbridge. Amendments noted where applicable.]

### 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 ~~corporation~~corporations as well as ~~individual~~individuals; the words "used" or "occupied" shall be



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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~~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 craftsman, 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.

~~BOARDING HOUSE~~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 ~~boarding house~~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, ~~trailer coaches~~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-

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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~~THROUGH MENU SIGN — A sign associated with drive-~~thru~~through windows or kiosks and directed to drive-~~thru~~through 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 boarding house~~boardinghouse~~.

~~EXECUTIVE OFFICES — An office building occupied by the office or headquarters of businesses or corporations. Such facilities may contain conference areas, auditoriums for corporate use, a cafeteria and/or corporate dining area, banking facilities for employees, a health club/fitness area and child care facilities.~~

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

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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~~-through 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~~-through 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~~-ground or ~~Monument Sign~~-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

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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

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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 ~~100kW~~100 kW/0.1MW ~~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.

~~**MAINTENANCE BUILDINGS** — Structures not to exceed 2,000 square feet, one story in height, five parking spaces and one loading space, which are used primarily to service equipment used for grounds care and/or building maintenance on a site.~~

**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,

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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. If the provisions of the MMOD are silent on a zoning regulation, the requirements

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of the underlying district shall apply. If the provisions of the MMOD 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 ~~premise-premises~~ tasting and consumption.

~~MICRO-BUSINESS~~**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~~ — ~~Attached, semidetached or detached dwelling units having separate outside entrances, parking space convenient to each unit and providing lodging for transient clientele. See "hotel/motel/inn."~~

~~MULTI-FAMILY~~**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.

~~NON-PROFIT~~**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 ~~bylaw~~bylaws and not intending or intended to earn a profit.

~~NON-CONFORMING~~**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 ~~offsite~~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 ~~105935~~ CMR 725-00501, 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

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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.

~~PAR THREE GOLF — Golf course including customary accessory buildings, where tee to hole distances average less than 80 yards and no one hole has a distance of greater than 125 yards from its tee.~~

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,~~ "medical marijuana treatment center," means an entity registered under ~~105935~~ CMR 725.100501.050, 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-through~~ window.

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

~~SET BACK~~ SETBACK — The minimum distance from the street line or property line that a structure and parking area must be set except as regulated under ~~Chapter 22, Section 22.16, Location of Signs, and Chapter 25.06(k) Buffering-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



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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 ~~detached~~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 ~~100kW~~100 kW/~~0.1MW~~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

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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 ~~is~~ 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 ~~set back~~ 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

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### § 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)
<del>COMERCIAL</del> COMMERCIAL/TOURIST	(CT)
HISTORIC COMMERCIAL	(HC)
SPECIAL USE	(SU)
VILLAGE GATEWAY DISTRICT	(VGD)
WIRELESS COMMUNICATION OVERLAY	(WC)
MEDICAL MARIJUANA OVERLAY DISTRICT	(MMOD)

### § 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", ~~dated February 1, 1965,~~ and the "Town of Sturbridge - Overlay District Map" ~~originally dated January 9, 1998 and,~~ as most recently revised as per the date and on file in the ~~Foreword of this bylaw~~ 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,~~ provided, however, that any person aggrieved by their decision may appeal to the Zoning Board of

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Appeals.

### § 300-3.4. Floodplain District.

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

A. The purposes of the Flood Plain District are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

B. The general boundaries of the Flood Plain District includes all special flood hazard areas within the Town of Sturbridge designated as Zone A and AE, on the Worcester County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Sturbridge are panel numbers 25027C0745E, 25027C0761E, 25027C0762E, 25027C0763E, 25027C0764E, 25027C0766E, 25027C0767E, 25027C0768E, 25027C0769E, 25027C907E, 25027C0909E, 25027C0917E, 25027C0919E, 25027C0926E, 25027C0927E, 25027C0928E, 25027C0929E, 25027C0931E, 25027C0932E, 25027C0933E, 25027C0936E and 25027C0940E dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. 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.

C. Within Zone A, where the one hundred (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 Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with M.G.L., Ch. 131 § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plain 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.

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.

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(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.

(a) Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to each of the following:

~~(a)~~[1] Board of Health;

~~(b)~~[2] Town Engineer/DPW Director;

~~(c)~~[3] Conservation Commission;

~~(d)~~[4] Director of Inspections; and, if concerned

~~(e)~~[5] Fire Chief;

~~(f)~~[6] Police Chief;

~~(g)~~[7] Board of Selectmen.

~~(g)~~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) All encroachments, including fill, new construction, substantial improvement to existing structures, and other developments are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that the encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.

(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) All other necessary permits including State and Federal permits must be received prior to any construction, alteration or other development. In situations involving a river, the developer must show proof of notification to adjacent communities and the State Coordinating Office prior to any alterations or relocation of a watercourse and submit copies to the Federal Insurance Administration of said notifications.

(6) No building, development or substantial improvement shall be allowed in a floodway.

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- (7) The flood-carrying capacity shall be maintained within any altered or relocated portion of any watercourse.
- (8) A minimum of 98% of the natural surface and underground flood storage volume of the site shall be maintained.
- (9) All new construction and substantial improvements shall be constructed with flood resistant materials and methods, and anchored to prevent flotation and lateral movement.
- (10) Safe and permanent access shall be maintained by the owner from the nearest public way to any proposed building in the floodplain.
- (11) 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.
- (12) The Director of Inspections shall be furnished with:
  - (a) The elevation in relation to mean sea level of the lowest habitable floor including basement.
  - (b) If the structure has been flood-proofed, the elevation to which the structure has been flood-proofed.
- (13) 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).
- (13) 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.
- (14) 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 ~~water tight~~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.

### 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).

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- (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

**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 ~~fein~~ 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:

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

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,

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- 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) ~~Micro-brewery~~ 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 ~~club-house~~ clubhouse facilities are at least 100 feet from any residence.
  - (2) Campground as defined in Part 1, Article II, of this bylaw.



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- (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.
  - (5) 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.
  - (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.

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- (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) ~~Multi family~~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.

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(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.

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- (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-(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 ~~General Bylaws~~ 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

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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

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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 ~~the Bylaw~~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 ~~is~~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 ~~General Bylaws~~ 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.

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- (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 General Bylaws 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:

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- (1) ~~Telegraph offices, telephone~~ Animal clinic or hospital, including animal rescue.
- (2) Business support services.
- (3) Child day-care center.
- (4) Equipment sales and ~~express~~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.
- (~~21~~) Newspaper printing and job printing.
- (~~31~~2) 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.
- (~~4~~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.
- (~~5~~15) Automobile repair shop, automobile storage garage, automobile salesroom or lot not to exceed 40 vehicles for sale.
- (~~6~~16) Accessory uses customarily incidental to a permitted main use on the same premises.
- (7) ~~Office with a minimum floor area of 30,000 square feet per building.~~
- (~~8~~17) Professional offices and call centers.
- (18) Professional, scientific and technical services.
- (19) Hotel, inn or motel.
- (~~9~~20) A multi-specialty physician office building wherein physicians and non-physician providers and support staff provide diagnostic and treatment services to ambulatory and ~~out~~ patientsoutpatients, with the assistance and support of laboratory, radiology, physical therapy, pharmacy, mental health, and other related personnel and equipment.
- (~~40~~21) Walking, hiking, bicycling, roller skating, picnicking, cross-country skiing, snow shoeing through the establishment of trails.
- (~~41~~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.



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- (~~423~~) Bank.
- (~~424~~) 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.
- (~~425~~) 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 General Bylaws 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.

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- (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 ~~out~~ patients/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~~ food establishment.
  - (13) ~~Walk-Up Establishment~~ 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

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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 General Bylaws 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").<sup>1</sup> The HC 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.

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<sup>1</sup>. 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.

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- (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 ~~confectionary~~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.

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- (a) Purpose. The purpose of this ~~section~~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 ~~section~~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:

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- [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 sections 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

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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 ~~General Bylaws~~ 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.

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- (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) ~~Mobile retirement~~ 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 isare consistent with the location, scale and characteristics of the uses of the site and isare 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) ~~Multi family~~ 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.



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- 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.

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**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 ~~Ch.~~ 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 ~~are~~ is hereby established within the Town a Groundwater Protection

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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 ~~chapter~~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.

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- (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 ~~Section 165-7~~Article II of this ~~chapter~~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).

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- (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 ~~they~~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.

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### § 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.
- 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.

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- 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 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;

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- (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



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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 ~~confectionary~~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~~through 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~~through.

### § 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

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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 ~~XV~~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 and 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 ~~Chapter 20(s).~~§ 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.

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- (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 ~~are~~ 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 ~~Illumination~~ 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

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- identity. These elements might include Georgian, Federal, and Greek Revival details, ~~complimentary~~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 ~~it emulates~~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 ~~non-removable~~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

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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 ~~bio-swailes~~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 ~~and~~.
- (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 ~~Approval~~Review; where landscape standards conflict, those found in this ~~chapter~~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 ~~non-~~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.

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- (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~~non-invasive, and to improve appearance. ~~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

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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 ~~non-invasive, 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.~~ non-invasive, 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 groundcoverground 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

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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 ~~section~~ 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, ~~105935~~ CMR 725.001,500 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.



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- 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 ~~105935~~ CMR 725.004502.110.

### § 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 ~~Department of Public Health ("DPH");~~ 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 ~~DPH~~ the CCC for the RMD;
  - (8) A copy of the emergency procedures approved by ~~DPH~~ the CCC for the RMD or OMMD;
  - (9) A copy of the policies and procedures for patient or personal caregiver home-delivery approved by ~~DPH~~ 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 ~~DPH~~ the CCC;
  - (11) A copy of proposed waste disposal procedures; and
  - (12) A description of any waivers from ~~DPH~~ CCC regulations issued for the RMD or OMMD.

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- 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 ~~105935~~ CMR ~~725.110F501.110~~ 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

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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 ~~section~~ 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.

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**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

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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** — ~~Non-structural~~**Nonstructural** stormwater management techniques that use passive surface ~~pre-treatment~~**pretreatment** of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic ~~predevelopment~~**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 ~~chapter~~**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 ~~chapter~~**article**, unless the Planning Board allows a development that deviates from the requirements of this ~~chapter~~**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 ~~chapter~~**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

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- 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 ~~Water~~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

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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 ~~ground-water~~ 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 Regulations) to include any abutting parcels within 200 feet.

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- (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 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 ~~onsite~~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



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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.)

- 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.

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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

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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 ~~mph~~ 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 ~~15 inches~~ 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

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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 ~~access ways~~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 ~~non-contiguous~~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.

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- (b) Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, ~~un-fragmented~~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.

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- (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.

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- (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, ~~multi-family~~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) ~~Multi-family~~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

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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 ~~multi-family~~ 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.



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- 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, 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.

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- (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 ~~two~~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 bylaw or the Subdivision Rules and Regulations of the Planning Board, 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.

## ARTICLE IX Wireless Communications Facilities

### § 300-9.1. Purpose; applicability.

- A. The purpose of this ~~section~~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 ~~section~~article does not apply to satellite dishes and antennas for residential use.

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### § 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

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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 ~~free-standing~~ 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:

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- (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 ~~Typ~~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.

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- 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,

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applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), ~~Massachusetts~~MassDOT Aeronautics ~~Commission~~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

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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.



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### 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 ~~Historical~~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, 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;
  - (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;

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- (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

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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 ~~re-vegetation~~ 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

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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. Accessory Dwelling Units

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 shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is contained within the structure of a single-family dwelling or attached accessory structure as specified in this section, but functions as a separate unit. 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 in Owner Occupied, Single-Family Dwellings, provided that the following standards and criteria are met:

- A. The accessory unit shall clearly be a subordinate part of the single family dwelling. It shall be no greater than 600 square feet or twenty percent of the total square footage of the existing home, whichever is less.
- B. The accessory unit will be a complete, separate housekeeping unit that functions as a separate unit

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from the original unit.

- C. Only one accessory unit shall be created. This accessory unit shall be either within the single-family dwelling or the attached accessory structure.
- D. The lot on which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.
- E. The owner(s) of the residence in which the accessory unit is located shall occupy at least one of the dwelling units on the premises except for bonafide temporary absences.
- F. The accessory dwelling 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.
- G. An addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than twenty (20) percent or 600 square feet whichever is less, and the addition will not alter the character of the building.
- H. At least 1.5 off-street parking spaces per dwelling unit are available for use by the owner occupant(s) and tenant(s). Parking spaces shall be located to the side of the rear of the structure, to the extend feasible. The maximum number of an site parking spaces shall be five.
- 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 ~~Permit~~permits that have been adopted and amended from time to time by the SPGA, 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. Upon receiving a Special Permit, the owner(s) must file for the subject property a Declaration of Covenants at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory unit ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the SPGA.
- C. 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. Transfer of ownership of dwelling with accessory dwelling unit.

- A. The temporary special permit for an accessory unit in an owner occupied, single family dwelling shall terminate upon the shall of property or transfer of title of the dwelling, unless the SPGA has approved a transfer of the special permit to the new owner.
- B. The new owner(s) must apply for transfer of a special permit for an accessory unit in an owner

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occupied, single family dwelling and shall submit a notarized letter of application attesting that he/she/they will occupy one of the dwelling units on the premises and a written request to the SPGA stating that conditions at the time of the original application remain unchanged. Minor changes maybe approved without a hearing.

- C. Upon receiving the transferred special permit, the new owner(s) must file for the subject property a Declaration of Covenant at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory unit ceases upon transfer of title. A time stamped copy of the recorded Declaration shall be provided to the SPGA.

### § 300-11.7. Accessory units in existence before adoption of Accessory Dwelling Unit bylaw.

- A. Statement of intent.

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.

- B. Application procedure.

The SPGA may authorize, under a special permit and in conjunction with the Building Inspector, and 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.

The applicant must follow the same procedures described in this Accessory Unit Bylaw including the submission of a notarized letter attesting to owner occupancy and a Declaration of Covenants.

### § 300-11.8. Required renewal.

A special permit for an accessory dwelling unit shall be two (2) years. At the end of each two (2) year period, renewal shall be granted upon receipt of a new application, accompanied by the appropriate filing fee as listed on the Town of Sturbridge Fee Schedule, and certification by the owner to the Zoning Board of Appeals that the property remains the principal residence of the owner, and that all other conditions met at the time of the original application remain unchanged. The ZBA in its discretion may require a 92 new special permit and demonstration of compliance with all the conditions necessary for a special permit for an accessory apartment, pursuant to eh special permit requirements of this bylaw.

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### ARTICLE XII Removal of Sand and Gravel

#### § 300-12.1. Special permit required.

The removal of sand, gravel, ~~sub-soil, top soil~~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 ~~to~~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.

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### ~~Exception for 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 chapter shall not apply to such operation which are incidental to and in connection with the construction of a building on a lot.~~

### § 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; ~~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. Removal and processing operations shall not be conducted closer than 50 feet to a public street or to any property line.~~
- ~~BA.~~ 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 ~~from~~to any public street or ~~from~~to any adjoining property lines.
- ~~CB.~~ Any access to excavated areas or areas in the process of excavation shall be adequately posted with KEEP OUT - DANGER signs.
- ~~DC.~~ Any work or bank that slopes more than 30° downward adjacent to a public street shall be adequately fenced at the top.
- ~~E. Fencings~~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.
- ~~FE.~~ Adequate provision is to be made for drainage during and after the completion of operations.
- ~~GF.~~ Adequate lateral support shall be maintained for all adjacent properties.
- ~~HG.~~ 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 ~~Public Safety~~Fire Services and the Sturbridge Fire Department.



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- ~~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.~~ ~~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.~~
- ~~K.~~ Finished grades shall not exceed a slope of one -foot vertical to two feet horizontal.
- L. 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 ~~sub-section~~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.~~ ~~Finished slopes in excavated areas shall not exceed one foot vertical to two feet horizontal.~~
- CB. Except in the case of dams, swimming pools, or where retaining walls are to be constructed, no removal ~~or~~, excavation or processing shall be conducted within 50 feet of any street or property line.
- DC. 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.
- ED. 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.

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### § 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 ~~re-grading~~regrading is not being performed in accordance with said permit.

## ARTICLE XIII Adult Use Marijuana

### § 300-13.1. Purpose.

The purpose of this ~~section~~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 ~~section~~bylaw shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This ~~section~~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 ~~section~~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 ~~section~~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

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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 ~~micro-business~~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.

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- 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,

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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 ~~section~~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 ~~section~~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.

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

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this bylaw may be continued although such structure or use does not conform with provisions of ~~the~~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 ~~ordinance~~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 Town's Zoning Bylaws, Chapter Twenty, Sections 20.22 Bylaw, Off-Street Parking, Loading and 20.23 required parking and loading Drive-Through 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

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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 ~~in excess~~ 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 ~~set-backs~~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



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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 ~~set back~~setback from street line nor within the required ~~set back~~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,~~ 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 ~~set back~~setback from street line nor within the required ~~set back~~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~~Notwithstanding any other provision or provisions of this bylaw to the contrary, ~~and~~ no building or structure shall be constructed and no building, structure, ~~or~~ or land, ~~or~~ 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,~~ which, in the judgment of the ~~Director of Inspections~~Building Inspector:

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- (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 ~~front~~ 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-Through Standards

#### § 300-16.1. Purpose.

- A. The purpose of this ~~section~~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 ~~chapter~~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.

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- C. Parking shall not be located within the applicable ~~set back~~ 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~~u~~-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.

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### § 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 ~~Hllumination~~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 ~~EVCSs~~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 ~~non-illuminated~~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 ~~are~~is highly encouraged for walkways and crosswalks within the site.

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- 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:

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- (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 120%~~ 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.

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**§ 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 ~~section~~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
<b>Residential Categories</b>		
	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
<b>Retail and Service</b>		
	Hotel, inn, motel	1 per room and 1 per employee
	Retail	1 per 200 square feet of gross floor area
	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
<b>Office</b>		
	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

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<b>Use Categories</b>	<b>Specific Uses</b>	<b>Minimum Required</b>
<b>Other Commercial</b>		
	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
<b>Industrial</b>		
	Manufacturing and production	1 per 2 employees
	Warehouse and wholesale	1 per 2 employees
<b>Institutional</b>		
	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 ~~chapter~~ ~~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.



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- (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-through facilities.

- A. Purpose. The purpose of this ~~chapter~~/section is to regulate drive-~~thru~~-through facilities by imposing certain performance standards to ensure that the design and operation of such uses effectively mitigate problems commonly associated with drive-~~thru~~-through 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~~-through 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~~-through 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~~-through aisles shall have a minimum ten-foot interior radius at curves and a minimum twelve-foot width.
  - (2) Each drive-~~thru~~-through 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~~-through aisle and the direction of traffic flow shall be clearly designated by signs and pavement markings.
  - (4) Each drive-~~thru~~-through 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~~-through 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. ~~Nonfood~~Non-food and/or non-beverage businesses may reduce the stacking space to a

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minimum of 60 feet.

- (3) Stacking lanes and their circulation may include escape lanes at logical and functional locations for drive-~~thru~~-through 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, ~~thru~~through the use of means such as striping, landscaping, and signs.
  - (6) Double drive-~~Thru~~-through lanes may be acceptable if they do not interfere with smooth and safe pedestrian and vehicular traffic circulation.
- E. Landscaping of the drive-~~thru~~-through 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~~through 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~~through 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~~through 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~~through 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~~through 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~~through 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~~through 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~~through 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.

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### 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 ~~chapter~~ 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.

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- 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 ~~premise-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. ~~Non illuminated~~ 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.

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- 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 ~~non-registered~~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 ~~premise~~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 ~~Historie~~Historical Commission, as applicable.
  - (2) ~~The~~No sign ~~will not~~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

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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 ~~free-standing~~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) ~~Sign~~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) ~~The sign is~~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.**

<b>Zoning District or Sign Type</b>	<b>Front Setback (as measured from edge of pavement or edge of sidewalk as may be applicable)</b>	<b>Rear and Side Setback</b>	<b>Notes</b>
Commercial, Commercial II, General Industrial, Industrial Park, Historic Commercial, Special Use District	10 feet	10 feet	

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<b>Zoning District or Sign Type</b>	<b>Front Setback (as measured from edge of pavement or edge of sidewalk as may be applicable)</b>	<b>Rear and Side Setback</b>	<b>Notes</b>
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 ~~chapter~~ 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

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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



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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) ~~Free-standing~~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 ~~chapter~~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 ~~trade mark~~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:

<b>Type of Sign</b>	<b>Square Footage</b>	<b>Total Number</b>	<b>Freestanding</b>	<b>Wall or Projecting Sign</b>	<b>Changeable Copy Sign</b>
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:

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- (1) Except as otherwise noted in this section, no commercial or industrial use within the districts set ~~for the 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) ~~Free-standing~~Freestanding signs shall not exceed the height of the principal building or 18 feet in height, whichever is less.
  - (3) A ~~free-standing~~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-~~premise-~~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~~through food establishment or car wash may have one freestanding menu board sign for each drive-~~thru~~through 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~~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 ~~trade~~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:

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<b>Type of Sign</b>	<b>Square Footage</b>	<b>Com-mercial</b>	<b>Com-mercial Tourist</b>	<b>Com-mercial II</b>	<b>General Industria I</b>	<b>Industria I Park</b>	<b>Historic Com-mercial</b>	<b>Special Use</b>
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 <del>Building, building-mounted and/or free-standing</del>	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
Changeab		Y	Y	Y	Y	Y	Y	Y

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Type of Sign	Square Footage	Com-mercial	Com-mercial Tourist	Com-mercial II	General Industria I	Industria I Park	Historic Com-mercial	Special Use
le copy panel as part of a free-standing sign								

**§ 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 ~~Official~~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 ~~Director of Inspections~~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 ~~in~~inches).
  - (5) No more than four yard sale signs for the same event shall be located within the limits of the

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- (6) If, in the ~~Director of Inspection's~~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 ~~Section 22-12~~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 ~~Director of Inspections~~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 ~~chapter~~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 shall be taken within 30 days from the date of the order or decision which is being appealed, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to such officers or board whose order or decision is being appealed, and to the Zoning Board of Appeals. Such officer or board shall forthwith transmit to the Zoning Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.~~

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

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### 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 ~~Director of Inspections~~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 ~~Director of Inspections~~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 ~~Director of Inspections~~Building Inspector under ~~non-criminal~~noncriminal proceedings pursuant to MGL c. 40, § 21D. The ~~non-criminal~~noncriminal penalty shall be \$50 for each offense after receipt of either a verbal or written warning of violation from the ~~Director of Inspections~~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 ~~six~~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.

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### (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, ~~§ 4~~§§ 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 ~~one year~~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 ~~owning~~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

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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. 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



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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 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 ~~Director of Inspections~~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~~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 ~~ground-water~~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 ~~ground-water~~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

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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;

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- (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 ~~f~~ 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 ~~by-law~~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.

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- 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 ~~includes~~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 ~~non-traditional~~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 ~~non-paved~~nonpaved areas, and minimizing soil disruption and similar construction methods should be explored whenever feasible.
- F. ~~Ground-water~~Groundwater recharge and quality preservation.
- (1) ~~Ground Water~~Groundwater recharge shall be maximized and ~~ground-water~~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 ~~ground-water~~groundwater elevation is close to the surface, extra site grading precautions may be required to maintain the protective function of the over burden.

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- 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 ~~ground~~ ~~water~~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 ~~IV~~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. 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.

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- (5) One or more extensions may be granted for sufficient cause, not to exceed one 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 ~~Director of Inspections~~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 ~~Director of Inspections~~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 ~~Director of Inspections~~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 ~~Director of Inspections~~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 ~~Director of Inspections~~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

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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

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and Regulations Governing the Subdivision of Land adopted June 18, 2002, as may be amended from time to time.

- (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 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. ~~Hydro-seed~~Hydroseed may be substituted for groundcover plantings if it is shown that the ~~hydro seed~~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.



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- (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 ~~an~~ 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 ~~Mass~~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.

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- (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 ~~confining~~ **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.

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- 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 ~~chapter~~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, ,~~ 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.

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- (4) The need for substitution was not caused by project proponent due to a lack ~~theof~~ 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 Permitting

### § 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 ~~predevelopment~~ 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.

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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 ~~predevelopment~~pre-development review is required in accordance with 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 ~~chapter~~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

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the ~~city or~~ 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 ~~chapter~~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 ~~chapter~~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.

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### Chapter 340 - PLANNING BOARD RULES AND REGULATIONS

[HISTORY: Adopted by the Planning Board of the Town of Sturbridge 3-22-2011; revised 9-12-2017. Subsequent amendments noted where applicable.]

#### Chapter 1 General Information

##### § 1.00. Planning Board membership; appointment.

In accordance with the Town of Sturbridge Town Charter, the Planning Board consists of seven members that are appointed for five-year terms. The Town Administrator shall make appointments for the specified term, subject to the confirmation by a majority vote of the Board of Selectmen at a regularly scheduled meeting and administration of the oath of office by the Town Clerk.

##### § 1.01. Voting and quorum.

- A. Special permits. In the Town of Sturbridge, the Planning Board is the special permit granting authority for certain applications. Please refer to the Zoning Bylaw to determine the appropriate SPGA for your particular proposal. Action on a special permit shall require a two-thirds vote of the Board. (MGL c. 40A, § 9~~);~~)
- B. Site plan approval. The majority of the entire membership of the Planning Board shall vote in the affirmative for a site plan to be approved.
- C. Zoning amendments. The majority of the entire membership of the Planning Board shall concur on a report regarding a proposed adoption or amendment of a zoning ~~by-law or ordinance~~ bylaw. No zoning ~~ordinance or by-law~~ bylaw or amendment thereto shall be adopted or changed except by a two-thirds vote of a Town Meeting. No proposed zoning bylaw which has been unfavorably acted upon by Town Meeting shall be considered by Town Meeting unless the adoption of the proposed bylaw is recommended in the final report of the Planning Board. (MGL c. 40A, § 5~~);~~)
- D. Subdivision approval. Subdivision approval requires approval by the majority of the entire membership of the Planning Board. (MGL c. 41-~~§ 81~~); § 81U)
- E. Regular meeting. A quorum for a meeting of the Planning Board shall be a majority of the entire membership or four of seven members. No action of the Planning Board shall be valid and binding unless taken or ratified by an affirmative vote of the majority of the members attending the meeting.

##### § 1.02. Mullin Rule.

The Town of Sturbridge has adopted the provisions of MGL c. 39, § 23D(a), which states "Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for one or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements~~."~~"

The appropriate form for use by Board members can be found in Chapter 9 of these rules and regulations.

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### § 1.03. Public hearing process.

- A. Zoning amendments: procedural steps for the adoption of zoning ~~Ordinance~~, bylaw or amendment thereto:
- (1) The proposed ~~ordinance~~, bylaw, or amendment is submitted to the Selectmen. Such proposal may be submitted by:
    - (a) Board of Selectmen;
    - (b) Board of Appeals;
    - (c) Individual(s) owning land to be affected by change or adoption;
    - (d) Registered voters pursuant to MGL c. 39, § 10;
    - (e) Planning Board;
    - (f) Regional Planning Agency;
    - (g) Others, if so provided by the Sturbridge Municipal Charter.
  - (2) Within 14 days of receipt, the Selectmen shall submit the zoning proposal to the Planning Board for review, public hearing thereon, and report. (MGL c. 40A, § 5)
  - (3) Notice.
    - (a) Notice of the public hearing shall be given and the notice of the public hearing shall be:
      - [1] Published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication shall not be less than 14 days before the day of the hearing. The date of the public hearing should not be counted in the 14 days.
      - [2] Posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing.
    - (b) The notice shall be mailed to the Central Massachusetts Regional Planning Commission, the Planning Boards of all abutting towns, and the Department of Housing and Community Development by certified mail prior to the hearing.
  - (4) The notice of the public hearing shall include:
    - (a) The time, date, and place of the hearing;
    - (b) The subject matter, sufficient for identification;
    - (c) The place where text and maps may be inspected.
  - (5) Within 65 calendar days after the zoning proposal is submitted to the Planning Board by the Board of Selectmen, the Planning Board shall hold its public hearing.
  - (6) The Planning Board shall submit its final report with recommendations to the Town Meeting. The report may be written or oral.
  - (7) The Town Meeting shall take action on the zoning proposal within six months of the Planning Board public hearing. If more than six months have passed, the Planning Board must hold a new public hearing before Town Meeting may lawfully vote on the proposal. (MGL c. 40A, § 5)



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### B. Special permit and site plan approval: procedural steps for a public hearing for a special permit and/or site plan approval:

- (1) Applicant files a special permit in accordance with the filing requirements specified in this regulation and the Town of Sturbridge Zoning Bylaw.
- (2) A special permit and/or site plan approval may not be issued until a public hearing is held. The public hearing must be held within 65 days from the date the application is filed.
- (3) The notice of the public hearing shall include:
  - (a) The name of the applicant;
  - (b) A description of the area or premises, including street address, if any, or other adequate identification of the location;
  - (c) Date, time and place of hearing;
  - (d) The subject matter of the hearing; and
  - (e) The nature of the action requested.
- (4) The notice of the public hearing shall be:
  - (a) Published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication shall not be less than 14 days before the day of the hearing. The date of the public hearing should not be counted in the 14 days.
  - (b) Posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing.
  - (c) The notice shall be mailed postage pre-paid to the applicant, abutters within 300 feet of all property lines, including abutters in another town and across a public or private street or way, and the Planning Board of all abutting towns. The notice shall also be mailed to other individuals, boards, or agencies for review if required by the Zoning Bylaw.
- (5) Within 90 calendar days or any extended time following the date of the public hearing, the special permit granting authority shall take final action.
- (6) If the special permit granting authority fails to take final action within the ninety-day or extended time limit, the special permit shall be deemed granted.
- (7) After the decision has been made, the special permit granting authority and/or their designee (employees) shall file a copy of the decision with the Town Clerk within 14 days from the date of decision by the special permit granting authority.
- (8) A copy of the decision shall be maintained in the files of the office of the Planning Board and a copy shall be mailed to the applicant and any other person that so requested a copy at the public hearing. (MGL c. 40A, § 9)

### C. Subdivision approval: procedural steps for a public hearing for a subdivision plan.

Note: This list is not an all-inclusive list of the steps involved in a subdivision approval. Be sure to consult the Subdivision Regulations of the Town of Sturbridge and MGL ~~Chapter 81C~~, 41, § 81K through § 81GG, for complete information.

- (1) Applicant submits a preliminary or definitive subdivision plan in accordance with the filing requirements specified in this regulation and the Rules and Regulations Governing the

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Subdivision of Land, Sturbridge, Massachusetts.

- (2) Final action may not be taken on a subdivision plan until a public hearing is held.
- (3) The Planning Department reviews the plans and submits the plans for review to other departments as specified in the Rules and Regulations Governing the Subdivision of Land, Sturbridge, Massachusetts. The applicant sends notice of public hearing at its expense. The notice of the public hearing shall include:
  - (a) The name of the applicant;
  - (b) A description of the area or premises, including street address, if any, or other adequate identification of the location;
  - (c) Date, time and place of hearing;
  - (d) The subject matter of the hearing; and
  - (e) The nature of the action requested.
- (4) The notice of the public hearing shall be:
  - (a) Published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication shall not be less than 14 days before the day of the hearing. The date of the public hearing should not be counted in the 14 days.
  - (b) Posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing.
  - (c) The notice shall be mailed postage pre-paid to the applicant, abutters within 300 feet of the property line, including abutters in another town and across a public or private street or way as shown on the most recent tax list, and the Planning ~~Board~~Boards of all abutting towns. The notice shall also be mailed to other individuals, boards, or agencies for review if required by the ~~zoning bylaw~~Subdivision Regulations.
- (5) Within the time periods specified in the Town of Sturbridge Subdivision ~~Regulation~~Regulations, other Town departments must report to the Planning Board.
- (6) The Planning Board holds the public hearing on the subdivision plan. It is preferable to have reports of the other departments prior to holding the public hearing; however, the Planning Board will hold the public hearing in the time frames allowed by the MGL.
- (7) After the public hearing, the Planning Board will make its decision. The time frames for decision are specified in the MGL. In the case of a preliminary subdivision plan, the Planning Board must notify the Town Clerk and the applicant within 45 days after the date of submission that the plan has been approved, or that the plan has been approved with modifications, or that the plan has been disapproved.
- (8) A decision on a definitive plan must be made within 90 days in the case where a preliminary plan has been filed or within 135 days where a preliminary plan has not been filed. The decision of the Planning Board will be to:
  - (a) Approve the plan if it complies with the Subdivision Control Law, the rules and regulations of the Planning Board, and the recommendations of the Board of Health; or,
  - (b) Modify and approve the plan if it does not so comply; or

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- (c) Disapprove the plan, stating in detail wherein the plan does not conform to the rules and regulations of the Planning Board or the recommendations of the Board of Health. Such disapproval shall be revoked if the plan is amended so that it conforms to the rules and regulations or recommendations. After a public hearing, the Planning Board shall approve the amended plan.
- (9) If the Planning Board fails to take final action within the specified time periods, or further time as mutually agreed upon, the plan shall be deemed approved.
- (10) After the decision has been made, the Planning Board and/or its designee (employees) shall file a copy of the decision with the Town Clerk within the specified time periods.
- (11) A copy of the decision shall be maintained in the files of the office of the Planning Board and a copy shall be mailed to the applicant and any other person that so requested a copy at the public hearing. (MGL c. 81)

### § 1.04. Reports.

- A. Annual reports. The Planning Board shall submit to the Board of Selectmen an annual report of activities for inclusion in the Annual Reports of the Town. The report shall be submitted on or before a date specified by the Board of Selectmen.

### § 1.05. Official files and records.

- A. Planning Board records.

The Massachusetts Public Records Law [MGL c. 4, § 7(26)] provides right of access to public records, broadly defined to include all documentary materials except ~~eleven~~ specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property. The minutes, informational data, memoranda and circulating materials of any Town board are mostly all public information. Appendix B of this handbook contains the text of the Massachusetts Public Records Law. The Town board should consult with the Town Clerk if questions arise or a request made under the freedom of information occurs.

Every person having custody of any public record shall at reasonable times and without ~~reasonable~~unreasonable delay, permit the requested record to be inspected and examined by any person. Within 10 days following a request for inspection or a copy of a public record, a custodian of a public record shall comply with such request or respond to the requesting party regarding the cost and time frame of availability of the requested material.

- B. Access to public records. To meet the intent of the Massachusetts Public Records Law, the following set of protocols ~~are~~is designed to guide the Planning Board and staff in providing public access to municipal records.
- C. Public records requests.
  - (1) The individual seeking a public record relating to the Planning Board shall make the request to the Planning Department.
  - (2) Planning Department staff will verify that the Planning Board is actually the custodian of the record being requested.
  - (3) The staff of the Planning Department shall make arrangements with the requester for the opportunity to inspect and/or receive copies of the requested materials.

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- D. "Active" public records of the Planning Board.
- (1) The individual seeking a public record relating to the Planning Board shall phone, [email](#) or visit the Planning Department in person [or complete a Public Records Request Form on the Town website](#) to request to review the public records.
  - (2) The Planning Department staff shall make arrangements with the requestor for the opportunity to inspect and/or receive copies of the requested materials.
- E. Public records maintained by the Planning Board office. The following is a list of some of the public records kept by the Planning Board office:
- (1) Special permits.
  - (2) Subdivision plans.
  - (3) Subdivision approval not required plans.
  - (4) Planning Board minutes.
  - (5) Master Plan.
  - (6) Official Map.
  - (7) Zoning Map.
  - (8) Overlay maps.
  - (9) GIS data.
  - (10) Rules and regulations.
  - (11) Zoning Bylaw.
  - (12) Subdivision Regulations.
  - (13) Zoning amendments.
  - (14) Zoning Board of Appeals minutes.
  - (15) Other studies and reports as may be prepared by the Board and staff.

### Chapter 2 Special Permits

#### § 2.00. Special permits required.

Specific types of uses are only allowed in specific districts by special permit; in some cases the Planning Board may serve as the special permit granting authority (SPGA) and in other cases the Zoning Board of Appeals (ZBA) may serve as the SPGA. Please refer to the Town of Sturbridge Zoning Bylaw to determine if a special permit is required for a proposed use and who the appropriate SPGA is for your proposed use.

#### § 2.01. Purpose and authority.

The following rules are hereby adopted by the Sturbridge Planning Board as provided in Chapter 40A of the Massachusetts General Laws, for the purpose of establishing uniform procedures for the granting of special permits.

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### § 2.02. Adoption and amendment.

These rules and regulations may be adopted and from time to time amended by majority vote of Board members present and voting, provided such adoption or amendment is taken at a duly posted meeting.

### § 2.03. When effective.

These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, date of adoption and amendments.

### § 2.04. Applicant (petitioner).

An application or petition for a special permit may be brought by a property owner, agent, or prospective purchaser who submits certification (such as an executed purchase and sales agreement) of property interest and authority to file.

### § 2.05. Application for special permit.

- A. Official application form. Application for special permits shall be made on an official form, which shall be furnished by the Planning Department upon request. Forms may be found in Chapter 9 of these rules and regulations. Forms may also be obtained on the Town Website: <https://www.Town.sturbridge.ma.us/files>.
- B. Contents of application. The completed application form, original plan and 15 copies shall be submitted to the Planning Department during regular business hours, with an additional copy filed forthwith with the Town Clerk by the applicant. The effective date of the submittal shall be the date the plans are submitted to the Town Clerk. At least one copy of the plan shall be produced in size 11 inches by 17 inches. Additionally, all application submittals shall be provided as a PDF on CD ROM.

The following information shall be furnished by the applicant, or a request for waiver shall be provided in writing at the time of application. If an applicant requests a waiver for a specific item and that is not granted by the Board, the item must be submitted and the public hearing shall be continued to allow sufficient time for submittal and review of the item. Failure to submit a required item shall be cause for disapproval of an application. The following are the submittal requirements:

- (1) A site plan drawn at a scale of one inch ~~equals~~ 40 feet, unless another scale is previously requested by the applicant and found suitable by the Board. All plans shall be prepared, signed and sealed by a Massachusetts licensed engineer, architect or landscape architect, whichever is appropriate;
- (2) The plan shall be stamped by the registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the building(s), setbacks, and all other required dimensions, elevations and measurements, and shall be signed under the penalties of perjury;
- (3) The scale, date, and North arrow shall be shown on the plan;
- (4) Lot numbers, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways shall be shown on the plan;
- (5) The location of existing or proposed building(s) on the lot shall be shown with the total square footage and dimensions of all buildings and building elevations and floor plans, and perspective renderings;

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- (6) The plan shall show the location of existing wetlands, water bodies, wells, one-hundred-year floodplain elevation, and other natural features; streams, wetlands, vistas, slope areas, geological features, unique vegetation, historic features, and others that may be important to the site;
  - (7) A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, methods, and species of plantings must be provided;
  - (8) All plans shall indicate the percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property;
  - (9) The existing and proposed topographical lines at two-foot contour intervals on the tract and within 50 feet thereof are required;
  - (10) The location and a description of proposed open space or recreation areas shall be provided;
  - (11) Existing and proposed street network, parking areas and spaces, drainage, and utility systems shall be prepared by a professional engineer licensed in Massachusetts;
  - (12) The applicant shall submit information regarding all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding;
  - (13) When the property is located in a Water Supply Protection District, please provide projections of down-gradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on-site, at property boundaries, and at other locations deemed pertinent by the Board. This information must be prepared by a ~~Hydro-geologist~~hydrogeologist or registered professional engineer possessing experience and education in water supply protection and hydrology;
  - (14) Any additional information which the Board may require. The Board may engage a Massachusetts professional engineer experienced in groundwater evaluation, hydrogeology or hazardous and toxic materials to review the application for completeness and correctness and shall require the applicant to pay for the cost of the review;
  - (15) A locus plan at one inch ~~equal~~equals 100 feet, 200 feet or 400 feet scale showing the location, names, and present widths of the secondary streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography taken from Assessor's plans or field survey if available, or properties ~~there-in~~therein;
  - (16) The application shall also furnish a narrative summary of the vital statistics of the project. Such statistics shall include total gross and net square footage, number of parking spaces, and estimated amounts of water consumption and sewer discharge;
  - (17) The applicant shall furnish a current certified abutter's list from the Assessor's office and a certificate of taxes paid from the Finance Director.
- C. Concurrent hearing with site plan approval. Where site plan approval is required for the proposed use which forms the basis of the special permit application (for which the Planning Board is the SPGA), the applicant shall also file the appropriate information and meet the requirements of site plan approval (Chapter 3). These public hearings shall be held concurrently, but separate decisions will be reached for each. Information from one hearing or application may be used by the Planning Board to make its determination on any other concurrently filed application.

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### § 2.06. Fees.

All applications shall be accompanied by the appropriate administrative fee and consultant review fee where required. (Refer to Chapter 7 for information on consultant review fees).

- A. Administrative fee. The filing fee shall be \$275 for a special permit application. The applicant shall also bear the cost of the legal notice and abutter's notification. The notice shall be prepared by the Planning Department; however, the responsibility to notify abutters and publish the advertisement on the appropriate dates shall lie with the applicant.
- B. Other costs and expenses. The applicant shall pay all associated costs of mailing to abutters and any parties in interest and for publication of any required legal notices. The Planning Department shall prepare the notices.
- C. Consultant review fees. The applicant shall pay all associated consultant review fees as required. Please see Chapter 7 for detailed information on consultant review fees.

### § 2.07. Review of application.

- A. Reviews by other Town agencies. After receipt of an application for special permit, Planning Department staff shall transmit a copy of the application and plan to other departments for review and comment. These departments may include, but may not be limited to: Building Inspector, Conservation, DPW, Health, Police, Fire, and Tree Warden.

Comments received from various departments will be provided to the applicant if time permits prior to the public hearing. If reports are not received in sufficient time to provide copies of the reports to the applicant/representative, copies shall be provided at the public hearing.

Applicants are encouraged to address staff comments prior to the public hearing if at all possible or practical. Revised or supplemental documentation shall be submitted to the Planning Department after consultation with the Town Planner.

All final staff reports shall be provided to the Planning Board for review and consideration for the public hearing. However, in no case shall the failure of a department to submit a report prior to the public hearing delay the hearing process.

### § 2.08. Procedural requirements.

- A. Procedural steps for a public hearing for a special permit:
  - (1) Applicant files a special permit in accordance with the filing requirements specified in this regulation and the Town of Sturbridge Zoning Bylaw.
  - (2) A special permit and/or site plan approval may not be issued until a public hearing is held. The public hearing must be held within 65 days from the date the application is filed.
  - (3) The notice of the public hearing shall include:
    - (a) The name of the applicant;
    - (b) A description of the area or premises, including street address, if any, or other adequate identification of the location;
    - (c) Date, time and place of hearing;
    - (d) The subject matter of the hearing; and

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- (e) The nature of the action requested.
- (4) The notice of the public hearing shall be:
  - (a) Published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication shall not be less than 14 days before the day of the hearing. The date of the public hearing should not be counted in the 14 days.
  - (b) Posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing.
  - (c) The notice shall be mailed postage pre-paid to the applicant, abutters within 300 feet of the property line, including abutters in another town and across a public or private street or way, and the Planning Board of all abutting towns. The notice shall also be mailed to other individuals, boards, or agencies for review if required by the Town of Sturbridge Zoning Bylaw.
- (5) Within 90 days or any extended time following the date of the public hearing, the special permit granting authority shall take final action.
- (6) If the special permit granting authority fails to take final action within the ninety-day or extended time limit, the special permit shall be deemed granted.
- (7) After the decision has been made, the special permit granting authority and/or its designee (employees) shall file a copy of the decision with the Town Clerk within 14 days from the date of decision by the special permit granting authority.
- (8) A copy of the decision shall be maintained in the files of the office of the Planning Board and a copy shall be mailed to the applicant and any other person that so requested a copy at the public hearing. (MGL c. 40A, § 9)

### § 2.09. Disposition of application.

- A. Withdrawal of application. An application may be withdrawn without prejudice by an applicant by notice in writing to the Clerk of the Board, which notice the applicant shall also deliver to the Town Clerk at any time prior to the first publication of the notice of the public hearing.

After such notice, withdrawal of an application shall be permitted only by Board vote, which shall consist of a majority present and voting.
- B. Appeals. Any person aggrieved by a decision of the Board as special permit granting authority may appeal such decision as provided in MGL c. 40A, § 17 within 20 days after such decision has been filed in the office of the Town Clerk.
- C. Reapplication. No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a special permit within two years after the date of the said final unfavorable action, unless the Board finds, by vote of four members, specific and material changes in the condition upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is hereby given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in § 2.05 of these rules and regulations.
- D. Lapse of special permit. No special permit shall be authorized by the Board without the express condition that it will lapse if substantial use under the permit is not commenced within one year three years from the date of final action by the Board, except for good cause or the final determination of



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an appeal, as determined by the Board.

- E. Extension of special permit. Approval in all cases is granted for a one-year period from the date of the filing of such approval with the Town Clerk. If a development has not begun during that time period, the applicant may request an extension of the permit. Any request for an extension shall be made prior to the expiration of the existing permit.

### § 2.10. Recording.

No special permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Registry of Deeds and is indexed under the name of the record owner of the land, and a Book and Page reference for said filing presented to the Planning Department and the Building Inspector.

### § 2.11. Performance guarantee.

As a condition of the special permit, the Planning Board may require that the applicant post a bond, or other form of surety, as a safeguard for performance, and/or a penal sum in a form and amount acceptable to the Board, prior to the expiration of the twenty-day appeal period, unless the Board shall specify otherwise. If the applicant is not the owner and must purchase the property in question in order to assume such obligations, or if another form of ownership or control is in force, such person or entity shall comply with the provisions of this ~~subsection~~ within 20 days following the date of such purchase or control. If said performance guarantee shall lapse before completion and certification of final inspection by the Board, a new guarantee shall be filed expeditiously by the application/controller of the land and/or project.

### § 2.12. Waiver of full compliance.

Full compliance with these rules and regulations may be waived by the Planning Board, provided such waivers are deemed to serve the public interest and are not conflicting with Chapter 40A, MGL. Requested waivers shall be submitted in writing when the application is submitted.

### § 2.13. Completeness review.

Any application which does not conform to the requirements herein, or without the proper fee, shall be returned to the applicant with a statement of its deficiencies, and the plan shall not be accepted for review by the Board until the deficiencies are corrected. The Board's designee will be responsible for ensuring the completeness of all applications and shall give written notice by registered mail to the applicant of any deficiencies with the application within 14 days of submission to the Board, at its meeting, specifying the deficiencies. The applicant shall have 14 days from the date of the mailing of such notice to correct the deficiencies. Failure to correct the deficiencies after having been so notified within such time shall be used as the basis for denial of the application without prejudice. Submissions pertaining to consultant review fees are not required prior to application acceptance.

### § 2.14. Severability.

The provisions of these rules and regulations are severable. If any provision of these rules and regulations is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations or any of its provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

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### Chapter 3 Site Plan Approval

#### § 3.00. Site plan approval required for certain uses.

Certain uses within the Town of Sturbridge require site plan approval. Please refer to the Sturbridge Zoning Bylaw to determine if site plan approval is required for a proposed use.

#### § 3.01. Application.

- A. Official application form. Application for site plan approval shall be made on an official form, which shall be furnished by the Planning Department upon request.
- B. Contents of application. The completed application form, original plan and 15 copies shall be submitted to the Planning Department. At least one copy of the plan shall be produced in size 11 inches by 17 inches. Additionally, all application submittals shall be provided as a PDF on CD ROM.

The following information shall be furnished by the applicant, or a request for waiver shall be provided in writing at the time of application. If an applicant requests a waiver for a specific item and that is not granted by the Board, the item must be submitted and the public hearing shall be continued to allow sufficient time for submittal and review of the item. If the item required is not submitted; that shall be cause for disapproval of an application. The following are the submittal requirements:

All submittals shall contain the following information:

- (1) General information:
  - (a) Name and address of applicant and owner of record as listed on the Town's tax rolls. If the applicant is not the owner of record, the latter shall also sign the application;
  - (b) Date, North arrow, and scale shall be shown on plan;
  - (c) A written description of the proposed use or uses;
  - (d) A table or chart indicating the proposed number or amount and types of uses, lot area, lot width, setbacks, building height, lot coverage, floor area, parking spaces, percentage of lot coverage and percentage of impervious surface, landscaping, and open spaces as they are required.
- (2) A site plan drawn at a scale of one inch equals 40 feet, unless another scale is previously requested by the applicant and found suitable by the Board. All plans shall be prepared, signed and sealed by a Massachusetts licensed engineer, architect or landscape architect, whichever is appropriate.
- (3) The plan shall be stamped by the registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the building(s), setbacks and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
- (4) Lot numbers, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways shall be shown on the plan.
- (5) The location of existing or proposed building(s) on the lot shall be shown with the total square footage and dimensions of all buildings and building elevations and floor plans, and perspective renderings.

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- (6) The plan shall show the location of existing wetlands, water bodies, wells, one-hundred-year floodplain elevation, and other natural features; streams, wetlands, vistas, slope areas, geological features, unique vegetation, historic features, and other features that may be important to the site.
- (7) A landscape plan that complies with the requirements of Chapter 3, Site Plan Approval, as may from time to time be amended, must be submitted.
- (8) Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50 feet thereof are required to be shown.
- (9) The location and description of the proposed open space or recreation areas shall be provided.
- (10) Existing and proposed street network, parking areas and spaces, drainage, and utility systems shall be prepared by a professional engineer licensed in Massachusetts.
- (11) The applicant shall submit information regarding all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding.
- (12) When the property is located in a Water Supply Protection District, please provide projections of down-gradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on-site, at property boundaries, and at other locations deemed pertinent by the Board, prepared by a ~~Hydro-geologist~~hydrogeologist or registered professional engineer possessing experience and education in water supply protection and hydrology.
- (13) Any additional information which the Board may require. The Board may engage a Massachusetts professional engineer, experienced in groundwater evaluation, hydrogeology or hazardous and toxic materials to review the application for completeness and correctness and shall require the applicant to pay for the cost of the review.
- (14) A locus plan at one inch equals 100 feet, 200 feet or 400 feet scale (as may be appropriate for the location and project) showing the location, names and present widths of the secondary streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership and topography taken from Assessor's plans or field survey if available, or properties ~~there~~ ~~in~~therein.
- (15) The application shall also furnish a narrative summary of the vital statistics of the project. Such statistics shall include total gross and net square footage, number of parking spaces, and estimated amounts of water consumption and sewer discharge.
- (16) The applicant shall furnish a current certified abutter's list ~~form~~from the Assessor's office and a certificate of taxes paid from the Finance Director.

### § 3.02. Receipt of application.

An application shall be deemed received when an application or a request has been received in the format prescribed by the Planning Board and is accompanied by all of the supporting materials or documentation and fees as detailed in these rules and regulations and in the Zoning Bylaw of the Town of Sturbridge. No application shall be deemed received until it has been checked for completeness and accuracy by Planning Board staff. If an application is deemed incomplete, it shall be returned to the applicant with a listing of missing information. The applicant shall be given the opportunity to withdraw any incomplete application. The filing fee is ~~non-refundable~~.nonrefundable. In the event the applicant does not choose to withdraw the application, the Planning Board may deny the applicant for incomplete information.

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### § 3.03. Procedural requirements.

- A. Procedural steps for a public hearing for site plan approval:
- (1) Applicant files for site plan approval in accordance with the filing requirements specified in this regulation and the Town of Sturbridge Zoning Bylaw.
  - (2) Site plan approval may not be issued until a public hearing is held. The public hearing must be held within 65 days from the date the application is filed.
  - (3) The notice of the public hearing shall include:
    - (a) The name of the applicant;
    - (b) A description of the area or premises, including street address, if any, or other adequate identification of the location;
    - (c) Date, time and place of hearing;
    - (d) The subject matter of the hearing; and
    - (e) The nature of the action requested.
  - (4) The notice of the public hearing shall be:
    - (a) Published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication shall not be less than 14 days before the day of the hearing. The date of the public hearing should not be counted in the 14 days.
    - (b) Posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing.
    - (c) The notice shall be mailed postage pre-paid to the applicant, abutters within 300 feet of the property line, including abutters in another town and across a public or private street or way, and the Planning Board of all abutting towns. The notice shall also be mailed to other individuals, boards or agencies for review if required by the Zoning Bylaw.
  - (5) Within 90 days or any extended time following the date of the public hearing, the Planning Board shall take final action.
  - (6) If the Planning Board fails to take final action within the ninety-day or extended time limit, the special permit shall be deemed granted.
  - (7) After the decision has been made, the Planning Board ~~their~~and/or its designee (employees) shall file a copy of the decision with the Town Clerk within 14 days from the date of decision by the Board.
  - (8) A copy of the decision shall be maintained in the files of the office of the Planning Board and a copy shall be mailed to the applicant and any other person that so requested a copy at the public hearing. ~~(MGL c. 40A § 9)~~

### § 3.04. Disposition of application.

- A. Withdrawal of application. An application may be withdrawn without prejudice by an applicant by notice in writing to the Clerk of the Board, which notice the applicant shall also deliver to the Town Clerk, at any time prior to the first publication of the notice of the public hearing.

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- A. After such notice, withdrawal of an application shall be permitted only by Board vote, which shall consist of a majority present and voting.
- B. Appeals. Any person aggrieved by a decision of the Board as ~~Special Permit Granting~~ site plan approval authority may appeal such decision as provided in MGL c. 40A, § 17 within 20 days after such decision has been filed in the office of the Town Clerk.

### Chapter 4

#### Expedited Permitting (Chapter 43D) Regulations

##### § 4.00. Authority and applicability.

The Town of Sturbridge adopted the provisions of MGL Chapter 43D, Expedited Permitting, and has designated sites as priority development sites. These rules and regulations pertain specifically to those sites.

The following is a chronological step-by-step explanation of the permit process for designated priority development sites.

##### § 4.01. Pre-application process.

- A. Technical Review Committee (TRC) - pre-application review. The Town Administrator will appoint the Town Planner ("Planner") as the single point of contact for the purpose of coordinating and facilitating the MGL c. 43D land use permitting process. The Planner will report directly to the Town Administrator.

No application for development permits or approvals for a Chapter 43D priority development site shall be submitted to any Issuing authority until a pre-application review has been conducted. It shall be the applicant's responsibility to contact the Planner in order to initiate the pre-application process. All pre-application meetings will be scheduled to occur during the Town's regular business hours and shall occur within 10 days of a written request, including requisite submittal materials, being filed with the Planner.

- B. Technical Review Committee. The Town Administrator will appoint a Technical Review Committee (TRC) as a multi-agency coordinating body to assist applicants during the pre-application process as set forth below, assist with reviewing and determining the completeness of permit applications, assist the Board of Selectmen and applicable issuing authorities with Chapter 43D compliance; and assist with resolving issues that arise during the permitting process. The TRC will include the Town Planner, Building Inspector, Director of the Department of Public Works, Conservation Commission agent, Health Agent, Fire Chief and Police Chief. Any department representative may recommend that other Town officials be included in the review process. The Town Planner shall serve as Chair of the TRC.

The TRC will adopt a monthly meeting schedule for meetings to be held during the regular work day. These meetings are staff-level review meetings and are not subject to the Open Meeting Law.

- C. Pre-application reviews. Seven copies of a preliminary plan or concept plan, with as much detail as possible, must be submitted to the Town Planner at least one week prior to the pre-application review meeting. The TRC shall assist the applicant by identifying the permits and approvals required for the project; identifying the submission requirements for each issuing authority; and identifying a planned sequence of submissions to individual issuing authorities and timetables, where appropriate. Staff will review the applicant's development application submittal materials in an attempt to avoid unnecessary deficiencies and promote efficiency in the formal review and hearing process. Staff will review an application for its thoroughness and completeness; however, it is the responsibility of the applicant to ensure all materials are complete, ~~thorough~~ thorough and accurate.

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The applicant shall attend the pre-application review meeting. Additionally, the TRC may request that the applicant's engineer (or other appropriate representative) be present for this meeting in order to address concerns, answer questions, or provide insight as may facilitate the review process.

Upon completion of the meeting, the Chairman of the Technical Review Committee shall prepare a summary report outlining the issues discussed, permits to be obtained, the submission requirements for each issuing authority, a planned sequence of submissions to each issuing authority, and a timetable, where appropriate, identifying any permits or approvals that will require action prior to other permits or approvals. This report will be forwarded to the project proponent and to all issuing authorities that have jurisdiction over the project, as well as to the Board of Selectmen, within 14 days of the conclusion of the meeting.

### § 4.02. Master application submittal.

- A. Submit a master application to the Town Planner. Both the applicant and the landowner must sign the master application form ("application"). The application must be accompanied withby the required filing fee and 20 copies of all plans and supporting documentation for determination of completeness prior to submission to the Town Clerk for certification. Failure to file all required material, including all signatures, plans, copies and fees, shall render the application incomplete.

The application shall include, at a minimum:

- (1) Complete applications for all permits or approvals required from any and all issuing authorities, unless the summary report includes a phased submission process, in which case the complete applications for all first-phase permits shall be submitted at the time of submission of the application;
- (2) A certification of the applicant's intent to submit each remaining application for any other permit or approval included in the summary report within the timetables established in that summary report, signed by the applicant;
- (3) A complete copy of the summary report, signed by the applicant. This signed copy of the summary report shall constitute the applicant's written acceptance of, and agreement to adhere to, the contents of the summary report, including timetables;
- (4) A Chapter 43D filing fee in the amount of \$500 has been established by the Town for applications on a priority development site (PDS), in addition to the application fees payable to any issuing authority subject to Chapter 43D;
- (5) Development impact statement;
- (6) A certified abutters list; and
- (7) A certification by the applicant as to the completeness of the application.

No application for any permit or approval shall be filed individually with any issuing authority or with the Town Clerk until such time as the Planner has determined the application to be a complete submission in accordance with Step 3 below.

- B. Waiver from submittal requirements. In the event an applicant seeks a waiver from the submittal requirements, the applicant shall submit a written request that the requirement be waived. Such request shall include a regulatory or procedural reference identifying the submittal item from which the waiver is sought, a clear and concise description of any alternative submittal (if applicable) and a clear expression of the public benefit to be realized from the requested waiver. The completed request

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shall be submitted to the Planner, who will refer it to the appropriate jurisdictional body within one week of receipt.

If an issuing authority grants the requested waiver, or conditionally grants it, the issuing authority shall issue a written decision of such within 14 days of said action. Said written decisions shall be submitted with the application materials in order to demonstrate compliance with the applicable submittal provision. If a waiver is not granted, the required materials shall be submitted. Failure to submit all required materials shall be cause for disapproval of an application.

### C. Determination of completeness.

- (1) Upon receipt of the application, the TRC shall review the application for completeness. No later than 20 business days from the date of receipt of the application, the Chairman of the TRC shall notify the applicant and the Board of Selectmen of one of the following determinations:
  - (a) A determination of completeness shall be made if the TRC determinates that the master application as submitted by the applicant is complete; or
  - (b) A determination of incompleteness shall be made if the TRC determines that the master application requires additional information, in which case the TRC shall notify the applicant, in writing, of the additional information the applicant must submit in order for the issuing ~~Authority~~authority(ies) to review and act upon the application.
- (2) Upon receipt of the additional information required by the Planner as described above or receipt of a resubmitted application, the TRC shall conduct a review and notify the applicant and Board of Selectmen within 20 business days, in writing, whether any additional information is required.
- (3) No later than one business day following the date that the Planner sends a determination of completeness to the applicant and the Board of Selectmen, permit applications to any issuing authority contained within the application shall be filed with the Town Clerk and appropriate issuing authorities.
- (4) The 180-day period for a decision on all required permits and approvals shall commence as required under Chapter 43D and 400 CMR 2.08, as of the date of the determination of completeness.
- (5) Failure of the Chairman of the Technical Review Committee to notify the applicant of the completeness review above within 20 business days shall cause the application to be deemed complete.
- (6) If the applicant is required to provide additional information and does not furnish the same within 90 calendar days, the application shall be considered withdrawn and the Board of Selectmen shall notify the interagency permitting board that the permitting process has been discontinued.
- (7) All notifications described herein shall be sent to the applicant by certified mail, return receipt requested.
- (8) The submission requirements and procedures for permits issued by the applicable issuing authority shall be in accordance with these regulations and the rules and regulations of the issuing authority.

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### § 4.03. Completed application.

- A. Public hearing/informational meeting. Within 30 days after an application is determined to be complete, the issuing authority to which application is made will schedule a public hearing or, if no public hearing is required for the permit process, an informational meeting. Public notice of said hearing/meeting shall be in accordance with MGL, ~~Ch. c.~~ 40A, ~~Section §~~ 11. Notice shall be sent by regular first class mail to abutters, the Sturbridge Planning Board, and the Planning Board of every abutting city or town.

At any time prior to a decision of the Town, the applicant may submit a written request to withdraw a submission to the relevant regulatory bodies and to the Chairman of the Technical Review Committee. Both the Chairman of the Technical Review Committee and the relevant regulatory bodies shall acknowledge the withdrawal in writing with a copy delivered to the applicant and filed with the Town Clerk. Fees are not refundable; the filing of an application at a later time shall require the submittal of all applicable materials, including all plans, forms and fees.

Each issuing authority shall review the application independently and hold separate technical review public hearings. In addition, issuing authorities may, by mutual agreement and with the consent of the applicant, conduct a joint public hearing in order to consolidate the hearing process.

In preparation to act on the master application, criteria for evaluation shall include, but not be limited, to, the following:

- (1) Completeness and technical adequacy of all submissions;
  - (2) Determination that development at this location conforms to the purpose of the Zoning ~~By-Law~~ Bylaw, which includes promoting and conserving the health and general welfare of the inhabitants of the Town; to secure safety from fire, confusion or congestion; to facilitate the adequate provision of transportation, water, sewerage, and other public services; to avoid undue concentrations of population; to guide development of housing; to encourage the most appropriate patterns of land ~~-use~~; and to increase the desirability of the Town as a place to live and work;
  - (3) Conformity with the requirements of these rules and compliance with the Zoning ~~By-law~~ Bylaw and any other applicable ~~by-laws~~ bylaws and regulations;
  - (4) Determination, based upon the development impact statement, that the project, as designed, will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
- B. Action required within 180 days.
- (1) Each issuing authority shall file a written decision with the Town Clerk within seven days after the public hearing and within 180 days beginning the day after notification of completeness. Failure of any Town department to take action within 180 days of the acceptance of a complete application shall be deemed approval with a very limited number of exceptions as provided by law.
  - (2) Within one ~~days~~ day after the filing of all issuing authority decisions with the Town Clerk, or after the expiration of 180 days of the acceptance of a complete application, whichever occurs first, the Planner shall issue a combined notification letter to the applicant, with a copy to the Board of Selectmen, notifying the applicant of the filing of all issuing authority decisions and of the failure of any issuing authority to file a decision.



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- C. Previously unidentified permits/approvals.
- (1) The Board of Selectmen may extend the 180-day period if it determines that an additional permit or approval is required and that such permit or approval was not identified in the original summary report, provided that such a determination is made within 150 days following the determination of completeness.
  - (2) The Board of Selectmen shall notify the applicant of the additional permit or approval by certified mail, and transmit a copy of the notice to the interagency permitting board (400 CMR ~~2.09~~). The extension period shall not exceed the greater of 30 days. (1) the date of the notice to the applicant or (2) the close of the public hearing on such additional permit application, where a public hearing a comment period is required by law.
- D. Extensions of time. The 180~~-calendar-~~day review period may be extended when an issuing authority determines that:
- (1) Action by another federal, state or municipal government agency, not subject to MGL c. 43D, is required before the issuing authority may act;
  - (2) Pending judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application;
  - (3) Enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the application have been commenced, in accordance with 400 CMR 2.09.
- E. Permit modifications. The applicant may request a permit modification if deemed necessary (400 CMR 2.10). Written permit modification requests are to be submitted to the issuing authority. The applicant shall be informed within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or requires additional information for the issuing authority to issue a decision. If additional information is required, the issuing authority shall inform an applicant by certified mail within 20 business days after receipt of the required additional information whether the modification is approved or denied or that further additional information is required by the issuing authority in order to render a decision.
- The Board of Selectmen may assist any local issuing authority with requesting an extension from the interagency permitting board if substantial modifications have been made to a proposed development since the submission of the application, and such modifications make it infeasible for the issuing authority to act within the required 180-day decision period (400 CMR 2.09)
- F. Appeals. Appeals of an issuing authority's decision or from an automatic grant of approval shall be filed within 20 calendar days after the last permitting decision has been rendered or within 20 calendar days after the conclusion of the 180-day period, whichever is later. The 180-day period shall be increased by the number of days in any extension granted under 400 CMR~~2.13~~. Appeals, for a full description of appeals~~);~~.

### § 4.04. Effective period of permits and approvals.

Permits issued pursuant to MGL c. 43D shall expire five years from the date of the expiration of the applicable appeal period unless exercised sooner (400 CMR 2.14). Where permits cover multiple buildings and/or parcels, commencement and continuation of construction of one building shall prevent expiration of all permits on that site. The applicant is responsible for applying for required state and federal permits.

Chapter 43D requires that MEPA and the Massachusetts ~~Historie~~Historical Commission reviews shall conclude within 120 calendar days of a state determination of completeness of required review materials.

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The reviews are conducted concurrent to the 180-day municipal review period. The Secretary of Energy and Environmental Affairs and the State Secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be suspended until the applicant files the required documents.

### § 4.05. Post-approval development steps.

Post-Approval Development Steps 6 through 9 are NOT subject to the 180-day period for issuance of permits. See 400 CMR 2.03 for a definition of "permit" describing which permits are affected by Chapter 43D.

1. Registry of Deeds. Depending on the type of permit, the applicant may be required to record the permit(s) at the Registry of Deeds following the specified appeal period required for special permits, variances, and orders of conditions. Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.
2. Apply to the Building Inspector for a building permit. Upon receiving all necessary permits, approvals and licenses from regulatory bodies, boards, and commissions and any necessary state and federal approvals, the applicant should submit them to the proper regulatory authority before applying for a building permit. Please be aware that building permits issued by the Building Inspector are NOT affected by Chapter 43D and are NOT subject to the 180-day period for issuance of permits.
3. Schedule required inspections. The applicant is required to schedule all required inspections through the applicable Issuing Authority during construction. These inspections are NOT affected by Chapter 43D and are NOT subject to the 180-day period for issuance of permits. These can include, but are not limited to: electric, gas, building, plumbing, elevators, wetlands, water, sewer, stormwater, and road opening.
4. Apply for a certificate of compliance (if necessary), occupancy permit, and certificate of completion. Upon completion of construction, the applicant shall apply to the Conservation Commission for a certificate of compliance for projects involving wetlands, for a certificate of completion for site work including roads and utilities, and to the Building Inspector for an occupancy permit. The Conservation Commission should be notified prior to the issuance of a certificate of occupancy. These are NOT affected by Chapter 43D and are NOT subject to the 180-day period for issuance of permits.

This policy/process is a product of the Town's expedited permitting efforts, and is made possible in large part by a grant from the Commonwealth's 43D Program.

## Chapter 5

### Development Impact Statements (DIS)

#### § 5.00. Development impact statement.

##### § 5.01. Purpose.

The development impact statement (DIS) is a documented, written analysis of a proposed development which provides the Planning Board and other Town staff and officials with information necessary for plan review. The DIS is intended to serve as a guide to the applicant in formulating the development proposal, as well as a guide to the Town in its evaluation of the proposed development in the context of existing conditions and planning efforts by the Town.

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It is a developer's responsibility to prepare and document the DIS in sufficient detail to permit an adequate evaluation by the Planning Board; however, additional data may be requested in writing by the Board. It is necessary to respond to all sections of the DIS form except when a written exemption is granted by the Planning Board. The applicant is encouraged to contact the Town Planner if any guidance is required when completing the DIS.

The DIS shall clearly and methodically assess the relationship of the proposed development to the natural, physical, and social environment. In preparing the DIS, professionals of the respective fields shall be consulted and a systematic, interdisciplinary approach shall be utilized which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning, designing and engineering of the proposed project.

### § 5.02. When required.

A DIS shall be filed for all 43D projects, OSRD projects and "major projects". For the purpose of these rules and regulations, a "major project" is defined as "any new development proposal that will result in the construction of 5,000 square feet or more of new building construction and/or the addition of 25 parking spaces or more at an existing facility." Projects classified as a ~~Major Project~~ "major project" shall require the submission of a development impact statement (DIS) as part of the application process. For all other projects not noted above, a DIS shall be considered an optional submission requirement; however, applicant should be aware that the information contained within the DIS can ease the review process by providing additional information for Town staff and board members.

### § 5.03. Statement contents.

The following pages describe what must be included as part of the development impact statement (DIS). Applicants may choose to complete the following pages or may submit all the required contents as a separate written document.

## Chapter 6 Open Space Residential Development (OSRD)

### § 6.00. Special permit for open space residential developments.

The Planning Board may grant a Special Permit for an OSRD as detailed in Chapter 300, Zoning, Part 3, Article VIII. Applicants shall comply with all requirements of that chapter and these rules and regulations.

### § 6.01. Application for OSRD special permit.

An application for an OSRD special permit may be filed by a property owner, agent or prospective purchaser who submits certification (such as an executed purchase and sales agreement) of property interest and authority to file. Applicants should refer to Chapter 300, Zoning, Part 3, Article VIII, for complete information related to the pre-application and design process.

### § 6.02. Official application form.

An application for an OSRD special permit shall be made on an official form which shall be furnished by the Planning Department upon request. Forms can be found in this document and may also be obtained on the Town of Sturbridge website: <http://www.Town.sturbridge.ma.us>.

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### § 6.03. Contents of application.

The completed application form, original concept plan (which shall include a conventional yield plan and OSRD plan as discussed in Chapter 300, Zoning, Part 3, Article VIII) and 15 copies shall be submitted to the Planning Department during regular business hours, with an additional copy filed forthwith with the Town Clerk by the applicant. The effective date of the submittal shall be the date the plans are submitted to the Town Clerk. At least one copy of the plan shall be produced in size 11 inches by 17 inches. Additionally, all application submittals shall be provided as a PDF in a digital format. At a minimum, the information outlined in this section shall be furnished by the applicant, or a request for waiver shall be submitted in writing.

- A. 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 one inch equals 1,000 feet.
  - (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 ~~ground-water~~ groundwater levels.
- B. 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 and shall at a minimum 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 regulations), 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. Proposals for all site features to be preserved, demolished, or altered shall be noted on the OSRD plan.

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- (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 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 ~~onsite~~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. (Note: 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.)
- C. Development impact statement (DIS). Applicants shall submit a DIS as discussed in Chapter 5 of these rules and regulations. The submittal requirements of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of ~~this~~the Zoning Bylaw.

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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.

### § 6.04. Fees.

Fees for an OSRD application shall be the same as those specified in Chapter 2, Special Permits. This special permit fee shall be in addition to fees required by the Subdivision Regulations.

### § 6.05. Procedural requirements.

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 by~~ 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.

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 Chapter 2, Special Permits, and in accordance with the Rules and Regulations Governing the Subdivision of Land, Sturbridge, Massachusetts (2002), as may from time to time be amended.

## Chapter 7

### Application Review Fees - Special Municipal Account

#### § 7.00. Application review fees for consultants; scope of review.

When reviewing an application for a special permit or subdivision approval, the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale, or complexity, potential impact or use of the land and warrants review by outside consultants (such as engineers, planners, landscape architects, lawyers, hydrogeologists, traffic engineers or others). Such consultants shall assist the Planning Board, or any Town board or commission to which a matter is referred for review and comment prior to action by the Planning Board, both in plan review, impact analysis, inspection or other technical assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions, conditions or regulations, or inspecting a project during construction or implementation. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant.

In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, ~~ordinances, By-Laws~~ laws and regulations.

All consultants selected by the Board must meet minimum qualifications consisting of: a. An education degree in, or related to, the field at issue, from a recognized public or private college or university; or b. Three or more years of practice in the field at issue or related field.

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The selection made by the Board shall be recorded with the office of the Town Clerk within five days of the Board's final selection(s).

### § 7.02. Submittal of review fees.

Consultant review fees shall be submitted upon receipt of notice of estimated consultant review cost. Any application filed without the submittal of review fees shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

### § 7.03. Establishment of special account.

- A. Funds received by the Board pursuant to this ~~section~~Chapter 7 shall be deposited with the Municipal Treasurer, who shall establish a special account for this purpose.
- B. If review funds charged are insufficient to cover the costs of outside professional expertise and/or consultant review, the applicant shall pay an additional review fee sufficient to cover these costs. Only costs that are reasonable and directly related to this project undergoing review will be charged to the applicant.
- C. Additionally, the Planning Board may require an additional deposit into the special account when the account falls below 25% of the initial review fee.
- D. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or ~~project's~~projects for which a fee has been, or will be, collected from the applicant.
- E. Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

### § 7.04. Use of funds.

- A. Review fees may only be spent for services rendered in connection with the specific project for which they are collected. These services shall include but not necessarily be limited to: project reviews, document reviews, and project-related inspections. Accrued interest may also be spent for this purpose.
- B. If the outside consultant review begins and expenses are generated prior to the filing of an administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.
- C. At the completion of the Board's review of the proposed project, or at a time determined at the submission of the application, any excess amount in that account, including interest attributable to a specific project, shall be repaid to the applicant ~~o~~for the applicant's successor in interest.
- D. A final report of the status of said account shall be made available to the applicant ~~o~~for the applicant's successor in interest.
- E. For the purpose of this regulation, any person or entity claiming to be the applicant's successor in interest shall provide the Board with documentation that legally establishes this succession in interest.

### § 7.05. Appeal of selection of outside consultant.

- A. Any applicant may make an administrative appeal from the selection of the outside professional

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expert and/or consultant to the Town Board of Selectmen.

- B. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications.
- C. Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen, provided that such appeal is entered within seven days after such selection has been made as recorded in the office of the Town Clerk. An appeal will not be considered valid unless it is formally filed with the office of the Town Clerk and a copy is given to the Board of Selectmen.
- D. The applicant should notify the Board of its intentions to seek a waiver at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will then be viewed as an intention to appeal on the part of the project applicants. Failure to inform the Board of such intention of appeal may result in the delay of the start-up of the Town's outside review services.
- E. In acting on an administrative appeal, the Board of Selectmen may determine that:
  - (1) A conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore the Board must select another consultant.
  - (2) A conflict of interest does not exist and/or the consultant does meet the minimum qualifications, therefore the selection made by the Board stands.
- F. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing such appeal.
- G. In the event that no decision is made within 30 days following the filing of the appeal, the selection made by the Board shall stand.

### § 7.06. Remedy for failure to pay fee.

Failure of an applicant to pay the consultant review fee determined by the Planning Board, or to replenish the special account when requested, shall be grounds for plan disapproval, denial of the application or permit or refusal to release development security.

## Chapter 8

### Stormwater Management Regulations [Originally adopted 4-8-2008; amended 9-12-2017]

#### § 8.00. Purpose.

The purpose of these Stormwater Regulations is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, decreased groundwater recharge, and non-point source pollution associated with new development and redevelopment, as more specifically addressed in the Stormwater Bylaw of the Town of Sturbridge.

#### § 8.01. Definitions.

The definitions contained herein apply to issuance of a stormwater management permit (SMP) established by the Town of Sturbridge Stormwater Bylaw and implemented through these Stormwater Management Regulations. Terms not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.



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**ALTER** — Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. "Alter" may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

**APPLICANT** — A property owner or agent of a property owner who has filed an application for a stormwater management permit.

**BEST MANAGEMENT PRACTICE (BMP)** — Structural, ~~non-structural~~nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

**BETTER SITE DESIGN** — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, and using natural features for stormwater management.

**CERTIFICATE OF COMPLETION (COC)** — A document issued by the DPW Director/Town Engineer after all construction activities have been completed which states that all conditions of an issued stormwater management permit have been met and that a project has been completed in compliance with the conditions set forth in a SMP.

**CONVEYANCE** — Any structure or device, including pipes, drains, culverts, basins, curb breaks, paved swales or man-made swales of all types designed or utilized to move or direct stormwater runoff or existing water flow.

**DISTURBANCE OF LAND** — Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

**DRAINAGE EASEMENT** — A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

**EROSION CONTROL PLAN** — A plan that shows the location and construction detail(s) of the erosion and sediment reduction controls to be utilized for a construction site.

**HOTSPOT** — Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances.

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, sidewalks, roof tops, driveways, patios, and paved, gravel and compacted dirt surfaced roads.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY** — The policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater,

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including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Sturbridge.

**NEW DEVELOPMENT** — Any construction activities or land alteration resulting in total earth disturbances equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre) on an area that has not previously been developed to include impervious cover.

~~NONPOINT~~**NON-POINT** SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

**OPERATION AND MAINTENANCE PLAN** — A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

**OWNER** — A person with a legal or equitable interest in a property.

**PERSON** — Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, the Town of Sturbridge, and any other legal entity, its legal representatives, agents, or assigns.

**POINT SOURCE** — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POST-DEVELOPMENT** — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. "Post-development" refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**PRE-DEVELOPMENT** — The conditions that exist at the time that plans for the land development of a tract of land are submitted to the DPW Director/Town Engineer. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**RECHARGE** — The replenishment of underground water reserves.

**REDEVELOPMENT** — Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre) that does not meet the definition of "new development."

**RESOURCE AREA** — Any area protected under, including without limitation: the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Sturbridge Wetlands Protection Bylaw.

**SITE** — The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

**STOP-WORK ORDER** — An order issued which requires that all construction activity on a site be stopped.

**STORMWATER AUTHORITY** — The Board of Selectman or duly authorized representatives that ~~has~~**have** the authority to administer, implement, and enforce these Stormwater Regulations. The DPW Director/Town Engineer is responsible for coordinating the review, approval and permit process as defined

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in this bylaw. Other boards and/or departments may participate in the review process.

STORMWATER MANAGEMENT — The use of structural or ~~non-structural~~nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT (SMP) — A permit issued by the DPW Director/Town Engineer after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

TSS — Total suspended solids.

WATER QUALITY VOLUME (WQV) — The storage needed to capture a specified average annual stormwater runoff volume. Numerically, (WQV) will vary as a function of drainage area or impervious area.

### § 8.02. (Reserved)

### § 8.03. Authority.

- A. The rules and regulations contained herein have been adopted by the DPW Director/Town Engineer, Planning Board and Conservation Commission in accordance with the Town of Sturbridge Stormwater Bylaw.
- B. Nothing in these rules and regulations is intended to replace or be in derogation of the requirements of the Town of Sturbridge Wetlands Protection Bylaw or any rules and regulations adopted thereunder.
- C. These Stormwater Regulations may be periodically amended by the DPW Director/Town Engineer in accordance with the procedures outlined in the Town of Sturbridge Stormwater Bylaw.

### § 8.04. Administration.

The DPW Director/Town Engineer shall administer, implement and enforce these regulations under the direction of the Board of Selectman. Town boards, including, but not limited to, the Conservation Commission, Planning Board, Zoning Board of Appeals, Department of Public Works, Building Department, Board of Health and others who issue permits and/or approvals for projects and/or activities under their specific jurisdiction shall review projects in accordance with these regulations as adopted and amended from time to time by the Board of Selectman. Projects or activities approved by the Planning Board and/or Conservation Commission shall be deemed in compliance with the intent and provisions of these Stormwater Regulations. Each board must forward written documentation of said approval and all conditions of approval to the DPW Director/Town Engineer within 20 business days of said approval (or the agreed to extended time). Upon receipt of written approval from the board(s), the DPW Director/Town Engineer shall issue a stormwater management permit to the applicant within 30 business days.

Note: The above provision is designed to allow existing Town boards, commissions and/or departments who have current jurisdiction over project approval activities to continue their current review procedures, but to add a provision that would authorize these entities to review and approve stormwater management facilities designed in accordance with this regulation.

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### § 8.05. Applicability.

- A. These Stormwater Regulations apply to all activities in accordance with the applicability section of the Town of Sturbridge Stormwater Bylaw and further described in this section. Projects and/or activities not specifically under the currently regulated jurisdiction of any of the Town of Sturbridge boards, commissions or departments but still within the jurisdiction of the Town of Sturbridge Stormwater Bylaw must obtain a stormwater management permit from the DPW Director/Town Engineer in accordance with the permit procedures and requirements defined in § 8.06 of these regulations. For projects and/or activities within the currently regulated jurisdiction of any of the Town of Sturbridge boards, ~~commission~~commissions or departments, the specific application submission requirements, public notices, and fee requirements of the applicable board, commission and/or department shall govern. Notwithstanding these requirements, the stormwater management plan contents, operation and maintenance plan contents, and stormwater review fee, under § 8.06 of these regulations must also be met.
- B. Exemptions. No person shall alter land within the Town of Sturbridge without having obtained a stormwater management permit (SMP) for the property, with the following exceptions:
- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act ~~regulation~~regulations, 310 CMR 10.04, and MGL c. 40A, § 3;
  - (2) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling where no greater than 100 cubic yards of land disturbance is involved;
  - (3) Repair or replacement of an existing roof of a single-family dwelling;
  - (4) The construction of any fence that will not alter existing terrain or drainage patterns;
  - (5) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
  - (6) Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Department of Public Works/Town Engineer;
  - (7) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this bylaw.

### § 8.06. Permit procedures and requirements.

Projects requiring a stormwater management permit shall be required to submit the materials as specified in this section, and are required at a minimum to meet stormwater management guidelines of all federal, state and/or local regulations.

- A. Permit required.
- (1) No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this bylaw prior to commencing the proposed activity.
  - (2) Should a land-disturbing activity associated with an approved plan in accordance with this section not begin during the 180-day period following permit issuance, the DPW Director/Town Engineer may evaluate the existing stormwater management plan to determine whether the plan still satisfies local program requirements and to verify that all design factors are still valid. If the authority finds the previously filed plan to be inadequate, a modified plan

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shall be submitted and approved prior to the commencement of land-disturbing activities.

- B. Filing application. The applicant shall file with the DPW Director/Town Engineer, three copies of a completed application package for a stormwater management permit (SMP). Permit issuance is required prior to any site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP application package shall include:
- (1) A completed stormwater management permit application form with original signatures of all owners.
  - (2) Stormwater management plan and project description.
  - (3) Operation and maintenance plan.
  - (4) Payment of the application and review fees.
  - (5) Inspection and maintenance agreement.
  - (6) Erosion and sediment control plan.
  - (7) Surety bond.

### § 8.07. Right of entry.

Filing an application for a permit grants the duly authorized agent permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.

### § 8.08. Fees.

The stormwater authority shall obtain with each submission an application fee established by the DPW Director/Town Engineer to cover expenses connected with the review of the stormwater management permit and a technical review fee sufficient to cover professional review services or the project. The DPW Director/Town Engineer is authorized to retain a registered professional engineer or other professional consultant to advise the DPW Director/Town Engineer on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

#### A. Rules.

- (1) Application fees are payable at the time of application and are ~~non-refundable~~nonrefundable.
- (2) Application fees shall be calculated by the DPW Director/Town Engineer in accordance with the fee schedule below.
- (3) These fees are in addition to any other local or state fees that may be charged under any other law, ~~Bylaw~~, or ~~local ordinance~~bylaw.
- (4) The fee schedule may be reduced or increased by the DPW Director/Town Engineer. Any such change shall be made at a posted public hearing of the Board of ~~Selectman~~Selectmen not less than 30 days prior to the date upon which the change is to be effective.

#### B. Stormwater management plan review fee schedule. Contact Planning Department for fee calculations.

#### C. Engineering and consultant reviews and fees.

- (1) The DPW Director/Town Engineer is authorized to require an applicant to pay a fee for the reasonable costs and expenses for specific expert engineering and other consultant services deemed necessary by the DPW Director/Town Engineer to come to a final decision on the

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application. This fee is called the "engineering and consultant review fee."

- (2) Payment may be required at any point in the deliberations prior to a final decision.
- (3) Any application filed with the DPW Director/Town Engineer must be accompanied by a completed engineering consultant fee acknowledgement form.
- (4) Consultant fees shall be determined at the time of project review based on a specific scope of work, and shall be calculated at a rate ~~of~~ as the stormwater authority may determine.
- (5) The services for which a fee may be utilized include, but are not limited to, wetland survey and delineation, hydrologic and drainage analysis, wildlife evaluation, stormwater quality analysis, site inspections, as-built plan review~~s~~; and analysis of legal issues.
- (6) The DPW Director/Town Engineer is authorized to require an applicant to pay reasonable costs and expenses for certain activities~~s~~, which utilize the services of Town staff. This includes such activities as inquiries concerning potential projects as well as site inspections not associated with a pending permit application.
- (7) The DPW Director/Town Engineer may require any applicant to pay an additional fee of \$30 per hour for review, inspection and monitoring services for any project filing that requires ~~an~~ in excess of two hours of review, inspection~~s~~, and monitoring time by a Town staff member.
- (8) Subject to applicable law, any unused portion of any fees collected shall be returned by the DPW Director/Town Engineer to the applicant within 60 calendar days of a written request by the applicant, unless the DPW Director/Town Engineer decides in a public meeting that other action is necessary.
- (9) The engineering and consultant review fees collected under this section shall be deposited in a revolving account. The DPW Director/Town Engineer shall include a full accounting of the revolving account as part of its annual report to the Town.

### § 8.09. Actions.

A. The DPW Director/Town Engineer's action, rendered in writing, shall consist of either:

- (1) Approval of the stormwater management permit application based upon a determination that the proposed plan meets the standards in § 8.06 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw.
- (2) Approval of the stormwater management permit application subject to any conditions, modifications or restrictions required by the DPW Director/Town Engineer which will ensure that the project meets the standards in § 8.06 and adequately protects water resources, set forth in the Stormwater Bylaw.
- (3) Disapproval of the stormwater management permit application based upon a determination that the proposed plan, as submitted, does not meet the standards in § 8.06 or adequately ~~protects~~protect water resources, as set forth in this bylaw.
- (4) The DPW Director/Town Engineer may disapprove an application "without prejudice" where an applicant fails to provide requested additional information that in the DPW ~~Director~~Director's/Town Engineer's opinion is needed to adequately describe the proposed project. Information shall generally be limited to those items listed in § 8.06 of these regulations.

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- B. For projects not requiring permits from other Town boards, including but not limited to the Conservation Commission, Planning Board, Zoning Board of Appeals, etc., failure of the DPW Director/Town Engineer to take final action upon an application within 65 calendar days of receipt of a complete application shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without DPW Director/Town Engineer action, the DPW Director/Town Engineer must issue a stormwater management permit.

### § 8.10. Plan changes.

The permittee must notify the DPW Director/Town Engineer in writing of any drainage change or alteration in the system authorized in a stormwater management permit before any change or alteration is made. If the DPW Director/Town Engineer determines that the change or alteration is significant, based on the stormwater management standards in § 8.06 and accepted construction practices, the DPW Director/Town Engineer may require that an amended application be filed.

### § 8.11. Appeal of actions of DPW Director/Town Engineer.

A decision of the DPW Director/Town Engineer shall be final. Further relief of a decision by the DPW Director/Town Engineer made under these regulations shall be reviewable in the Superior Court in an action filed within 20 calendar days thereof, in accordance with MGL c. 249, § 4. An appeal of an action by a board, commission or department that has current regulatory authority for a project and/or activity shall be conducted under the applicable appeal provisions of said board, commission and/or department of the Town of Sturbridge. Such an appeal shall result in revocation of the written approval as described under § 8.04 of these regulations, until such time as the appeal process of the applicable board, commission and/or department has been resolved.

### § 8.12. Project completion.

At completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site as required in § 8.06. The as-built drawings must depict all on-site controls, both structural and ~~non-structural~~nonstructural, designed to manage the stormwater associated with the completed site (post-construction stormwater management). The as-built drawing shall show deviations from the approved plans, if any, and be certified by a registered professional engineer.

### § 8.13. Stormwater management plan contents.

- A. The application for a stormwater management permit shall include the submittal of a stormwater management plan to the DPW Director/Town Engineer. This stormwater management plan shall contain sufficient information for the DPW Director/Town Engineer to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these regulations and must be submitted with the stamp and signature of a professional engineer (PE) licensed in the Commonwealth of Massachusetts.
- B. The stormwater management plan shall fully describe the project in drawings, narrative, and calculations. It shall include:
- (1) Contact information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

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- (2) A locus map (preferably copy of Assessor's Map).
- (3) The existing zoning, and land use at the site.
- (4) The proposed land use.
- (5) The location(s) of all existing and proposed easements.
- (6) The location of existing and proposed utilities.
- (7) The site's existing and proposed topography with contours at two-foot intervals.
- (8) The existing site hydrology.
- (9) A description and delineation of existing stormwater conveyances, impoundments, and wetlands (subject to protection under the state and local wetland regulations) on or adjacent to the site or into which stormwater flows.
- (10) A delineation of ~~one-hundred~~100-year floodplains, if applicable.
- (11) Field-verified seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration (information to be shown on a plan and verified by a professional).
- (12) The existing and proposed vegetation and ground surfaces with runoff coefficients for each.
- (13) A drainage area map showing pre- and post-construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows.
- (14) A description and drawings of all components of the proposed stormwater management system, including:
  - (a) Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization.
  - (b) All measures for the detention, retention or infiltration of water.
  - (c) All measures for the protection of water quality.
  - (d) The structural details for all components of the proposed drainage systems and stormwater management facilities.
  - (e) Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations.
  - (f) Proposed improvements, including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
  - (g) Any other information requested by the DPW Director/Town Engineer.
- (15) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this regulation. Such calculations shall include:
  - (a) Description of the design storm frequency, intensity and duration.
  - (b) Time of concentration.
  - (c) Soil runoff curve number (RCN) based on land use and soil hydrologic group.
  - (d) Peak runoff rates and total runoff volumes for each watershed area.



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- (e) Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed.
  - (f) Infiltration rates, where applicable.
  - (g) Culvert capacities.
  - (h) Flow velocities.
  - (i) Data on the increase in rate and volume of runoff for the specified design storms.
  - (j) Documentation of sources for all computation methods and field test results.
- (16) Post-development analysis is required to document that post-development flow conditions do not exceed pre-development flow conditions.
- (17) Soils information from test pits performed at the location of proposed stormwater management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts registered soil evaluator, or a Massachusetts registered professional engineer.
- (18) Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.
- C. Operation and maintenance plan contents. An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit, this bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00, are met in all seasons and throughout the life of the system. The operation and maintenance plan shall remain on file with the DPW Director/Town Engineer and shall be an ongoing requirement. Additionally, the O&M plan shall be recorded at the Worcester County Registry of Deeds. Proof of recording shall be submitted to the DPW Director/Town Engineer (condition of the stormwater permit). The O&M plan shall include at a minimum:
- (1) The name(s) of the owner(s) for all components of the system.
  - (2) A map showing the location of the systems and facilities, including catch basins, manholes/access lids, main, and stormwater devices.
  - (3) Maintenance agreements that specify:
    - (a) The names and addresses of the person(s) responsible for operation and maintenance.
    - (b) The person(s) responsible for financing maintenance and emergency repairs.
    - (c) An inspection and maintenance schedule for all stormwater management facilities, including routine and non-routine maintenance tasks to be performed.
    - (d) A list of easements with the purpose and location of each.
    - (e) The signature(s) of the owner(s).
  - (4) Stormwater management easement(s).
    - (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
      - [1] Access for facility inspections and maintenance.

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- [2] Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - [3] Direct maintenance access by heavy equipment to structures requiring regular maintenance.
  - (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
  - (c) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the DPW Director/Town Engineer.
  - (d) Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a certificate of completion by the DPW Director/Town Engineer.
- D. Changes to operation and maintenance plans.
- (1) The owner(s) of the stormwater management system must notify the DPW Director/Town Engineer of changes in ownership or assignment of financial responsibility, and must transfer operation and maintenance plan responsibilities to subsequent owners.
  - (2) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this regulation by mutual agreement of the DPW Director/Town Engineer and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

### § 8.14. Stormwater management and low-impact development performance criteria.

#### A. Exemptions.

- (1) In addition to the exemptions listed in § 8.05, Applicability, the following exemptions apply:
  - (a) Single-family homes.
  - (b) Maintenance of existing paved surfaces.
  - (c) Resurfacing of existing paved surfaces.
  - (d) Project sites creating a disturbance of land of less than one acre in size.
- (2) Exempted projects are still strongly encouraged to use low-impact development (LID) site planning and design strategies for new development and redevelopment projects.

#### B. Site planning process.

- (1) Low-impact development (LID) site planning and design strategies must be used to the maximum extent feasible, and the design of treatment and infiltration practices should follow the guidance in Volume 2 of the Massachusetts Stormwater Handbook. (See the DEP Stormwater Handbook Volume 2 Chapter 1, for a discussion of ~~non-structural~~nonstructural approaches to stormwater management.)
- (2) The site planning process shall be documented and shall include the following steps:
  - (a) Identify and map critical environmental resources;
  - (b) Delineate potential building envelopes avoiding environmental resource areas and

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appropriate buffers;

- (c) Develop methods to minimize impervious surfaces, and to protect and preserve open space.
- C. Stormwater credits. The use of better site design and nonstructural stormwater management measures is encouraged to minimize reliance on structural stormwater management measures. The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required and the stream channel protection volume required. The applicant may, if approved by the stormwater authority, take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of these regulations. The site design practices that qualify for these credits and procedures for applying and calculating the credits are identified in Appendix A, which follows at the end of these regulations.
- D. Stormwater management in new development and redevelopment (post-construction stormwater management). Objective: The objective of this control measure is to reduce the discharge of pollutants found in stormwater through the retention or treatment of stormwater after construction on new or redeveloped sites. This regulation is designed to address post-construction stormwater runoff from all new development and redevelopment sites that disturb one or more acres. This includes sites less than one acre if the site is part of a larger common plan of development or redevelopment which disturbs one or more ~~acre~~acres.
- (1) Stormwater management systems on new development sites shall be designed to:
    - (a) Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;
    - (b) Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2;
    - (c) Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard 3;
    - (d) Eliminate or reduce the discharge of pollutants from land uses with higher pollutant loads as defined in the Massachusetts Stormwater Handbook in accordance with Massachusetts Stormwater Handbook Standard 5;
    - (e) Protect Zone II or Interim Wellhead Protection Areas of public water supplies in accordance with Massachusetts Stormwater Handbook Standard 6;
    - (f) Implement long-term maintenance practices in accordance with Massachusetts Stormwater Handbook Standard 9; and
    - (g) Require that all stormwater management systems be designed to:
      - [1] Retain the volume of runoff equivalent to, or greater than, one inch multiplied by the total post-construction impervious surface area on the site; and/or
      - [2] Remove 80% of the average annual load of total suspended solids (TSS) generated from the total post-construction impervious area on the site ~~14~~ and 60% of the average annual load of total phosphorus (TP) generated from the total post-construction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or state-approved BMP design guidance or

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performance standards (e.g., state stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.

- (2) Redevelopment requirements.
  - (a) Stormwater management systems on redevelopment sites shall meet the following Massachusetts Stormwater Standards to the maximum extent feasible:
    - [1] Massachusetts Stormwater Standard 1;
    - [2] Massachusetts Stormwater Standard 2;
    - [3] Massachusetts Stormwater Standard 3; and
    - [4] The pretreatment and structural best management practices requirements of Massachusetts Stormwater Standards 5 and 6.
  - (b) Stormwater management systems on redevelopment sites shall also improve existing conditions by requiring that stormwater management systems be designed to:
    - [1] Retain the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site and/or remove 80% of the average annual post-construction load of total suspended solids (TSS) generated from the total post-construction impervious area on the site and 50% of the average annual load of total phosphorus (TP) generated from the total post-construction impervious surface area on the site.
    - [2] Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1 where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or state-approved BMP design guidance or performance standards (e.g., Massachusetts stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
    - [3] Stormwater management systems on redevelopment sites may utilize ~~offsite~~off-site mitigation within the same USGS HUC10 as the redevelopment site to meet the equivalent retention or pollutant removal requirements.
  - (c) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the redevelopment requirements fully.

### § 8.15. Waivers.

- A. The DPW Director/Town Engineer may waive strict compliance with any requirement of the Town of Sturbridge Stormwater Management Regulations or the rules and regulations promulgated hereunder, where:
  - (1) Such action is allowed by federal, state and local statutes and/or regulations.
  - (2) Such action is in the public interest.

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- (3) Such action is not inconsistent with the purpose and intent of the Town of Sturbridge Stormwater Management Regulations.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the regulation does not further the purposes or objectives of this regulation.
- C. All waiver requests shall be acted on within 45 calendar days, and written finding will be provided by the DPW Director/Town Engineer.
- D. If, in the DPW ~~Director~~Director's/Town Engineer's opinion, additional time or information is required for review of a waiver request, the DPW Director/Town Engineer may request an extension of the review period. In the event the applicant objects to an extension, or fails to provide requested information, the waiver request may be denied, "without prejudice" by the DPW Director/Town Engineer.

### § 8.16. Security.

The DPW Director/Town Engineer may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the DPW Director/Town Engineer to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW Director/Town Engineer may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the DPW Director/Town Engineer has received the final inspection report as required by ~~Section §~~ 8.17 of these regulations and issued a certificate of completion.

### § 8.17. Construction inspections.

- A. Notice of construction commencement. The applicant must notify the DPW Director/Town Engineer in advance before the commencement of construction. In addition, the applicant must notify the DPW Director/Town Engineer in advance of construction of critical components of the stormwater facility.

At the discretion of the DPW Director/Town Engineer, periodic inspections of the stormwater management system construction shall be conducted by the DPW Director or a professional engineer or their designee who has been approved by the DPW Director/Town Engineer.

- B. Final inspection.

After the stormwater management system has been constructed and before the surety has been released, all applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed and must be certified by a professional engineer.

The DPW Director/Town Engineer shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the DPW Director/Town Engineer, which will issue a certificate of completion. ~~As-built~~ plans shall be full-size plans which reflect the "as built" conditions, including all final grades, developed by a professional engineer. All changes to project design should be recorded in red ink on plans to define changes made. All work deleted, corrections in elevations, and changes in materials, should be shown on the ~~as-built~~ drawings.

- C. Inadequacy of system. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the stormwater management plan, it shall

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be corrected by the applicant before the certificate of completion is released. If the applicant fails to act, the DPW Director/Town Engineer may use the surety bond to complete the work.

If the DPW Director/Town Engineer determines that there is a failure to comply with the plan, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. A stop-work order shall be issued until any violations are corrected and all work previously completed has received approval by the DPW Director/Town Engineer.

### § 8.18. Certificate of completion.

- A. Upon completion, the applicant is responsible for certifying (by a professional engineer) that the completed project is in accordance with the approved plans and specifications and shall provide regular inspections sufficient to adequately document compliance.
- B. The DPW Director/Town Engineer will issue a certification of completion in the form of a letter indicating the following:
  - (1) The conditions of the permit have been met.
  - (2) The final inspection and reports have been accepted.
  - (3) A determination that all work specified by the permit has been satisfactorily completed in conformance with the Town of Sturbridge Stormwater Management Regulations.

### § 8.19. Perpetual inspection and maintenance.

- A. Maintenance responsibility.
  - (1) Stormwater management facilities and practices included in a stormwater management plan with an inspection and maintenance agreement in accordance with ~~Section §~~ 8.06 of these regulations must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this regulation.
  - (2) The owner of the property on which work has been done pursuant to this regulation for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
  - (3) All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this bylaw and accomplishment of its purposes as specified in the operation and maintenance plan and maintenance agreement described under § 8.06 of these regulations.
  - (4) At a minimum, inspections shall occur during the first year of operation and at least once every three years thereafter. In addition, a maintenance agreement as specified under § 8.06 of these regulations between the owner and the DPW Director/Town Engineer shall be executed for privately owned stormwater management systems that specifies the responsible party for conducting long-term inspections.
  - (5) Inspection reports shall be submitted to and maintained by the DPW Director/Town Engineer for all stormwater management systems. The DPW Director/Town Engineer reserves the right to require specific information in the inspection reports.

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- B. (Reserved)
- C. Right-of-entry for inspection. The terms of the inspection and maintenance agreement as specified in these regulations shall provide for the DPW Director/Town Engineer or its designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. The DPW Director/Town Engineer, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this regulation and may make or cause to be made such examinations, surveys, or sampling as the DPW Director/Town Engineer deems necessary, subject to the Constitutions and laws of the United States and the commonwealth.

### § 8.20. Enforcement; noncriminal disposition; appeals.

The DPW Director/Town Engineer or an authorized agent of the DPW Director/Town Engineer shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil, criminal and ~~non-criminal~~noncriminal remedies for such violations.

- A. Notices and orders.
  - (1) The DPW Director/Town Engineer or an authorized agent of the DPW Director/Town Engineer may issue a written notice of violation or enforcement order to enforce the provisions of this bylaw or the regulations thereunder, which may include requirements to:
    - (a) Cease and desist from construction or land-disturbing activity until there is compliance with the bylaw and the stormwater management permit.
    - (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan.
    - (c) Perform monitoring, analyses, and reporting.
    - (d) Fix adverse impact resulting directly or indirectly from malfunction of the stormwater management system.
  - (2) If the enforcing person determines that abatement or remediation of adverse impacts is required, the order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Sturbridge may, at its option, undertake such work, and the property owner shall reimburse the Town of Sturbridge for expenses incurred.
  - (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Sturbridge, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director/Town Engineer within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the DPW Director/Town Engineer affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c 59, § 57, after the 31st day at which the costs first become due.
  - (4) Any person, who violates any provision of the Town of Sturbridge Stormwater Management Regulations order or permit issued thereunder, may be ordered to correct the violation and/or shall be punished by a fine of not more than \$50. Each day or part thereof that such violation

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occurs or continues shall constitute a separate offense.

- B. ~~Non-criminal~~Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Sturbridge may elect to utilize the ~~non-criminal~~noncriminal disposition procedure set forth in MGL c. 40, § 21D and Chapter 1, Article I, of the General Bylaws of the Town of Sturbridge, in which case DPW Director/Town Engineer of the Town of Sturbridge shall be the enforcing agent. The penalty for the first violation shall be \$50. The penalty for the second violation and subsequent violations shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- C. Appeals. The decisions or orders of the DPW Director/Town Engineer shall be final. Further relief shall be to a court of competent jurisdiction.
- D. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

### § 8.21. Severability.

The invalidity of any section, provision, paragraph, sentence, or clause of these regulations shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

### Chapter 9

#### Forms

See the forms included as attachments to this chapter.



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**Chapter 345 - SEWERS**

**[HISTORY: Adopted by the Town of Sturbridge as amended through 12-10-2012. Subsequent amendments noted where applicable.]**

**ARTICLE I  
Definitions**

**§ 345-1. Terms defined.**

Unless the context specifically indicates otherwise, the meaning of terms used in this bylaw shall be as follows:

ACT or THE ACT — The Federal Water Pollution Control Act, also known as "The Clean Water Act."

BOARD OF HEALTH — The Board of Health of the Town of Sturbridge.

BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER — A sewer receiving both surface run-off and sewage.

COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION (MDEP) — The Massachusetts Department of Environmental Protection or any duly authorized official of said Department.

GARBAGE — Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES — The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

MAY — Is permissive.

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

NPDES PERMIT — National Pollutant Discharge Elimination System.

PERSON — Any individual firm, company, association, society, corporation, or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PRETREATMENT — The reduction of the amount of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a sewage treatment plant. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow

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conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

**PUBLIC SEWER** — A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**SANITARY SEWER** — A sewer, which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

**SEWAGE (SOMETIMES TERMED WASTEWATER OR WASTE)** — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

**SEWAGE TREATMENT PLANT or WATER POLLUTION CONTROL PLANT** — Any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS** — All facilities for collecting, pumping, treating, and disposing of sewage.

**SEWER** — A pipe or conduit for carrying sewage.

**SHALL** — Is mandatory.

**SIGNIFICANT INDUSTRIAL USER** — Any user who has a discharge flow of 25,000 gallons or more per average workday; has a flow greater than 5% of the flow in the Town's wastewater system; has in his wastes, toxic pollutants as defined pursuant to Section 307 of the Act; has been identified as one of the 21 industrial categories pursuant to Section 307 of the Act; or is found by the Town to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

**SLUG** — Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flows during normal operation.

**STORM DRAIN (SOMETIMES TERMED STORM SEWER)** — A sewer which carries storm and surface waters and drainage, but sewage and industrial wastes, other than unpolluted process and cooling water, are intended to be excluded.

**SUSPENDED SOLIDS** — Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.

**TOWN** — The Town of Sturbridge, Massachusetts.

**WATERCOURSE** — A channel in which a flow of water occurs, either continuously or intermittently.

### ARTICLE II

#### Use of Public Sewers Required

##### § 345-2. Discharge to natural outlets.

It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this bylaw and the requirements of the Commonwealth of Massachusetts.

##### § 345-3. Prohibited private facilities.

Except as hereinafter provided, it shall be unlawful to construct or maintain in the Town any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except where no

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sewage facilities are available.

### **§ 345-4. Connection to existing public sewer.**

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is located a public sanitary sewer of the Town, are hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this bylaw, within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line, unless prevented by topographical or other reason.

### **§ 345-5. Connection to public sewer required upon availability.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line, unless the property owner can otherwise provide evidence that the private sewage disposal system complies with current state and local regulations. Any and all septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable material. Suitable material shall be screened gravel with a maximum particle size not exceeding one inch in any direction. Property owners that do not connect to available public sewers within the time prescribed will be subject to testing to demonstrate compliance with current state and local regulations as required by the Board of Health.

### **§ 345-6. Rental charges.**

The Town of Sturbridge shall annually establish equitable and just rental charges for the use of the sewage facilities to be paid by every owner of an establishment whose building sewers connect directly or indirectly into public sewers. Such annual charges shall be in proportion to the quantity of water supplied to every such establishment, subject to just and equitable discounts and abatements in exceptional cases, or in the case of private water supply, a fair estimate shall be used. The Town shall revise the charges for users or user classes to accomplish the following: maintain a proportionate distribution of operation and maintenance cost among users and user classes as required herein; generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. The rental charges shall constitute a lien upon the real estate using such public sewers, to be collected in the same manner as taxes upon real estate. Such lien shall be proper and superior to every other lien or claim except a lien of an existing tax, water charge or local assessment or in an action of contract in the name of the Town.

### **§ 345-7. Sewer fund.**

The revenue derived from the sewer rentals imposed hereunder, including penalties and interest thereon, shall be kept in a separate and distinct fund to be known as the "Sewer Fund."

### **§ 345-8. Interest rate on betterment assessments.**

Betterment assessments shall bear an interest rate of 2% per annum above the rate of interest rate chargeable to the Town of Sturbridge as provided in MGL c. 80, § 13.

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### ARTICLE III Betterment Assessments

#### § 345-9. Authority.

- A. The Town of Sturbridge, acting through its Board of Selectmen, shall assess the owners of land abutting a public sewer line installed by the Town ~~by~~ a rate based upon the uniform unit method. Sewer assessments shall be determined utilizing the total number of existing residential sewer units to be served, or the residential equivalent of commercial, industrial or semi-public uses, and shall be levied as betterment assessments or, alternatively, sewer privilege fees as described herein.
- B. The authority to assess betterments, as well as the permitted methodologies for doing so, are described in MGL c. 80, ~~§§ 14 through 24.~~
- C. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without such invalid provisions or applications.

#### § 345-10. Method of assessing betterments and sewer privilege fees.

##### A. General.

- (1) The Town of Sturbridge shall assess sewer betterments based upon the uniform unit method. Properties abutting a sewer street shall be assessed by a rate proportional to the total number of existing sewer units to be served at the time of the assessment. Said rate shall be determined by user class and shall apply to all lands developed or undeveloped abutting a sewer street. The total assessments shall not exceed the local share of the total sewer project cost, which shall include total costs of engineering, survey, design, construction, land acquisition, construction engineering services, legal services and all related contingencies, less all state and federal aid received.
- (2) The Board shall levy, by preparing an order of assessment, assessments against all properties abutting a sewer street within six months after completion of the pertinent construction and of the subject portion of the sewer system (approved by the Board of Selectmen) for its intended use. In the order of assessment, the Board shall designate the owner of each parcel as of the preceding January 1 as liable to assessment as stated under the provisions of the Massachusetts General Laws.

##### B. Time of assessment.

- (1) Betterments. The number of existing sewer units shall be determined by the Board of Selectmen for each sewer construction project approved by the Town Meeting. The time of assessment for lands abutting the sewer street shall be that date upon which the sewer system with appurtenances is "approved for use". In the case where the construction of that portion of the sewer system (lateral sewers) funded by betterments is completed prior to the date upon which the sewer system is "approved for use" it shall be within the discretion of the Board of Selectmen to establish an earlier date of assessment.
- (2) Sewer privilege fees.
  - (a) For those properties not abutting the sewer line at the time of construction, but tying into the system at a future date, the time of assessment shall be the date upon which that property connects into the sewer system.

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- (b) For those properties serviced by the sewer system but subdivided at a future date, the time of assessment for the unsewered subdivision shall be the date upon which those subdivisions connect to the sewer system.

**§ 345-11. Sewer unit designation.**

A. General. Sewer units shall be determined based upon the user class of those properties to be assessed a betterment. Said classes shall include residential and nonresidential. The nonresidential class shall include commercial, industrial, municipal and any or all other nonresidential properties, and sewer units shall be determined based upon the residential equivalent of such commercial, industrial, municipal or other nonresidential class, as provided herein.

B. Sewer unit determinations. Properties receiving direct benefit from the public sewer system, whether developed or undeveloped, shall be designated a number of sewer units in accordance with the following:

(1) Residential, developed:

- (a) Single-family dwellings shall comprise one sewer unit.
- (b) Multiple-family dwellings (more than one dwelling unit) shall comprise a number of sewer units based upon the following methodology:

[1] Rental properties (apartments) shall be assessed one sewer unit for each apartment with more than one bedroom. Rental properties shall be assessed one-half of one sewer unit for each one bedroom or studio apartment.

[2] Condominium complexes shall be assessed one sewer unit for each dwelling unit.

(2) Nonresidential, developed with Town water:

- (a) Nonresidential property shall include all industrial, commercial and municipal properties.
- (b) Nonresidential buildings which are metered for water use shall comprise a number of sewer units based upon the average water consumption for the 12 months preceding the appropriation of the funds for construction using the following formula:

$$\frac{\text{Water Usage (gpd)}}{200 \text{ gpd}} = \text{Equivalent number of sewer units}$$

(All decimals shall be rounded up to the next whole highest number.)

(3) Nonresidential, developed without Town water:

- (a) Nonresidential buildings not metered for water use shall be assigned a water consumption volume by the Sturbridge Board of Health based on Title 5 of the State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage. An equivalent number of sewer units shall then be determined by using the following formula:

$$\frac{\text{Nonresidential Sewage Per Day (gpd)}}{200 \text{ gpd}} = \text{Equivalent number of sewer units}$$

(All decimals shall be rounded up to the next whole highest number.)

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- (4) Residential~~—~~<sub>2</sub> undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. Future subdivisions of the assessed lot shall be subject to the assessment of sewer privilege fees.
- (5) Nonresidential~~—~~<sub>2</sub> undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. The lot shall be subject to the assessment of sewer privilege fees. Future use of the land shall govern the assessment of sewer privilege fees.

### § 345-12. Betterment payment.

- A. General. Except as herein provided, the provisions of Massachusetts General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, liens therefor~~5~~ and interest thereon shall apply to assessments made under this bylaw, and the Board of Assessors and Treasurer/Collector of the Town shall have all of the powers conveyed by Massachusetts General Laws relative to such assessments.
- B. Lump sum betterments. The lump sum betterment payment for an assessed property shall be based upon the total number of sewer units designated for said property at the time of assessment. Said number of sewer units shall be determined as described herein.
- C. Apportionment of betterment payment. Property owners shall have the option to apportion betterment payments in accordance with MGL c. 80, § 13. The interest rate charged by the Town shall be the rate being charged to the Town for the sewer construction project bond, plus any interest required by Massachusetts General Laws.

### § 345-13. Sewer privilege fee for private sewer extensions.

- A. If a developer or a person other than the Town of Sturbridge, or duly authorized representative of the Town, constructs a sewer extension to the public sewer system, the Town shall assess a sewer privilege fee in lieu of betterment assessment with respect to each sewer unit to be served by said sewer extension. The sewer privilege fee shall be equivalent to \$7,500 per residential unit; nonresidential units shall be \$7,500 multiplied by the sewer unit calculation described in § 345-11B(2) of this bylaw. Sewer privilege fees shall be levied at the time of connection to the public sewer system. Sewer privilege fees shall be paid in a lump sum at the time of connection.
- B. In addition, the developer and/or property owners connecting to a private sewer extension shall bear the burden of all costs, including costs of legal services, related to the following:
  - (1) Review of design plans and specifications for the private sewer extensions to be accepted as part of the public sewer system conducted by a registered professional engineer as authorized by the Board of Selectmen.
  - (2) Inspection fees of the Board related to the installation of the private sewer extension tying into the public sewer system.
  - (3) Application fees for a building sewer connection permit, which shall include all reasonable costs related to installation inspection performed by an inspector for the Town of Sturbridge.
- C. Private costs associated with the design and construction of a private sewer extension shall not be considered with respect to the sewer privilege fee. Payments or method of payment related to these costs shall not be reflected within the sewer privilege fee.

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### § 345-14. Public sewers in unaccepted ways.

If a property abuts a private or unaccepted way within which a public sewer has been installed, or if a property lies within 100 feet of a public sewer within a private or unaccepted way, the Town shall assess a sewer privilege fee in lieu of betterment assessment against said property. The sewer privilege fee shall be equivalent to the betterment assessment for said property as determined by the procedures outlined in § 345-11 of these regulations and shall be levied at the time of connection to the public sewer. All provisions governing the payment and method of payment related to betterment assessments as described in § 345-12 of these regulations shall apply.

## ARTICLE IV Private Sewage Disposal

### § 345-15. Connection to private facilities.

Where a public sanitary sewer is not available under the provisions of Article II, the building sewer shall be connected to a private sewage disposal system complying with the requirements of ~~the~~ Title V and the Board of Health.

### § 345-16. Board of Health permit required.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Sturbridge Board of Health. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement with any plans, specifications and other information deemed necessary by the Board of Health agent. A permit and inspection fee, as established from time to time by resolution of the Board of Selectmen, shall be payable at the time the application is filed.

### § 345-17. Title V compliance.

All private sanitary sewer systems shall comply with the Commonwealth of Massachusetts Title V requirements, and related amendments.

### § 345-18. Inspection by Board of Health agent.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Board of Health. The Board of Health and its agent shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the agent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the agent.

### § 345-19. Maintenance of system.

The owner shall operate and maintain any private sewage disposal facilities in a sanitary manner at all times at no expense to the Town.

## ARTICLE V Building Sewers and Connections

### § 345-20. Permit required.

No authorized person shall uncover, make any connections with or opening into, use, alter or disturb any

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public sewer or appurtenance thereof without first obtaining a written permit. All the work related to the installation, repair, extension or modification of building drains, building sewers, and connections to public sewers shall be performed by persons licensed by the Town. Work related to the installation of building sewers, sewer extensions, and connections to public sewers shall be performed only under permit issued by the ~~D.P.W.~~DPW Director and/or the Board of Selectmen in the case of a sewer extension permit (see attached application form). All permits for connection to the Town sewer system issued by the DPW Director shall expire after one year and all approvals for sewer extensions or connections issued by the Board of Selectmen shall expire after two years if work has not been substantially initiated, as determined by the Board of Selectmen, unless an extension has been granted by the Board of Selectmen.

### § 345-21. Classes of permits; application.

- A. There shall be two classes of building sewer connection permits:
- (1) For residential and commercial service.
  - (2) For service to establishments producing industrial wastes.
- B. In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall include any plans, specifications, or other information considered pertinent in the judgment of the ~~D.P.W.~~DPW Director. The terms and conditions of the permit are subject to modification and change by the Town, subject to Board of Selectman approval, allowing a six-month time schedule for notification and compliance. The discharge shall not be reassigned, transferred, or sold to a new owner, new user, different premises or a new or changed operation. An industrial permittee shall apply for a permit modification when either production or process is changed resulting in the wastewater characteristics of flow being altered. In either case, the owner or his agent shall make an application on a special form furnished by the Town. The permit application shall be supplemented with any plans, specifications or other information considered pertinent in the judgment of the ~~D.P.W.~~DPW Director. The conditions of the permit shall be uniformly enforced in accordance with the ~~ordinance~~bylaw and regulations all other applicable state and federal regulations.

### § 345-22. Permit maintained on site.

One copy of the permit shall be available for inspection at all times at the site of the work.

### § 345-23. Fees and costs.

- A. Property owner to bear cost. All costs and expenses incidental to the installation, testing, and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- B. Domestic users.
- (1) Entrance fees for domestic use. An entrance fee of \$1,200 shall be charged to any sewer service for domestic usage on any sewer connection installed from the main sewer to the property line. This entrance fee shall be payable at the time of the service connection; except that at the discretion of the Board of Selectmen, or their agents (Town Administrator or ~~D.P.W.~~DPW Director), this payment may be on terms and conditions set forth by the Town with the provision that any balance due the Town on the entrance fee shall constitute a lien on the property of the applicant.



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- (2) Additional expenses for domestic users. The owner, in addition to such entrance fees, shall pay the established rates for sewer rental and shall pay for all service work, materials, and inspection from the property line or termination of Town-installed line to his house or building. Inspection services provided by the Town shall be billed at an hourly rate as determined by the ~~D.P.W.~~DPW Director.

### C. Other than domestic users.

- (1) Entrance fee for purposes other than domestic use. The entrance fee for any service, other than domestic, connecting into any sewer shall be based on the following: Apartment houses or condominium complexes shall pay an entrance fee of \$1,200 per unit.
- (2) Business or industrial entrance fees. The business or industry entrance fee shall be \$225 per 100 gallons per day or a minimum fee of \$1,200, whichever is greater.
- (3) Additional expenses for users other than domestic accounts. The service for the buildings under this section shall be paid entirely by the owner and shall include all labor, material, inspection, and other charges related to the installation, above and beyond the existing infrastructure of the Town.
- (4) Payment of entrance fees; lien. The entrance fees set forth in this section shall be payable at the time of the application; except that at the discretion of the Board of Selectmen, or their agents (Town Administrator or ~~D.P.W.~~DPW Director), this payment may be on terms and conditions set forth by the Town, with the provision that any balance due the Town on the entrance fee shall constitute a lien on the property of the applicant.

### § 345-24. Inspection; supervision of connection.

The applicant for the building sewer permit shall notify the ~~D.P.W.~~DPW Director at least 48 hours before beginning the work and also 24 hours before the building sewer is ready for inspection, testing, and connection to the public sewer. The testing and connection shall be made under the supervision of the ~~D.P.W.~~DPW Director.

### § 345-25. Notification of completion.

Notification of the completion of the work with certification that all conditions of the Sewer Bylaw have been complied with shall be filed in writing by the applicant with the ~~D.P.W.~~DPW Director within 24 hours after the completion of the work covered in each permit.

### § 345-26. Separate building sewers required; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building under permit issued by the ~~D.P.W.~~DPW Director.

### § 345-27. Old building sewers.

Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and test by the owner/developer and witnessed by the ~~D.P.W.~~DPW Director, to meet all requirements of this bylaw.

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### § 345-28. Elevation of sewer; lifting of sewage.

Where possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

### § 345-29. Building sewer and trench specifications.

The size, slope, alignment and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, joining, testing and backfilling the trench, shall all conform to the requirements of the state and local building and plumbing code or other applicable rules and regulations of the Town. In absence of code provisions or in amplification thereof, the materials and procedures shall be set forth in appropriate specifications of the ~~A.S.T.M.ASTM~~. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the ~~D.P.W.-DPW~~ Director. Pipe laying and backfill shall be performed in accordance with Town of Sturbridge typical street opening pavement repair and ~~A.S.T.M.ASTM~~ Specification C12-64, except that no backfill shall be placed until the work has been inspected. Additional specifications shall include the Commonwealth of Massachusetts Department of Public Works Standard Specifications for Highways, ~~and~~ Bridges, ~~and~~ Waterways.

### § 345-30. Vented drain system.

The building drain system shall be so vented that under no circumstances will the seal of any appliance be subjected to a pressure differential in excess of one inch of water. All appliances connected directly or indirectly to the building drain shall have traps with a liquid seal not less than two inches in depth.

### § 345-31. Prohibited connections.

No person shall make a connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

### § 345-32. Connection to public sewer.

The connection of the building sewer into the public sewer shall conform to the requirements of the state and local building and plumbing code or other applicable rules and regulations of the ~~volley-Town~~ or to the procedures set forth in appropriate specifications of the ~~A.S.T.M.ASTM~~, and all such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the DPW Director before installation.

### § 345-33. Guarding and restoration of excavations.

All excavations for building sewer installations shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

### § 345-34. Construction and materials specifications.

- A. Piping. The building sewer shall be cast-iron soil pipe, ~~A.S.T.M.ASTM~~ Specification A74-66; vitrified clay sewer pipe ~~A.S.T.M.ASTM~~ Specification C200-69; SDR 35 polyvinyl chloride (PVC) pipe; Schedule 40 PVC pipe; or approved equal. Joints shall be tight and waterproof. Cement mortar joints will not be permitted. Any part of the building sewer that is located within five feet of a water

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service pipe shall be constructed of cast-iron soil pipe with lead joints. Cast-iron pipe with lead joints may be required where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be laid on a suitable concrete bed or cradle or shall be of cast-iron soil pipe with lead joints.

- B. Laterals. For gravity systems, the size and slope of the building sewer shall be subject to the approval of the ~~D.P.W.~~DPW Director, but in no event shall the diameter be less than six inches. The slope of such pipe shall not be less than one-quarter inch per foot. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with benched manholes as approved by the ~~D.P.W.~~DPW Director. A clean-out shall be located a minimum of four inches above the basement floor. These requirements shall not apply to low-pressure grinder pump systems.
- C. Joints and connections. All joints and connections shall be made watertight.
- D. Cast-iron joint specifications. Cast-iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications (QQ-C-40), not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.
- E. Vitrified clay joint specifications. All joints in vitrified clay pipe or between such pipe and metals shall be made with approved premolded gasket joints and shall utilize materials having resilient properties. Joints using materials having resilient properties shall conform to ~~A.S.T.M.~~ASTM C425-66T and shall be Type I or III.
- F. Polyvinyl chloride (PVC) joint specifications. Joints for SDR 35 and Schedule 40 PVC pipe shall be O-ring rubber gasket joints or premolded gasket joints.
- G. Leak detection. All parts of new building drains and sewers shall withstand under test without observable leakage a ten-foot head of water for a minimum period of 15 minutes at a temperature above the freezing ~~point~~point of water. Air pressure tests are an approved substitute when witnessed by the ~~D.P.W.~~DPW Director.
- H. "Wye" or "tee" connections. The connection of the building sewer into the public sewer shall be made at the "Y" or "T" branch, or at bench level in a manhole if such branch tee or manhole is accessible.
- I. Tap or sleeve connections. If no branch, tee, or manhole is available, a connection may be made by tapping the existing sewer by an approved method under the supervision of the ~~D.P.W.~~DPW Director. The contractor is to submit shop drawings of materials for approval prior to connection.
- J. Loads on structures. The covers of all building drain and building sewer manholes, inspection chambers, cleanouts, and the like shall be watertight and shall be capable of withstanding, without damage or displacement, any traffic loads (H<sub>2</sub>O loading) to which they may be subjected.

### § 345-35. Low-pressure systems and grinder pumps.

The Town will allow, where necessary for fiscal or engineering reasons, low-pressure sewer systems. The Board of Selectmen will maintain discretion over the construction of such systems and will determine the requirements for said systems. Any low-pressure sewer systems will require the property owners to enter into an agreement with the Town to allow access to the system for repair and maintenance of grinder pumps and appurtenant facilities.

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### § 345-36. Sewer service area.

#### A. Purpose.

- (1) It is the purpose of this bylaw to protect water resources in order to:
  - (a) Protect the health, safety and welfare of the residents of the Town of Sturbridge through the preservation of the Town's groundwater and surface water by addressing primarily existing sewage disposal problems.
  - (b) Protect groundwater and surface water from nitrogen contamination and pollution from subsurface disposal of wastewater.
  - (c) Protect other sensitive water resource areas, including those lands that contribute recharge to private drinking water supplies.
- (2) It is also the purpose of this bylaw to regulate the connections to and extensions of the Town's sewer system in order to preserve and manage limited treatment capacity.

B. Identification of lots to be served. Upon completion of construction of the Town's sewer collection system, only those lots existing as of record and recorded in the Worcester Registry of Deeds as of December 31, 2001 within the Phase I (original system in place prior to 1995), Phase II, Cedar Lake, Technology Park, Tantasqua, Phase III, or Big Alum shall be permitted to connect to the Town's sewer collection system. Any vacant lot within the above-referenced sewer areas is entitled to a design flow of one sewer unit as defined in § 345-36I.

C. New lots. Sewer extensions to new streets, subdivisions or lots created and recorded in the Worcester Registry of Deeds after December 31, 2001 shall not be permitted except by approval of the Director of Public Works and by majority vote of the Board of Selectmen, acting as Sewer Commissioners. Sewer extensions to new lots shall expire two years after the extension is approved by the Board of Selectmen if work has not been substantially initiated, as determined by the Board of Selectmen, unless an extension has been granted by the Board of Selectmen. All sewer extensions shall require a public hearing, with the public hearing notification printed in the newspaper designated by the Town, at least two weeks prior to the public hearing.

D. Reserve for future municipal buildings. The Town shall maintain a reserve capacity of 20,000 gallons per day for the sole purpose of serving future municipal buildings.

E. Allocation of reserve capacity for failed septic systems. By majority vote of the Board of Health and at the discretion of the Board of Selectmen (acting as Sewer Commissioners) and subject to available capacity, failed septic systems for developed lots in existence prior to December 31, 2001 may be incorporated into the sewer system area. The sewer service design flows calculated for failed septic systems shall be determined by the sewer design capacity and sewer unit calculation set forth in § 345-36I of this bylaw. The reserve capacity shall be reduced by a like amount. The owners of failed septic systems shall reimburse the Town for the expense of maintaining their portion of the reserve capacity through payment of a sewer privilege fee as outlined in Article II of the Sewer Bylaws and Regulations allocated to it by the Board of Selectmen (acting as Sewer Commissioners).

F. Allocation of reserve capacity for expansion of existing facilities. The Town may, by majority vote of the Board of Health and Board of Selectmen (acting as Sewer Commissioners) and subject to available capacity, allow the expansion of existing facilities within the sewer service area that will result in increased sewage flow. The design flow for the expansion of the existing facilities shall be calculated in accordance with the sewer design capacity and sewer unit calculation set forth in § 345-36I of this bylaw. The reserve capacity shall be reduced by a like amount. The owner of the expanded facility shall reimburse the Town for the expense of maintaining their portion of the reserve capacity

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through payment of a sewer privilege fee as outlined in Article II of the Sewer Bylaws and Regulations as allocated to it by the Board of Selectmen (acting as Sewer Commissioners).

- G. Allocation of reserve capacity for change in use of existing facilities. The Town may by majority vote of the Board of Selectmen, acting as Sewer Commissioners, subject to available capacity, allow the change in use of existing facilities within the sewer service area that will result in increased sewage flow. The design flow for the change in use of the existing facility shall be calculated as follows:

Additional design flow:                      New Design Flow - Existing Design Flow

- G. The "existing design flow" is the average daily water consumption for the new facility as recorded by the Sturbridge Water Department for the prior full calendar year, and the ~~New Design Flow~~ "new design flow" is the sewage flow calculated in accordance with § 345-36I of this bylaw. The reserve capacity shall be reduced by a like amount. The owner of the facility shall reimburse the Town for the expense of maintaining the portion of the reserve capacity that has been allocated to them as set forth in § 345-36H of this bylaw. No rebates shall be granted for change of use which reduces water consumption.
- H. Cost reimbursement for reserve capacity. The Town owns any and all sewer system capacity not otherwise allocated specifically to an individual, corporation or other entity. Upon allocation of reserve capacity from the Town to an individual, corporation or other entity, the Town shall be reimbursed for its portion of the reserve capacity in accordance with the Town's cost allocation procedures determined by the Board of Selectmen (acting as Sewer Commissioners).
- I. Sewer design capacity and sewer unit calculation.
- (1) The required number of sewer units for a failed system, new connection, expansion of an existing facility, or change in use of an existing facility shall be determined by the following formula:
- (1) Number of Sewer Units - Water Use (or Title 5 Design Flow) divided by 200 gallons per day.
- (2) The Title 5 Design Flow is equal to the sewage volume calculated per 310 CMR 15.203, Title 5. The sewage capacity that must be reserved for the connection shall be determined by the following formula:
- (2) Sewage Flow - Number of Sewer Units multiplied by 200 gallons per day.

### § 345-37. Allocation of sewer flow.

The Board of Selectmen, acting as Sewer Commissioners, shall be restricted to allocating flow on an annual basis based on the following formula:

- A. The total flow that may be allocated during the upcoming calendar year equals 80% of the wastewater treatment plant's design capacity less the average daily flow of the previous twelve-month period (to be determined in January using the previous January ~~through~~ December average) less any amount held in reserve divided by the years of any remaining debt service for construction at the wastewater treatment plant.
- B. The amount determined using the formula in Subsection A shall then be reduced by 33%, which shall be set aside as flow reserved for economic development that may be allocated for commercial or industrial uses as may be approved by the Board of Selectmen acting as the Sewer Commissioners.

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- C. The remaining 67% of the annual flow allocation determined using Subsections A and B above shall be further allocated as follows:
- (1) 40% shall be allocated for residential connections or system extensions to service residential developments. 10% of annual residential flow will be set aside for affordable housing units.
  - (2) 60% shall be allocated for commercial or industrial connections or system extensions to service commercial developments.
- D. Any remaining flow from the three categories in Subsection C shall be set aside and banked for that category in ensuing years. Affordable housing projects will have priority over all other uses and flow banked for any category from previous years may be allocated for an affordable housing project.
- E. Any single proposal that would exceed the total flow available from the undesignated flow in Subsection B and the use category flows in Subsection C shall require a 4/5ths vote of the Board of Selectmen, acting as Sewer Commissioners. Any flow amounts approved by the Selectmen under this section that exceed the annual allocation shall then be subtracted from the available flow for all categories in the following year.
- E. See Allocation of Sewer Flow Regulation adopted 12-10-2012, attached as Appendix A.

### ARTICLE VI

#### Licensing of Persons Authorized to Make Connections to Public Sewers

##### § 345-38. Town license required for installers.

Plumbers and drain layers of established reputation and experience will be licensed by the Town of Sturbridge as drain layers authorized to perform work, subject to compliance with the following requirements:

##### § 345-39. License filing fee.

Applicants for licenses are required to pay a filing fee of \$100 as drain layer, payable to the Town, all of which shall be refunded to the applicant if his application is rejected.

##### § 345-40. Bonds.

If approved by the ~~D.P.W.~~DPW Director, applicants for licenses shall file with the Town proper and acceptable performance and guarantee bond in the amount of \$5,000, which shall remain in full force and effect for a period of one year from the date of application.

##### § 345-41. Certificates of insurance.

Applicants for licenses, after approval by the ~~D.P.W.~~DPW Director, shall file with the Town, a certificate of insurance in the minimum sum of \$300,000 to cover public liability and a certificate of insurance in the minimum sum of \$25,000 covering property damage. In addition, a certificate of insurance covering workmen's compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of approval. Said insurance shall indemnify the Town of Sturbridge against any and all claims, liability or action for damages, incurred in or in any way connected with the performance of the work by a sewer system installer, and for or by reason of any acts or omission of said sewer system installer in the performance of his work. When requested by the Town, additional bonding shall be provided to cover the total estimated project cost as determined by the ~~D.P.W.~~DPW Director for a period of one year from acceptance of each project.

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### § 345-42. Alternate installers.

The ~~D.P.W.~~DPW Director shall license journeyman plumbers, drain layers, and sewer system installers who are personally engaged in making physical installation of sewer connections upon payment of a license fee of \$100. If a journeyman plumber, drain layer or sewer system installer is acting in the capacity of a contractor, all provisions of Article V shall apply to him.

### § 345-43. License renewal.

All licenses expire one year from the date of issuance thereof and no licenses are transferable. The fee for each renewal shall be \$100, which shall be due and payable on or before the anniversary date of issue.

### § 345-44. Revocation of licenses; time frame for approval.

The ~~D.P.W.~~DPW Director or the Town of Sturbridge reserves the right to immediately revoke any license if any provision of said license is violated. Applicants for licenses shall be approved or disapproved within a period of 31 days after filing the application.

### § 345-45. Licensee must be active on site.

All licensees are required to give personal attention to all installations and shall employ only competent workers. Installations performed by licensees in absentia (by others) shall be subject to a ~~non-~~nonapproval notice. Corrective actions shall be outlined in the notice. The licensee shall be responsible for all required repairs.

### § 345-46. Reporting prohibited substances.

All licensees are required to give a full written report to the ~~D.P.W.~~DPW Director within 24 hours in the event that prohibited substances are found in a sewer or house drain during the course of their work.

## ARTICLE VII Use of Public Sewers

### § 345-47. Prohibited discharges to sanitary sewers.

No stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process water shall be discharged or caused to be discharged to any sanitary sewer. No direct connection shall be made from a public water supply to a building drain discharging to any sanitary sewer.

### § 345-48. Discharge of industrial and drainage waters.

Stormwater and all other unpolluted drainage shall be discharged to such sewers only as specifically designed as storm sewers, or to a natural outlet approved by the ~~D.P.W.~~DPW Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the ~~D.P.W.~~DPW Director, to a storm sewer or natural outlet.

### § 345-49. Prohibited discharges to public sewers.

None of the following described waters or wastes shall be discharged or caused to be discharged to any public sewers:

- A. Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

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- B. Waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/L as CN in the wastes as discharged to the public sewer. Any waters or wastes containing toxic or poisonous solids, liquids or gases in excess of the limits established pursuant to Section 307 of the Clean Water Act, as amended, or in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plan as discharged to the public sewer.
- C. Waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, stone, gravel, ashes, cinders, sand, concrete, paving materials, mud, straw, sticks, plaster, cement, mortar, shavings, metal, glass, rags, feathers, tar, plastics, weed, ungrounded garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- E. Waters and wastes posing harmful characteristics or substances. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the ~~D.P.W.~~DPW Director, that such wastes can harm either the sewers, waste treatment process, or pumping equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the ~~D.P.W.~~DPW Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the waste treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
- (1) Any liquid or vapor having a temperature higher than 150° F. (65° C.), or discharge causing the sewage treatment plant influent to be greater than 104° F. (40° C.).
  - (2) Water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.).
  - (3) Garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the ~~D.P.W.~~DPW Director.
  - (4) Waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
  - (5) Waters or wastes containing iron, chromium, copper, zinc, and similar objectionable, or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the waste treatment works exceeds the limits established by the Town of Sturbridge for such materials.
  - (6) Waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Town of Sturbridge as necessary, after treatment of the composite sewage, to meet the requirements of the state,



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- federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Radioactive wastes or isotopes of such half-life or ~~concentrations~~concentration as may exceed limits established by the Town of Sturbridge in compliance with applicable state or federal regulations.
  - (8) Waters or wastes having a pH in excess of 9.5.
  - (9) Materials which exert or cause:
    - (a) Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries, and lime residues, or dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
    - (b) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.
    - (c) Unusual BOD, chemical oxygen demand, chlorine requirements, or phosphorus in such quantities as to constitute a significant load on the waste treatment works.
    - (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- F. Overflow by draining from cesspools or other receptacles storing organic wastes.
- G. Steam exhausts, boiler blowoffs, sediment traps, or pipes carrying hot circulating water.
- H. Waters or wastes containing substances which are not amenable to treatment or reduction by the waste treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

### § 345-50. Discretion of DPW Director as to harmful discharges.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 345-49 of these Regulations, and which in the judgment of the ~~D.P.W.~~DPW Director may have a deleterious effect upon the sewerage facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the ~~D.P.W.~~DPW Director may:

- A. Reject the wastes and require separate treatment.
- B. Require pretreatment to an acceptable condition for discharge to the public sewers. The construction, operation and maintenance of pretreatment facilities shall be subject to the review, inspection and approval of the USEPA and the MDEP.
- C. Require control over the quantities and rates of discharge.
- D. Require payment under the provisions of this bylaw to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

### § 345-51. Installation of pretreatment or equalization facilities.

If the ~~D.P.W.~~DPW Director permits the pretreatment or equalization of waste flows, the design and installation of plants and equipment shall be subject to the review, approval, and inspection of the ~~D.P.W.~~DPW Director, USEPA and the MDEP and subject to the requirements of all applicable codes,

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~~ordinances~~, and laws.

### § 345-52. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the ~~D.P.W.~~DPW Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the ~~D.P.W.~~DPW Director and Building Inspector and shall be so located as to be readily and easily accessible for cleaning and inspection.

### § 345-53. Maintenance of pretreatment facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

### § 345-54. Manholes.

The owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes as may be required by the ~~D.P.W.~~DPW Director. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the ~~D.P.W.~~DPW Director. The manhole shall be installed by the owner at his expense, and shall be maintained by him to be safe and accessible to the ~~D.P.W.~~DPW Director at all times.

### § 345-55. Analyses of waters and wastes.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ~~ordinance~~chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage facilities and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a property is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas ~~pH's~~pHs are determined from periodic grab samples.)

### § 345-56. Monitoring discharges.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the ~~D.P.W.~~DPW Director and/or other duly authorized employees of the Town may reasonably require, including installation, use, and reporting the results of such monitoring to the ~~D.P.W.~~DPW Director. Such records shall be made available upon request by the ~~D.P.W.~~DPW Director to other agencies having jurisdiction over discharges into the receiving waters.

### § 345-57. Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement

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between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town, subject to payment therefor, by the industrial concern. All special agreements or arrangements shall be made within state and federal guidelines, rules and regulations.

### ARTICLE VIII

#### Protection from Damage

##### § 345-58. Interference prohibited.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewerage works. The user shall notify the Town immediately upon accidentally discharging wastes in violation of the code. This notification shall be followed, within 15 days after the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process or for any fines imposed on the Town under applicable state and federal regulations. Every significant industrial user shall submit detailed plans showing facilities and operating procedures that shall pinpoint any indirect connections or entry points to the sewer system.

### ARTICLE IX

#### Powers and Authority of Inspectors

##### § 345-59. Right of entry.

The ~~D.P.W.~~DPW Director and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this bylaw. The ~~D.P.W.~~DPW Director shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

##### § 345-60. Liability.

While performing the necessary work on private properties referred to in § 345-58 above, the ~~D.P.W.~~DPW Director or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the owner and the owner shall be held harmless for injury or death to the Town employees and the Town shall indemnify the owner against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in § 345-54.

##### § 345-61. Entry on easements containing sewerage equipment.

The ~~D.P.W.~~DPW Director and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

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### ARTICLE X Penalties

#### § 345-62. Notice of violations.

Any person found to be violating any provision of this bylaw except Article VII shall be served by the Town of Sturbridge with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

#### § 345-63. Penalties for offenses.

Any person who shall continue any violation beyond the time limit provided for in § 345-62 shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount not exceeding \$100 for each violation and/or lose the right to work or remain connected to the Town facilities or both. Each day in which any such violation shall continue shall be deemed a separate offense.

#### § 345-64. Liability.

Any person violating any of the provisions of this bylaw shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation.

#### § 345-65. Late payment penalty.

A \$5 fee shall be added to any water/sewer bill not paid within the sixty-day billing period.

### ARTICLE XI Validity

#### § 345-66. Repeal of inconsistent bylaws.

All bylaws or parts of bylaws in conflict herewith are hereby repealed.

#### § 345-67. Severability.

The invalidity of any section, clause, sentence, or provision of this bylaw shall not affect the validity of any other part of this bylaw, which can be given effect without such invalid part or parts.

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**Chapter 350 - SUBDIVISION REGULATIONS**

**[HISTORY: Adopted by the Planning Board of the Town of Sturbridge 6-18-2002. Amendments noted where applicable.]**

**INTRODUCTION**

**Purpose.** The purpose of these subdivision rules and regulations is to protect the safety, convenience and welfare of the present and future inhabitants of the Town of Sturbridge by regulating the laying out and construction of ways in subdivisions, providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas.

**Powers.** The powers of the Planning Board shall be exercised with due regard for the provisions of adequate access to all the lots in a subdivision, congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ~~ordinances or~~ bylaws; for securing adequate provision of water, sewerage, drainage, underground utilities services, fire, police, and similar municipal equipment, and street lighting and other requirements where necessary in the subdivision; and to coordinate the ways in a subdivision with each other and with the public ways in the Town of Sturbridge and with the ways in neighboring subdivisions.

**ARTICLE I**

**Authority**

**§ 350-1.1. Statutory authority and adoption.**

Under the authority vested in the Planning Board of the Town of Sturbridge by MGL c. 41, § 81Q, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Sturbridge by vote dated June 18, 2002, which will become effective when duly recorded as required by law.

**ARTICLE II**

**General Provisions**

**§ 350-2.1. Definitions.**

A. As used in these regulations, the following terms shall have the meanings indicated:

**APPLICANT** — Includes an owner or his agent or representative or his assignee.

**AS-BUILT PLAN** — A final plan submitted after construction, stamped and certified by a registered engineer or surveyor, that shows the actual location of all construction elements as opposed to the approved plan.

**BOARD** — The Planning Board of the Town of Sturbridge.

**CERTIFIED BY (ENDORSED BY)** — As applied to a plan or instrument required or authorized by the Subdivision Control Law to be recorded, shall mean bearing a certification or endorsement signed by a majority of the members of the Planning Board.

**DEAD-END STREET** — A permanent or temporary street to provide a single access to and from an existing or proposed through street. This definition is intended to include culs-de-sac. The total length of road shall be measured to the end of the ~~turn-around~~turnaround area.

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DEFINITIVE PLAN — The plan of a subdivision meeting the requirements of the subdivision regulations for submission, with appropriate and complete application submitted to the Board for approval, to be recorded in the Registry of Deeds or filed with the Land Court when approved and endorsed by the Board, all as distinguished from a preliminary plan.

DESIGNER — A professional engineer or land surveyor, or both, registered to practice in Massachusetts. All work defined by MGL c. 112, § 81D as professional engineering or surveying shall be done under the direct supervision of a registered professional engineer or registered land surveyor, respectively.

DEVELOPER — A person (as hereafter defined) who develops, under a plan of subdivision approved under these rules and regulations, and may also be referred to as the applicant, contractor or subdivider.

DRAINAGE — The control of surface water within the tract of land to be divided.

FRONTAGE — For the purposes of these regulations, physical access, or the demonstrated feasibility for physical access, to a property from a street designed for such purposes.

ITE — Institute of Transportation Engineers.

LAYOUT — The full strip of land designated as a way or street, as distinguished from the roadway or traveled way.

LOT — An area of land under one ownership, with definite boundaries, used, or available for use, as a site for one or more buildings.

MUNICIPAL SERVICES — Public utilities furnished by the Town of Sturbridge; or other services provided by the State of Massachusetts.

OWNER — As applied to real estate, the person or persons holding the fee simple title to a parcel, tract or lot of land, as shown by the record in the Registry of Deeds, or Probate Records.

PARCEL — A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

PERSON — An individual, or two or more individuals, a partnership, corporation, or trust having common or undivided interest in a tract of land.

PRELIMINARY PLAN — A plan showing the proposed layout of lots and infrastructure within a proposed subdivision, submitted for preliminary approval only.

REGULARITY FACTOR — A calculated relationship, expressed as a decimal, between the lot perimeter and required lot area. See Appendix.

RESIDENTIAL SUBDIVISION — A subdivision lying entirely within the Rural Residential or Suburban Residential Zones as established by the Sturbridge Zoning Map and Bylaw.

ROADWAY — The area within the limits of the traveled way.

STANDARD SPECIFICATIONS — The Commonwealth of Massachusetts Department of Transportation Standard Specifications for Highways and Bridges of the Massachusetts Department of Public Works, dated 1988, 2020 Edition, including all revisions thereto and the Construction Standards of 1977 of the Massachusetts Department of Public Works, as most recently amended Details, Highway Division of the MassDOT October 2017, including all revisions thereto.

STREET — A public or private way, either shown on a plan approved in accordance with the subdivision control law, or otherwise qualifying a lot for access and frontage under MGL c. 41, § 81L.

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SUBDIVISION — The division of a tract of land into two or more lots in such a manner as to require provision for one or more new ways, not in existence when the Subdivision Control Law became effective in the Town of Sturbridge, to furnish access for vehicular traffic to one or more of such lots, and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a "subdivision" within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on a public way, or a way shown on a plan theretofore approved in accordance with the Subdivision Control Law, of at least such distance as is then required by zoning or other ~~ordinance or~~ bylaw, if any, of ~~said city or the~~ Town for erection of a building on such lot and, if no distance is so required, has such frontage of at least 20 feet. Conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the ~~city or Town in which the land lies~~ Town, into separate lots on each of which one of such buildings remains standing shall not constitute a "subdivision."

SUBDIVISION CONTROL — The power of regulating the subdivision of land granted by the Subdivision Control Law.

THROUGH STREET — A street within or outside of the boundaries of a subdivision with a minimum of two points of egress on which vehicular traffic is given preferential right-of-way and intersecting subdivision streets are required to yield the right-of-way in obedience to a stop sign, yield sign or other traffic control device.

TOWN — The Town of Sturbridge.

TRAVELED WAY — That part of the roadway provided for the movement of vehicles, exclusive of shoulders and auxiliary lands.

B. Other words shall have the meaning assigned to them in the Subdivision Control Law and the Sturbridge Zoning Bylaw; and if not within these regulations, then by those definitions contained in the most recent edition of The New Illustrated Book of Development Definitions, by Harvey S. Moscowitz and Carl G. Lindbloom.

### **§ 350-2.2. Plans requiring approval or endorsement.**

Only those plans which constitute subdivisions, as that term is defined in § 350-2.1, require the approval of the Planning Board. However, all plans that show new parcel, lot or property lines or new ways, whether subdivisions within the meaning of the law or not, must have either approval as a subdivision or endorsement that they do not require approval before they will be accepted for recording at the Worcester County Registry of Deeds or for registering at the Land Court.

### **§ 350-2.3. Definitive plan required.**

No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within the Town or proceed with the improvement or sale of lots in a subdivision or the construction of ways or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

### **§ 350-2.4. Compliance with zoning required.**

No subdivision plan shall be approved unless all the building lots located therein comply with the Town of Sturbridge Zoning Bylaw as relates to size, width, area, access, frontage and all other requirements in effect

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at the time of plan submittal.

### § 350-2.5. Plan believed not to require approval (aka "ANR plan").

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan and Application Form A (see Appendix) to the Planning Board, accompanied by the necessary evidence to show that the plan does not require approval and the filing fee as established by the Town of Sturbridge. Said person shall also file, by hand delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application.
- B. Three paper prints shall be submitted to the Planning Board. If the plan has been prepared in CAD format, one digital copy of the plan shall also be submitted.
- C. Plan contents. The plan shall be legibly drawn at an appropriate scale, but no smaller than one inch to 100 feet, and shall contain the following:
  - (1) Identification of the plan by name of owner of record and location of land in question, locus, the scale, North arrow, legend and date; and plan and deed references.
  - (2) The statement "Approval Under Subdivision Control Law Not Required" above the endorsement box and sufficient space for the date and signatures of the Board.
  - (3) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan. The Assessor's map, block and lot numbers shall be shown.
  - (4) Notice of any proceedings and copies of decisions by the Zoning Board of Appeals, including but not limited to special permits and variances, regarding the land or any buildings thereon.
  - (5) In the case of the creation of a new lot, any remaining land area and frontage in the ownership of the applicant shall be shown.
  - (6) Names and status of public or private street(s) and easements, to include the surface materials and condition of the street(s); and the width of the right-of-way and traveled way of the street or easement. In cases where the accessibility of a roadway is in question, the applicant shall obtain a certification from the Director of Public Works.
  - (7) Location of all existing buildings, including setbacks on the land under consideration.
  - (8) Location of all bounds on land under consideration.
  - (9) Location of all wetland resource areas on the land under consideration, upland areas and percent; and notice of any matters submitted or to be submitted to the Sturbridge Conservation Commission.
  - (10) Slopes in excess of 8% where they may affect driveways or access to the structures.
  - (11) Names of owners and deed references for abutting parcels.
  - (12) Lot area, frontage and regularity factor.
  - (13) All plans shall be annotated above a signature block with the following statement: "Planning Board endorsement is not a determination as to conformance with the Zoning Bylaw." If the plan is a revision or modification of a recently submitted plan, that previous plan shall be presented for reference.



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- (14) All plans shall bear the stamp and signature of a Massachusetts-registered land surveyor and a certification of conformance with the standards of the Worcester County Registry of Deeds.
- D. The plan must be submitted at least five days in advance of the Board meeting for consideration at that meeting. It is strongly recommended that the owner or owner's representative attend the meeting to support the application; otherwise the plan review may be deferred to a later date.
- E. If the majority of the members of the Board determines that the plan does not require approval, the Board shall forthwith, without a public hearing, endorse on the plan the words "Planning Board Approval Under the Subdivision Control Law Not Required." The endorsed plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action, both within 21 days of submittal of the plan.
- F. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 21 days of submittal of the plan, so notify both the applicant and the Town Clerk and return the plan to the applicant.
- G. The applicant shall file the approved plan at the Registry of Deeds and shall notify the Board by presenting written evidence of recording of said plan documents within six months of approval.

### ARTICLE III

#### Plan Submission and Approval Procedure

##### § 350-3.1. Preliminary plan.

- A. General. A preliminary plan must be submitted for any proposed nonresidential subdivision and may be submitted for any proposed residential subdivision. The submission of such a preliminary plan will enable the subdivider, the Board and other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in every case.
- B. Submittals.
- (1) Planning Board submittals. Any person who seeks approval of a preliminary plan of a subdivision shall submit to the Planning Board:
- (a) A Form B application (see Appendix).
  - (b) Twelve copies of the preliminary plan.
  - (c) A filing fee as established by the Town of Sturbridge- ~~(see Appendix-)~~.
  - (d) If required by the Planning Board, a consultant review fee as established in § 350-5.4 of these regulations.
- (2) Board of Health submittals. Any person who seeks approval of a preliminary plan of a subdivision shall submit to the Board of Health:
- (a) A copy of the Form B application.
  - (b) One print of the preliminary plan.
- (3) Town Clerk submittals. Any person who seeks approval of a preliminary plan of a subdivision shall submit to the Town Clerk, by hand delivery or certified mail, a copy of the Form B application and the preliminary plan.

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- (4) Other. In addition to those items required to be submitted, it is requested that the following be furnished:
    - (a) A locus plan of the subdivision, showing its street configuration in relation to the surrounding area within 1,600 feet of the perimeter of the subdivision and to zoning district boundaries, at a scale of one inch equals 800 feet.
    - (b) In the case of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, a plan showing in a general manner the proposed overall development of all of said land.
    - (c) Preliminary findings, in a general way, of the environmental impact analysis, if expected to be required.
  - (5) Completeness review. The Planning Board's designee will be responsible for ensuring the completeness of all preliminary plan applications, and shall notify all applicants of any deficiencies with their preliminary plan application within 14 days of submission to the Planning Board. Applicants should be advised that failure to submit or provide any required item shall be deemed a deficiency, and the Board may act to deny the application based on its technical deficiencies. Submissions pertaining to Subsection B(1)(d) ~~Consultant Review Fee~~, consultant review fee, are not required prior to application acceptance.
- C. Plan contents. Said preliminary plan should show sufficient information about the subdivision to form a clear basis for discussion of its problems and for the preparation of the definitive plan and shall show:
- (1) The subdivision name, boundaries, North arrow, date, scale, legend and the title "Preliminary Plan."
  - (2) The name and address of the record owner, applicant, Massachusetts registered engineer and Massachusetts registered surveyor.
  - (3) The names of all abutters within 300 feet of the property from the most recent tax list.
  - (4) Existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.
  - (5) The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
  - (6) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
  - (7) The location, names, widths and condition of adjacent streets approaching or near the subdivision.
  - (8) Topography at two-foot intervals and approximate location of any wetlands (as defined by MGL c. 131, § 40 and by Sturbridge Conservation Commission Regulations)), to include all abutting parcels within 200 feet.
  - (9) Anticipated wetlands protection related issues, if any.
  - (10) The proposed system and preliminary analysis of water supply and septage management.
- D. Approval. Before approval of the preliminary plan, a public hearing will be held by the Planning Board. Notice of such hearing shall be given by the Board by advertisement in a newspaper of general circulation in the Town 14 days before the day of the public hearing. A copy of said notice shall be mailed to the applicant and all owners within 300 feet of the subdivision as ~~appears~~appear on the

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most recent tax list. Within 45 days after the date of submission of a preliminary plan, the Planning Board shall notify the applicant and the Town Clerk either that the plan has been approved or that the plan has been approved with modification suggested by the Board or agreed upon by the person submitting the plan or that the plan has been disapproved. In the case of disapproval, the Planning Board shall state, in detail, its reasons ~~therefore~~~~therefor~~ in accordance with Section 81S of the Subdivision Control Law: (MGL c. 41, § 81S). Such approval does not constitute approval of a subdivision, but does facilitate the procedure in securing final approval of the definitive plan.

- E. Definitive stage. After approval of the preliminary plan, the applicant may proceed to the definitive plan stage. The definitive plan must be submitted ~~with~~within seven months after the submittal of the preliminary plan and must be evolved from it to retain exemptions from zoning changes and amendments to the subdivision rules and regulations. The Planning Board must schedule a hearing and make a decision within 90 days of the submission of the definitive plan.

### § 350-3.2. Definitive plan.

#### A. Submittals.

- (1) Planning Board submittals. Any person who desires approval of a definitive plan of a subdivision shall submit 12 copies of the following to the Planning Board, including the application cover sheet, Form C (see Appendix ~~3~~):
- (a) The definitive plan, as described at Subsection B of this section. The original definitive plan drawing will only be needed if and when the actual endorsement of the plan takes place.
  - (b) Street plans and profiles of every proposed street, as described at Subsection C of this section.
  - (c) At the same scale as the definitive plan, a development plan of the premises plus adjoining land within 300 feet of the property line. The development plan shall show topography at two-foot intervals, graphic drainage analysis, including distinction between upland and wetland (as defined by MGL c. 131, § 40 and the Sturbridge Wetland Bylaw) and location of tree cover, ledge outcroppings, outstanding individual trees of ten-inch diameter or greater within 50 feet of all proposed rights-of-way, location of proposed trees, large boulders, existing structures, including fences and walls, and proposed lot lines. If located within the Floodplain District, the location of the base flood elevation (100-year flood) shall be indicated. Wetlands delineation shall be based upon field identification and flagging by a botanist qualified for wetlands identification under the Wetlands Protection Act. It is strongly recommended that the wetlands identification be done in coordination with the Conservation Commission.
  - (d) A stormwater management plan indicating both on-site and off-site contributory areas, including calculations for the sizing of drainage pipes in accordance with § 350-4.3. The stormwater management plan shall include a groundwater recharge comparison between ~~pre-~~ and post-development conditions. The stormwater management and drainage calculations shall be prepared and signed by a registered professional engineer and be filed as part of the definitive plan. The stormwater management plan shall be drawn to scale and shall show the incremental areas contributing to each catch basin, ditch or watercourse, including contributory areas outside of the subdivision. The stormwater management plan shall also show existing and proposed contours as required above.

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- (e) An overlay at the same scale as the definitive plan, showing the ~~Soil~~Natural Resources Conservation Service interpretation of suitability for on-site sewage effluent disposal or showing United States Geological Survey surficial geology, or both, except for areas proposed to be served by Town sewerage.
  - (f) Test pit logs, with not more than one pit required per four proposed lots, selected to reveal general patterns of subsurface characteristics, after consultation with the Board of Health. Locations of test pits shall be indicated on the development plan.
  - (g) Where connection to the public water system is not proposed, description of provisions to be made for water for fire-fighting and information adequate to allow determination of compliance with requirements of § 350-4.4, Utilities, Subsection A. Water supply, regarding potable water quality and quantity.
  - (h) A comprehensive erosion and sedimentation control plan indicating the erosion control measures to be employed, including a description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques and sediment basins and a narrative description of how erosion from individual lots onto streets and into drainage systems is proposed to be controlled.
  - (i) A locus plan of the subdivision showing its street configuration in relation to surrounding streets within 1,600 feet of the perimeter of the subdivision and to zoning district boundaries, at an appropriate scale.
  - (j) Prints, 8 1/2 inches by 11 inches, showing an outline of the subdivision at a scale of 100 feet or 300 feet to the inch, showing all ways and lots, street names, lot numbers and street numbers.
  - (k) The environmental impact analysis, if not expressly waived by the Planning Board.
  - (l) Construction details and specifications and road cross-sections for each cross-section variant; except that, where the proposed cross-sections are identical with those shown in this regulation, annotation to that effect may be placed on the definitive plan, and the cross-section drawing may be omitted.
  - (m) Landscape plan, as required under § 350-4.5E.
- (2) Other Planning Board submittals. Any person who desires approval of a definitive plan of a subdivision or modifications thereto shall submit the following to the Planning Board:
- (a) North arrow references, references to plans of record, ties into the Mass. Coordinate System, ties into county layouts, evidence of ownership, language of any easements, covenants or deed restrictions applying or proposed to apply to the area being subdivided, rights and easements obtained for utilities or drainage outside of the subdivision and description of erosion control methods at all critical locations, showing existing and proposed grades for the width of the right-of-way and, at a minimum, at least 25 feet on each side, or to a point where the slopes return to original ground; and, if requested, traverse notes.
  - (b) Two copies of properly executed Application Form C (see Appendix) and the definitive plan.
  - (c) A filing fee and a fee per lot potentially created by the plan as established by the Town of Sturbridge. The application fees must accompany the application. See Appendix.

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- (d) A Board of Assessors certified list of names and mailing addresses for all abutters as they appear on the most recent local tax list, including property owners on the opposite side of any streets abutting the subdivision.
  - (e) A description of the land and the proposal, suitable for advertising.
  - (f) Sight distance computations in accordance with § 350-4.2B(6).
- (3) Town Clerk submittals. Any person who desires approval of a definitive plan of a subdivision shall submit the following to the Town Clerk by hand delivery or registered or certified mail:
- (a) A notice stating the date of definitive plan submission to the Planning Board.
  - (b) A copy of the completed application Form C and plan.
- (4) Board of Health submittals. Any person who desires approval of a definitive plan of a subdivision shall file one copy of each of the following with the Board of Health:
- (a) Definitive plan.
  - (b) Development plan.
  - (c) Environmental analysis, as well as information required in ~~this~~ Subsection A(1)(e) and ~~(f)~~, if applicable.
- (5) Completeness review. The Town Planner will be responsible for ensuring the completeness of all definitive plan applications, and shall notify all applicants of any deficiencies with their definitive plan application within 14 days of submission to the Planning Board. Applicants should be advised that failure to submit or provide any required item shall be deemed a deficiency, and the Board may act to deny the application based on its technical deficiencies. Submissions pertaining to § 350-5.4, consultant review fee, are not required prior to application acceptance.

### B. Definitive plan contents.

- (1) The definitive plan shall be prepared by a Massachusetts registered professional engineer and registered land surveyor project design team and shall be prepared utilizing AutoCAD Release 14 or another Town-approved drawing package. The plan shall be at a scale of one inch equals 40 feet or other such scale as the Board may accept to show details clearly and adequately. Sheet sizes shall be 24 inches by 36 inches. If multiple sheets are used, they shall show each lot in its entirety on one sheet and shall be accompanied by an index sheet showing the entire subdivision at a scale of one inch equals 200 feet. The index sheet shall correlate to match lines shown on individual sheets.
- (2) In addition, the proposed subdivision shall be tied into the Mass. Coordinate mainland plane of 1983-1988 (a minimum of three points at the third order of accuracy) and the nearest existing county layout plan within 500 feet. All horizontal surveys shall be made to second order accuracy of one to 12,000, and vertical surveys shall be to second order accuracy. All surveys shall conform to the Massachusetts Board of Registration of Professional Engineers and Land Surveyors Procedural and Technical Standards for the Practice of Land Surveying and also the Land Court's latest instructions.
- (3) The definitive plan shall include:
  - (a) A title stating the date, scale and ~~bench mark~~ benchmark(s); the name and address of the record owner and subdivider, engineer or surveyor; the name of the subdivision, if any;

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the names of proposed streets; and the zoning classification.

- (b) The meridian used, Town meridian if required.
  - (c) The location and ownership of abutting property.
  - (d) The location and character of all rights-of-way or other easements, existing or proposed.
  - (e) The lengths and bearings of plan boundary lines.
  - (f) The lengths and bearings of all subdivision lot lines, including lot frontages on the streets.
  - (g) The location of all permanent monuments, identified as to whether existing or proposed.
  - (h) The lengths, radii, tangents and central angles of all curves in the lot lines.
  - (i) The location, names and present widths of all adjacent streets bounding, approaching or within reasonable proximity of the subdivision, sufficient to analyze the traffic flow.
  - (j) The area of lots, with street (house) numbers, and areas of other adjoining vacant land not included in the subdivision. Street numbers will be obtained as directed by the Sturbridge ~~Assessors~~Assessor's Office. An area shall be provided for inclusion of street numbers on each lot prior to endorsement.
  - (k) Details on one or more of the plan sheets showing appropriate sewer, drainage, water and roadway sections; and other stormwater, stabilization and fire protection structures, and lighting or sign installations and landscaping plantings in accordance with the Sturbridge Department of Public Works standards and details contained in the Appendix or after concurrence with the DPW Director. Where unusual site conditions require additional details, where the subdivider is proposing a unique construction solution, or where the Planning Board or Department of Public Works requests additional information, such as proposed flows and demands, details shall be submitted by the subdivider.
  - (l) Conformance with the upland area requirements in Chapter 300, Zoning, § 300-4.1, unless the lots are serviced by Town water and sewer.
  - (m) The location of all sidewalks, driveway aprons, trees and grass plots.
  - (n) The street classification of all roads.
  - (o) North arrow and North arrow reference.
  - (p) Regularity factor for each lot. ~~(see Appendix)~~.
  - (q) Assessor's map, block and parcel numbers.
- C. Street plan and profile contents. For each street there shall be a separate plan at one inch equals 40 feet and a profile at one inch equals 40 feet horizontal, one inch equals four feet vertical, showing the following data:
- (1) The exterior lines of the way, with sufficient data to determine its location, direction and length.
  - (2) The existing center-line profile to be shown as a fine, continuous line; existing center-line profile for intersecting streets to be shown for at least 100 feet each side of the intersection of the street center lines.

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- (3) The proposed center-line profile, to be shown as a heavy, continuous line, with elevations shown every 50 feet ~~{(25 feet on vertical curves)}~~.
  - (4) Existing and proposed watercourses, ponds and wetlands and corresponding buffer areas.
  - (5) Road center line stationing.
  - (6) All sewer and drainage facilities, to be shown on the profiles indicating proposed pipe sizes, slopes and rim and invert elevations and, on the street plans, showing pipe sizes, and notations of demand and flow characteristics.
  - (7) The plan location and size of existing and proposed ductile iron pipe water mains, hydrants and main gate valves.
  - (8) The location of proposed streetlights.
  - (9) The location of existing and proposed street paving, sidewalks and curbs.
  - (10) Proposed grade stakes, to be set by a Massachusetts registered professional land surveyor at a minimum of fifty-foot stations for roadway right-of-way, center line, sidelines and sidewalks.
- D. Environmental impact analysis. An environmental impact analysis shall be submitted for any subdivision proposing five or more dwelling units and in all cases involving commercial and industrial development. The analysis shall be prepared by an interdisciplinary team, to include a civil engineer and an architect or landscape architect and wetland biologist/scientist. The Planning Board will require that the scope of such analysis include as many suggestions as provide for the greatest public benefit in the areas of environmental protection and preservation listed below:
- (1) Impact upon ground and surface water quality and level, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, toxic wastes, storage of petroleum products and other activities within the development. For all developments located in whole or in part within Water Resource Districts, this shall include analysis of open and closed drainage system alternatives, examining effects upon the basic water budget and upon the speed of transport of contaminants.
  - (2) Material effects upon wildlife habitats, outstanding botanical features and scenic or historic qualities and character.
  - (3) Capability of soils, vegetative cover and proposed erosion control efforts to support proposed development without danger of erosion, silting or other instability.
  - (4) Relationship to the requirements of MGL c. 131, §§ 40 and 40A, the Wetlands Protection Act, and the Town of Sturbridge Wetlands Protection Bylaw.
  - (5) Impact upon the existing water supply and distribution systems and well capacity of the Town.
  - (6) Pretreatment of waste materials considered by the Department of Environmental Protection to be hazardous to the public, including but not limited to the proper containment and handling of petrochemical substances.
  - (7) Projected municipal water supply, demand, flows and pressure.
- E. Community impact analysis. If the subdivision contains more than 25 units, an impact analysis, quantitative and qualitative, shall be prepared showing the effect of the proposed project on school enrollments, police and fire services, traffic impacts and municipal services.

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### F. Performance guaranty.

- (1) Form of guaranty. Before the Planning Board endorses its approval of a definitive plan, the developer shall agree to complete, without cost to the Town, all improvements required by this regulation and shall provide security that he will do so, either by covenanting not to sell or build upon any lots until completion of the improvements (which covenant must be referred to on the plan and registered or recorded with it) or by posting bond or other security which the Town can utilize in the event that the improvements are not completed within two years (unless a phasing plan has been approved), or by some combination of these. Such security shall provide, among other things, that no building permit shall be issued until streets or ways serving such structures have been graded to within one foot of final subgrade and that no structure shall be occupied until streets or ways serving such structure have been surfaced with at least the two-inch (minimum) binder course. The Board may grant partial release from such security for partial completion of improvements, provided that the completed portion provides a reasonable system for circulation and utilities pending completion of the rest. The Board may release the developer from the covenant upon receipt of an agreement executed by the applicant and by the holder of a first mortgage on the premises providing for retention of funds and their availability to the Town upon default. (See MGL c. 41, § 81U, 11th paragraph.)
- (2) Release of guaranty. Following request for final release of the guaranty (either bond or covenant) and at least 30 days prior to granting same, the Planning Board shall give public notice of the request for release by advertising, at the expense of the subdivider, in a newspaper enjoying substantial circulation in the community. Full security shall not be released until the integrity of road pavement and drainage has been verified following a full winter of use, December ~~21~~ to March ~~21~~<sup>31</sup>, until trees and other vegetation have been established, until as-built plans are received and until a report, in writing, has been received by the Board from the Department of Public Works Director stating that the work has been fully completed in an acceptable manner. See Appendix.
- (3) Bond estimate and bond reductions.
  - (a) Along with each request from a developer for a bond estimate or a bond reduction, a fee, as established by the Town of Sturbridge, shall be paid.
  - (b) Said fee represents the costs incurred by the Town of Sturbridge or its designee to review said bond estimate or bond reductions.
  - (c) Reductions for systems (water, sewer, drainage) shall not be granted until the system is complete, tested by a certified engineer or agent and operational.
  - (d) There is a 25% contingency added to the total bond estimate for the entire subdivision and the Board retains a minimum of 10% of the original bonding amount for maintenance of streets and systems. In the case of a non-private street, drainage and Town utilities, if present, and the cleaning of structures of debris, this security is released only after the subdivision street(s) has been accepted by the Town Meeting. This retained sum is released for private streets at the Board's discretion.
- (4) Town acceptance of improvements. If a definitive plan shows streets or roadways that will become Town streets or roadways, a nonrefundable fee, as established by the Town, shall be paid to the Town of Sturbridge for each such street or roadway before the Planning Board releases security for the street or portion of the street. Said fee shall be used to defray the engineering, GIS mapping, legal, appraisal, recording and administrative costs related to the Town's acceptance and acquisition of such streets or roadways and any underlying or related sewer, water, drainage or other easements or interests.



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- (5) No bond estimate or reduction shall be established or released without a DPW inspection and written memorandum of recommendations to the Planning Board.
- G. Review by Board of Health. The Board of Health shall report to the Planning Board, in writing, its approval or disapproval of the plan and, in the event of disapproval, shall make specific findings as to which, if any, areas shown on such plan cannot be used for building sites without injury to the public health and include specific findings and the reasons therefor in such report and, where possible, shall make recommendations for the adjustment thereof. Particular attention shall be paid in those cases where the developer has proposed low-pressure sewerage systems. Recommendations shall be made as to the suitability of such systems instead of a gravity system. The Board of Health shall send a copy of such report, if any, to the person who submitted said plan. Any approval of the plan by the Planning Board shall then only be given on condition that no building or structure shall be built or placed upon the areas designated without written consent of the Board of Health, which shall endorse on the plan such condition, specifying the lots or land to which said condition applies.
- H. Public hearing.
- (1) Definitive plan. Before approval of the definitive plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Planning Board by advertisement at applicant expense in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing. A copy of said notice shall be mailed by the Planning Board at applicant expense to the applicant and to all owners within 300 feet of the subdivision as appearing in the most recent tax list.
  - (2) Waivers. Requests for waivers from these Planning Board regulations shall be submitted with the definitive plan and either stated on the plan or contained in a separate instrument attached thereto and ~~referred~~referenced on said plan. All such requests for waivers shall be heard at the public hearing on the definitive plan. For each waiver requested, the applicant shall provide the following data for application review:
    - (a) The reason the waiver is requested;
    - (b) Alternatives to granting the waiver;
    - (c) Impact of waiver denial on the project; and
    - (d) Reasons the applicant believes the granting of the waiver is in the best interests of the Town.
- I. Decision. After the public hearing, the Board will approve, modify and approve, or disapprove the definitive subdivision plan submitted.
- (1) Criteria for action by the Board shall be the following:
    - (a) Completeness and technical adequacy of all submissions and payment of all required fees.
    - (b) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard or other environmental degradation.
    - (c) Conformity with the requirements of Article IV, Design and Construction Standards, of this regulation.

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- (d) Determination, based upon the environmental analysis (where submitted), that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
  - (e) Conformity with all applicable zoning requirements, special permits or variances.
  - (f) Consistency with the purposes of the Subdivision Control Law.
- (2) Notice of such action, or of an agreed extension of the time for such action, must be provided by the Planning Board to the Town Clerk within 90 days following the date of submission of the plan if it follows a preliminary plan, or 135 days following the date of submission in cases where no preliminary plan was submitted.
- (3) Condition of approval.
- (a) Any definitive subdivision plan approved hereunder, or any modification of any such subdivision plan previously approved, shall receive an approval which shall be automatically limited to a period of two years, unless a phased plan has been approved; or unless one of the following two events occurs within two years from the date of approval of such plan and not the date of endorsement nor the date of recording of such plan:
    - [1] Event 1. Issuance of a determination of completion by the Department of Public Works Director in accordance with § 350-5.2E and a vote of acceptance by the Planning Board of the determination of completion, which said determination shall then be recorded with the Town Clerk and binding on all parties.
    - [2] Event 2. Issuance of a one-year extension by the Planning Board, which extension may only be granted upon petition by the applicant before the initial term expires; such a request for extension shall be deemed to be a request for modification of the approved definitive subdivision plan.
  - (b) In the event than an applicant has failed to so perform within the requisite period, the previously issued conditional approval is deemed rescinded without any further action by the Planning Board and no extension or modification shall be granted. An applicant may apply for a new definitive subdivision plan approval for the site; however, the application will be subject to all the rules and regulations then in effect.
  - (c) In every event, the Planning Board shall retain jurisdiction over every subdivision until such time as the determination of completeness has been accepted by the Planning Board.

### J. Certificate of approval.

- (1) Any actions, approvals, certifications, endorsements and other votes taken under the Subdivision Control Law shall be by a majority of the members of the Board. Such majority shall be considered the quorum of the Board, and a concurring vote of such quorum shall be necessary to ~~affected~~effect a favorable action.
- (2) Certificate.
  - (a) The action of the Board in respect to such plan shall be by vote. Copies of the vote shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signature of a majority of the Board or by the

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signature of the person officially authorized by the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed.

- (b) Prior to endorsement by the Planning Board, the applicant shall submit the approved version of the plan on a CD ROM in AutoCAD Release -14 format (or any subsequent release which the Sturbridge Town Planner adopts) to the Planning Board for review and approval. The digitized version of the definitive plan shall be identical, full size, and shall contain all information included on the plan of land, topographic plan views, and plan and profile sheets. Layer names shall conform to Town Planner standards. Failure to submit such information shall be cause for the Planning Board to rescind approval or not to endorse said plans.
  - (c) After the definitive plan has been approved, endorsed and registered, the applicant shall furnish the Board with five prints thereof. Said plans shall contain the following: the title of the definitive plan, street numbers and street names and Worcester County Registry of Deeds references.
  - (d) Final approval of the definitive plan does not constitute the laying out or acceptance of streets within the subdivision by the Town of Sturbridge.
- K. Rescission. Failure of the developer to record the definitive plan within a six-month period of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient reason for the Planning Board to consider rescission of such approval, in accordance with the requirements of MGL c. 41, § 81W.

### ARTICLE IV Design and Construction Standards

#### § 350-4.1. General requirements.

- A. Base requirements. The subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided for in § 350-5.3.
- B. Design guides.
  - (1) Requirements. All subdivisions shall be designed and improvements made by the developer consistent with the requirements of § 350-4.1 and the typical cross-section details. See Appendix. When in conflict, the design guidelines, as approved by the DPW Director and accepted by the Planning Board, shall prevail.
  - (2) Mitigation. Design and construction shall reduce, to the extent reasonably possible, the following:
    - (a) The volume of cut and fill.
    - (b) The area over which existing vegetation will be disturbed, especially on land within 200 feet of a wetland, river, pond or stream or having a slope of more than 15% or overlying easily eroded soils.
    - (c) A calculation of the number of trees to be removed.
    - (d) The extent of waterways and wetlands altered or relocated.

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- (e) The visual prominence of man-made elements not necessary for safety or orientation.
  - (f) The removal of existing stone walls.
  - (g) The visibility of building sites from existing streets.
  - (h) The number of driveways exiting into existing streets.
  - (i) The alteration of groundwater or surface water elevations or chemical constituents.
  - (j) The disturbance of wildlife habitats, botanical features and scenic or historic qualities and character.
  - (k) The soil loss or instability during and after construction.
  - (l) Dust and noise.
- (3) Enhancement. Design and construction shall increase, to the extent reasonably possible, the following:
- (a) Vehicular use of major streets to avoid traffic on streets providing house frontage.
  - (b) Visual prominence of natural features of the landscape.
  - (c) Legal and physical protection of views from public ways.
  - (d) Use of curvilinear street patterns.
  - (e) Public space and pedestrian linkages.
  - (f) Preservation of the natural vegetative cover and type and existing topography.
  - (g) Landscaping and tree plantings.
  - (h) Neighborhood character that fosters community spirit and a sense of place.
- C. Floodplain District. All subdivision proposals shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a proposed subdivision is located within the Floodplain District established under the Zoning Bylaw, it shall be shown on the plans and reviewed to assure that:
- (1) The proposal is designed consistent with the need to minimize flood damage.
  - (2) All public utilities and facilities, sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
  - (3) Adequate drainage systems are provided to reduce exposure to flood hazards.
  - (4) Base flood elevation (the level of the 100-year flood) data is provided for proposals greater than five acres for that portion within the Floodplain District.
- D. Construction standards. To ensure high quality and uniformity of construction, and unless otherwise specified, all the work and the materials used shall conform to the requirements of the Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways and Bridges, the latest edition, as amended, hereinafter referred to as the "Standard Specifications," and to these regulations. Where in conflict, the provisions of these regulations shall apply.

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### § 350-4.2. Streets.

#### A. Classification.

- (1) Streets within a subdivision shall be classified as follows:
  - (a) Major: a street which carries traffic equivalent to that generated by 50 dwelling units or more or which serves property either used or zoned for commerce or industry.
  - (b) Collector: a street which carries traffic equivalent to that generated by more than 12 dwelling units but fewer than 50 dwelling units, which has no abutting property either used or zoned for commerce or industry and which is not capable of extension to serve ~~more than~~ 50 dwelling units or more.
  - (c) Minor: a street which carries traffic equivalent to that generated by 12 or fewer dwelling units, which has no abutting property either used or zoned for commerce or industry and which is not capable of extension.
- (2) In determining the classification of subdivision roads, the Board shall take into consideration abutting developable lands, the extension of utilities; and the traffic volumes and character of the roads to which they connect.

#### B. Location and alignment.

- (1) Safety and attractiveness. All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular and pedestrian travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- (2) Conformance to study plans. The proposed streets shall conform to any master or study plan as adopted in whole or in part by the Board or the Town of Sturbridge.
- (3) Reserve strips. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- (4) Intersections and access.
  - (a) Streets shall be laid out so as to intersect, as nearly as possible, at right angles. The Board may disapprove any intersection less than 90°. In no case may a street intersect any other street at less than 70°.
  - (b) Provision satisfactory to the Board shall be made for the proper projection of streets and for access to adjoining property which is not yet subdivided.
  - (c) Intersections of paved street side lines shall be rounded with a curve of not less than a thirty-foot radius, measured at the curbline.
- (5) Center line.
  - (a) The minimum horizontal center-line radius of any curve on a collector or minor street shall be 150 feet and 200 feet on a major street. The Planning Board may require a greater radius where deemed necessary for the public safety. In rare cases, a shorter radius may be allowed if the Planning Board and DPW determine that a shorter radius will result in the preservation of trees or other natural features without detriment to public safety.
  - (b) Center-line offsets for intersecting streets shall not be less than 200 feet.

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- (c) In all cases, the center line of the paved surface shall be coincidental with the center line of the right-of-way, unless specifically approved by the Board and DPW and notated on the plan submittal.
- (6) Sight distances.
  - (a) Sight distance requirements along roadways and at intersections shall be evaluated under two categories as defined by the Massachusetts ~~Highway~~ Department of Transportation in its most current Highway Design Manual: Stopping Sight Distance (SSD) and Intersection Sight Distance (ISD). At a minimum, stopping sight distance criteria shall be met along every roadway utilized for direct access/egress to and from a parcel; that is, along any internal site roadway/driveway, as well as existing or proposed off-site roadways providing direct access/egress to and from the parcel. On existing roadways utilized for direct site access/egress, the SSD criteria shall only be applicable in the area of an intersection with a proposed site roadway/driveway.
  - (b) For larger subdivisions, in addition to the SSD criteria as detailed above, decision sight distance (DSD) shall also be met at any existing or proposed intersection utilized for direct access/egress to and from the parcel. That is, any intersection of an existing roadway and proposed site roadway/driveway and/or an intersection of two existing roadways in close proximity to proposed site access/egress. Larger subdivisions shall be defined as any proposed development which shall generate in excess of 120 trips per day as calculated utilizing the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, or with more than 12 single-family dwelling units.

C. Width requirements.

- (1) Street right-of-way and pavement widths, measured inside of curbs or berms; (face curb to face curb), shall be as follows:

<b>Type of Right-of-Way</b>	<b>Street Width (feet)</b>	<b>Pavement Width (feet)</b>
Major	60	32
Collector	50	26
Minor	50	22

- (2) A narrower right-of-way and/or traveled way may be allowed if the Planning Board determines that a narrower right-of-way or traveled way will result in the preservation of trees and other vegetation and will be consistent with the location and character of the subdivision. Private retaining walls and other permanent structures are not to be proposed or constructed within the right-of-way.
- (3) Standards of adequacy. The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate a strip of land for the purpose of widening ways providing access to the subdivision and that he either make physical improvements within such ways or compensate the Town for the cost of such improvements in order to meet the standards specified above.

D. Grade.

- (1) Design street grades shall be designed in relation to existing grades such that the volume of cuts and fills made within the right-of-way approximately balances, except to offset peat, boulders or other unusable materials to be removed.

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- (2) Minimum and maximum. Grades of streets shall not be less than 1.5%. Grades shall not be more than 6.0% for major streets nor more than 8.0% for all other roads.
- (3) Leveling area. On any street where the grade exceeds 6.0% on the approach to an intersection, a leveling area with a slope of not more than 3.0% shall be provided for a distance of not less than 100 feet, measured from the nearest exterior line of the intersecting street.
- (4) Vertical curves. All changes of grade exceeding 1% shall require vertical curves.
- (5) Right-of-way grade. Proposed grades within the right-of-way shall not be more than five feet above or below the existing grades unless specifically authorized by the Board in unusual topographical circumstances. At any time the proposed right-of-way grades are below the existing right-of-way grades, the Department of Public Works may request soil borings be performed to determine soil conditions and the annual high water table elevation. Based on the results, an under-drain system may be required by the Department of Public Works. The Department of Public Works shall observe all testing.
- (6) Cul-de-sac (turnaround) grades. Proposed ~~cul~~culs-de-sac or turnarounds shall contain slopes of not more than 3.0% starting from a distance of not less than 50 feet measured from the throat of the cul-de-sac or turnaround area.

### E. Dead-end streets.

- (1) Dead-end streets shall be provided at the closed end with a turnaround capable of serving a vehicle of a thirty-foot length and having an outside turning radius of no less than 57 feet. The right-of-way radius will be no less than 60 feet; the pavement radius no less than 50 feet, and all pavement shall be kept within the right-of-way.
- (2) Dead-end streets shall serve no more than 10 dwelling units and shall be no longer than 500 feet but at least 200 feet, measured from the center of the turnaround to the side line of the closest connecting through street. The Planning Board may approve dead-end streets of longer lengths if, in its opinion, such longer lengths are necessitated by topography, wetlands, or other local conditions, and the granting of which is in the interests of the community.
- (3) For the purposes of this section, any proposed street which intersects with a dead-end street shall be deemed an extension of that street. Dead-end streets in excess of 500 feet shall have looped water lines. An extension of a water line to the boundary of the land within a subdivision for the purposes of providing a physical loop at a later date shall not be considered "water looping".
- (4) Where through streets on the plan ~~that~~ are not to be initially constructed, the developer shall provide for paved temporary turnarounds suitable for snowplowing and other municipal purposes, to be approved by the Board, before any houses on such streets can be ~~issues~~issued a certificate of occupancy.
- (5) Approval of dead-end streets may be contingent upon provision of easements and necessary facilities to allow continuity of utility, drainage systems, dry hydrants and snow storage. Water mains shall normally be looped.

### F. Construction.

- (1) Layout, clearing and grubbing. Prior to starting any construction activities, a Massachusetts registered land surveyor shall set offset grade stakes along the roadway right-of-way, center line, sidelines, and sidewalks at fifty-foot intervals. All trees to be preserved shall be flagged and protected during the construction period. The site shall be walked with the Tree Warden,

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acting as the designated representative of the Planning Board. Clearing and grubbing shall be performed to remove stumps, brush, roots, boulders and like material from the area of the traveled way, shoulders, sidewalks and utility trenches; but elsewhere, wherever feasible, existing vegetation shall be protected.

### (2) Subgrade.

- (a) When establishing the roadway subgrade, all existing material shall be removed to the subgrade plane as defined by the typical cross-section (see Appendix) for the entire width of the finished roadway. If, however, the soil is soft and spongy or contains undesirable material such as clay, sand pockets, tree stumps, stones over six inches in diameter or any other material detrimental to the subgrade, a deeper excavation below the subgrade shall be made as required by the Department of Public Works Director.
- (b) At this point all utilities, including drainage, water and sanitary sewer and cable (where applicable), shall be installed and brought to the property line in accordance with these regulations.
- (c) Any excavated or natural area below the subgrade shall be filled to the subgrade with suitable granular material, to be approved by the Department of Public Works Director prior to its installation.
- (d) The entire roadway width then shall be rolled with a roller having an effective force of 12 tons, forming the subgrade with a three-eighths-inch-per-foot crown, as required on the cross-section plan.

### (3) Gravel base.

- (a) The gravel base of the roadway and sidewalks shall consist of unfrozen, hard, durable stone and coarse sand, free from loam and clay, uniformly graded, containing no stone having a diameter of more than three inches and conforming to the requirements of the Standard Specifications (Section M1.03.0, Type B).
- (b) Gradation tests (sieve analysis) shall be performed by an independent testing laboratory on the material to be utilized as gravel base and shall be submitted to the Department of Public Works for review. This analysis, to be done at the expense of the subdivider in advance of applying or grading the material, shall certify that said material falls within the allowable limits for gravel borrow in accordance with the Standard Specifications. The Department of Public Works Director may, at any time during the roadway construction, require additional sieve analyses.
- (c) The subdivider must demonstrate to the Department of Public Works Director that he has sufficient suitable material on site, or he shall have to haul in gravel conforming to the Standard Specifications. His intent shall be made clear to the Director.
- (d) Before the gravel is spread, the roadbed shall be sloped to a true surface, conforming to the proposed cross-section of the road, and no gravel is to be spread until this subgrade is approved by the Department of Public Works Director.
- (e) Gravel for base shall be spread in two layers of equal thickness, each thoroughly rolled true to lines and grades with a roller having an effective force of at least 12 tons so as to yield a total depth of 12 inches after thorough compaction. Any depression or soft spots that appear during or after rolling shall be filled with crushed bank gravel and be ~~re-rolled~~re-rolled until the surface is true and even. Gradation and compaction tests shall be performed and submitted to the Department of Public Works for review. Testing shall be



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done by a certified laboratory; results shall be certified and be satisfactory to the Department of Public Works Director prior to placement of base course of pavement.

- (f) All sidewalk areas shall be provided with a gravel base foundation consistent with that required for roadways, except that the compacted depth shall be eight inches and the slope of the base shall be 3/8 inch per foot, sloping from the back of the sidewalk towards the curb. Gradation and compaction tests shall be performed and submitted to the Department of Public Works for review.
  - (g) Each layer shall be compacted to not less than 95% of the maximum dry density of the material, as provided in the Standard Specifications. The rolled gravel shall be tested for compaction. All such tests shall be submitted to the Department of Public Works for review and shall be made at the expense of the developer.
  - (h) Before pavement is placed, the rolled gravel base and sidewalk base shall be surveyed by a registered professional land surveyor. As-built plans in plan view with an accuracy of one-tenth foot vertical at every 100-foot station along the center line, sidelines and sidewalks shall be submitted to the Department of Public Works for review. They shall also include water, sewer, and storm drainage systems, inverts, services and service stubs. In addition, the topography of drainage facilities shall be provided at one-foot accuracy. All shall be approved by the Department of Public Works Director prior to paving.
- (4) Pavement. A two-course bituminous concrete surface shall be applied to residential streets. A three-course bituminous concrete shall be applied to commercial and industrial streets. The first course for residential streets shall be a binder course as defined by the Standard Specifications, which, after compaction, is 2 1/2 inches thick. The first course for commercial and industrial streets shall be a base course as defined by the Standard Specifications, which, after compaction, is four inches thick. The second course for commercial and industrial streets shall be a binder course as defined by Standard Specifications, which, after compaction, is 2 1/2 inches thick. Gradation (sieve analysis) and asphalt content tests shall be performed on the material utilized as base course and/or binder course after it has been placed, and submitted to the Department of Public Works for review. All pavement shall be machine placed and rolled with a tandem roller having an effective force of not less than 12 tons. If requested by the Department of Public Works Director, compaction and plane of finished surface tests shall be performed on the base and/or binder course once in place. All requested testing shall be performed by an independent testing laboratory at the expense of the subdivider. The binder course must remain through one complete winter (December 1 to March 31). After wintering over and prior to the finished course of pavement being applied, the binder course shall be approved by the Department of Public Works Director; then the following steps shall be taken to complete the roadway pavement:
- (a) Paving will not be allowed if it is raining or the roadway is wet, if frost is present, or when the air temperature is below 40° F. The temperature of the bituminous concrete mixture shall be a minimum of 290° F. prior to being placed and a minimum of ~~1700~~1,700° F. after intermediate rolling, all in accordance with Standard Specifications.
  - (b) All frames, grates, manhole covers and water gates shall be adjusted to the proper finished grade by setting the same in a 2,500-pound-per-square-inch concrete bed. Any depressions or irregularities in the binder pavement are to be cut out to a depth of eight inches and replaced with similar concrete and hot binder at least one week before final paving.

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- (c) The binder course pavement must be swept clean of all loose material. A tack coat of emulsified asphalt shall be applied with a pressure distributor at a rate of 0.10 ~~gallons~~gallon per square yard, immediately preceding the top course paving. An environmentally safe synthetic mat specifically designed for the purpose may be substituted for the tack coat of emulsified asphalt.
- (d) The finished course of Type I-i bituminous concrete top course shall be applied to a 1-1/2-inch thickness after compaction on residential, commercial and industrial streets, with a roller having an effective force of not less than 12 tons. No greater than 1% of finished road shall have exposed aggregate, defined as greater than ~~one-eighth~~1/8-inch depression around the stone. Any sections of finished road surface with exposed aggregate that is greater than two feet square in area shall be removed and replaced with new finished surface. Loose aggregate is not allowed at any time.
- (e) The developer shall make and maintain all subdivision roadways so that any and all occupied dwelling units within the subdivision are easily accessible to all municipal and emergency services. In addition to the above requirement, the developer must comply with the following conditions to the satisfaction of the Department of Public Works Director prior to the first day of December (the beginning of the wintering over period):
  - [1] All roadways shall be prepared in such a manner that all manholes, catch basins, valve gates or other structures in the roadway are installed with bituminous paving around the perimeter of each such structure such that a smooth transition is maintained between the top of each structure and the road surface.
  - [2] No curbing or any other material shall be left in the roadway(s).
  - [3] At the discretion of the Director of Public Works, temporary installation of catch basin gates may be required at levels lower than the base coat elevation so as to make them functional prior to application on the finish coat.
- (f) If requested by the Department of Public Works Director, compaction and plane of finished surface tests shall be performed on the top course paving once in place. All requested testing shall be performed by an independent testing laboratory at the expense of the subdivider. The Director of Public Works may request remedial repairs or replacement of any portion of the pavement system if it fails to meet these and/or the Standard Specifications.

### G. Driveways.

- (1) Location. Driveway cuts shall not be allowed within 60 feet of the intersection of the center line of intersecting streets. In no instances shall catch basins be located along a driveway curb opening. Driveway openings shall be shown on the definitive plan.
- (2) Paving. Driveways shall be paved from the curb to the right-of-way property line. That portion of all driveways within the street right-of-way limits shall be constructed to the same specifications as the roadway: twelve-inch gravel base binder at 2 1/2 inches after compaction and top coat at 1 1/2 inches after compaction. Sidewalk grades shall be continuous across driveway openings. Transition in grade of no more than two inches will be allowed.
- (3) Width. Driveways shall be at least ~~10~~12 feet wide and shall have an opening of at least 16 feet in the curb at the gutter line. Driveways of more than 300 feet in length shall be 12 feet wide and shall provide a turnout for emergency access.

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- (4) Grade. At all driveways the grade at the back of the sidewalk shall be at least six inches higher than the grade at the gutter line.
  - (5) Other. The junction of sidewalks, driveways and roadways shall be constructed in such a manner as to prevent recessed areas where puddles may form.
  - (6) Access. Driveways serving the premises shall provide access through the required frontage of the serviced lot.
- H. Curbing. The Department of Public Works shall determine the curbing material: granite, pre-cast concrete or bituminous concrete.
- (1) Type. Curbing shall be placed the full length of all streets. The type shall be VA4 (Massachusetts Department of ~~Public Works~~ Transportation Specification M9.04.1) vertical granite where high-frequency parking is anticipated, such as where multifamily units are to be near the street or at drop-off points in nonresidential development. At all other locations, curbing shall be Type SB sawn (smooth) top slant granite (Massachusetts Department of ~~Public Works~~ Transportation Specification M9.04.2).
  - (2) Slant granite.
    - (a) Slant granite curbing shall be of lengths determined by the Department of ~~Public Works~~ Transportation to be adequate to serve the situation (Massachusetts Department of ~~Public Works~~ Transportation Specification M9.04.2). It shall be set on a compacted gravel at some angle not less than 45° and not greater than 60°. In addition, it shall have a reveal of seven inches plus or minus 3/4 ~~inches~~ inch. It shall be supported in place by blocks or undisturbed earth. The granite shall be set in a concrete base approximately six inches square, which shall abut against the binder course. The concrete shall be placed in front and under the granite during an initial pour. The concrete shall be placed in back and under the granite during a second pour. The top course of paving will cover the concrete and key the granite in place. Joints on the face and top of the granite curb shall be mortared.
    - (b) The angle, alignment and reveal shall be uniformly maintained.
  - (3) Vertical granite. Vertical granite curbing shall be upright four-foot-minimum lengths, finished side facing the traveled way, with a reveal of eight inches. It shall be installed in accordance with the specifications of the Massachusetts Department of ~~Public Works~~ Transportation (Section 50i).
  - (4) Driveways.
    - (a) Two-foot vertical granite radius corner-pieces shall be placed at all driveway openings along vertical granite curbing.
    - (b) Transition pieces shall be placed at all driveway openings along slant granite curbing. The transition shall be a piece of slant granite curbing (minimum length four feet) that starts with proper angle reveal and tilts downward to be flush with finish grade at the driveway opening.

### § 350-4.3. Stormwater management.

Developers shall comply with the requirements of the Town Stormwater Bylaw (Chapter 245 of the Town bylaws) and the Planning Board's Stormwater Regulations (Chapter 340, Chapter 8) and the following:

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### A. General approach.

- (1) Protection. The definitive plan shall provide adequate drainage facilities within the subdivision for collecting, conveying and disposing of stormwater in a manner which will ensure proper protection of the roadway and the areas adjacent thereto. The definitive plan shall provide for recharging groundwater with ~~pre-treated~~pretreated (if applicable) stormwater in an amount equal to or exceeding pre-development conditions.
- (2) On-site recharge. Developers will submit a detail of the stormwater treatment facility showing side stabilization, depth and soil character. Stormwater treatment facilities shall be employed to trap possible pollutants and handle peak stormwater flow into any off-site wetland, water body or drainage facility so that said flow will, in a ten-year and also a 100-year storm, be no higher following development than it was previously. The grading for these components must blend in naturally with existing contours. Subdivisions may not increase the peak rate and volume of stormwater flow, or increase the contaminant burden from stormwater flows. The Board may authorize an increase following applicant demonstration that such increase will cause no environmental harm or damage to public or private property. Where the only method of drainage is via public or private property, the subdivider shall furnish plans, obtain easements where necessary in the Town's behalf and assume all financial responsibility for drainage of the area. All drainage facilities proposed shall utilize best management practices as outlined in the current stormwater management policy promulgated by the Commonwealth of Massachusetts.
- (3) Stormwater management components must be located on individual parcels with access, to be conveyed to the Town through Town Meeting action.
- (4) Closed systems. Drainage system design shall provide for a closed drainage system (stormwater carried on the street surface to catch basins to storm sewers discharging to surface waters). No catch-basin-to-catch-basin connections will be allowed.
- (5) Lot drainage. Lots shall be prepared and graded in such a manner that development of one shall not cause detrimental drainage on another. If provision is necessary to carry drainage to or across a lot, an easement or drainage right-of-way of a minimum width of 20 feet and proper side slope of at least three to one shall be provided. Storm drainage shall be designed in accordance with the specifications of the Board. Where required by the Planning Board, the applicant shall furnish evidence as to any lot or lots for which adequate provision has been made for the proper drainage of surface and underground waters from such lot or lots.

### B. Construction.

- (1) General. Culverts shall be designed to accommodate a fifty-year-frequency storm; underground storm drains, catch basins and related installations shall be designed to accommodate a twenty-five-year-frequency storm with a design velocity of between 2.5 feet and 10.0 feet per second. In high volume conditions [greater than 15 cubic feet per second (CFS)~~ft<sup>3</sup>/s~~], the maximum design velocity shall not exceed eight feet per second.
- (2) Piping.
  - (a) The drainage pipe shall be N-12 or reinforced concrete, with belland spigot gasketed joints. The pipe shall be Class III in accordance with ASTM C-76. The gaskets shall be O-ring type in accordance with ASTM C-443. The minimum diameter shall be 12 inches. The pipe shall be laid in undisturbed trenches below the grade of pipes, starting with the downstream end on a firm bedding. All bells shall be facing upstream. Reference ~~bench~~marksbenchmarks shall be clearly marked to enable the Department of Public Works

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Director to check the grade and invert elevations. The joints of all concrete pipes shall include a pre-molded neoprene continuous O-ring flexible compression gasket. No backfilling of pipes or culverts shall be done until the installation has been inspected and approved by the Department of Public Works Director. Backfilling shall be in layers not exceeding 12 inches, with each layer compacted by an appropriately sized plate vibrator, regardless of the method of final compaction at the subbase or gravel base level. The minimum cover is 36 inches above the top of the pipe.

- (b) If required by the Department of Public Works Director, side under-drains shall be installed on both sides of all streets, except in fill sections, and connected to the surface drainage system. In circumstances where the groundwater table is not within four feet of the finished grade and each linear foot of under-drain would serve a surface drainage area of not more than 20 square feet, or in other circumstances which would render such under-drains superfluous, the Department of Public Works may waive such requirement. The side drains shall be shown in cross-section detail.
  - (c) At each outfall of a drain line, a Type B winged headwall of reinforced concrete shall be constructed according to the detail shown in the Appendix.
- (3) Catch basins and drain manholes.
- (a) Catch basins shall be installed on both sides of the roadway on continuous grades at intervals not exceeding 300 feet, at low points on the roadway, at the corners of intersecting streets, within each turnaround and at such other locations as required by the Board. Three catch basins and two manholes are required in turnarounds sloped towards the bulbed end. Two catch basins and one manhole are required in turnarounds sloped towards the entering roadway. No catch basins are allowed in driveway openings.
  - (b) Catch basins and drain manholes shall be constructed of pre-cast concrete eight inches in thickness with an inside diameter of four feet or more. They shall be built with horizontal and vertical mortared joints. The arch or cone section shall be 24 inches in height consisting of a first row, second row, third row and a ring row (either round or square as appropriate). The cone section shall be mortared on the exterior. The faces of all pipes shall be flush with or project not more than four inches into the basin or manhole. Precast catch basins and manholes may be used in lieu of concrete-block-masonry structures. Flat-topped structures are not allowed, unless with written authority of the Department of Public Works Director.
  - (c) Catch basins shall have a minimum sump of 48 inches. They shall have a floor of pre-cast concrete plates, four inches thick, laid flat with no weep holes.
  - (d) Drain manholes shall have a four-inch-thick concrete base. At least one row of blocks shall be set on the base to allow the construction of a brick invert within the manhole. Arched inverts of one-half the pipe diameter shall be sloped upward to the sides of the manhole. The tops of the main drain lines entering and leaving a manhole shall be matched.
  - (e) No more than four pipe openings shall be allowed in any one manhole. Four-foot-diameter manholes will be used for drains up to 24 inches in diameter. Five-foot-diameter manholes are necessary for pipe diameters between 30 inches and 48 inches. All flows into a manhole shall be in the same direction (no reverse flows allowed), with a maximum angle between the main and any connecting line of 90°. All connecting lines shall have bricked inverts rounded into the direction of flow.

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- (f) Drain manholes shall be installed at all catch basin connections, at changes in grade, size and alignment, but in no event shall the distance between manholes exceed 300 feet.
- (g) Catch basins and drain manholes shall be constructed with cast-iron frames and covers or grates. Frames must be set in a full bed of cement mortar. Bricks shall be used between the frame and top course for grade adjustment. They shall be laid in a radial fashion with full bearing on the ring row. A maximum of two brick courses will be allowed. Frames shall be at least 265 pounds. Covers or grates shall be no less than 210 pounds, in accordance with the Standard Specifications, and shall be of North American manufacture. The word "drain" shall be cast into the solid cover in letters at least three inches in height.
- (h) Manhole casting shall be set flush with the designed finish grade of the pavement. Catch basin grates shall be set one inch below the finished gutter grade and shall be of the egg-box variety (square openings). Manhole castings and catch basin grates shall not be raised until 30 days prior to final paving. If paving does not occur within said 30 days, they shall be lowered immediately. Ramping is prohibited.
- (i) Details of standard manhole, catch basin, frame and grate and curb inlet are shown in the Appendix.
- (j) Drain manholes shall have rung manhole steps 15 inches on center built into the vertical side.

### § 350-4.4. Utilities.

#### A. Water supply.

##### (1) Design.

- (a) Public supply standards. Where feasible, water supply shall be provided from a public water supply system. In such cases, the water supply system will be considered adequate only if it is capable, without booster pumps, of providing each proposed fire hydrant with a minimum flow of 750 gallons per minute at 20 pounds per square inch residual pressure for single-family residential developments, or at some other capacity approved by the DPW Director and Fire Chief.
- (b) Public supply responsibility. If connection to a public water system is proposed but it is determined by the Board that the above standards will not be met in part or all of the subdivision, the Board may nevertheless approve the plan subject to a condition that any lot not adequately served shall not be built upon until service has been made adequate.
- (c) Private supply standards. Where connection to an adequate public water supply is infeasible prior to the time that lots will be built upon, the Planning Board shall approve a subdivision only upon making the following determinations:
  - [1] That adequate water supplies are available for fire safety through reserved access to an existing or created fire pond, dry hydrants piped to such a pond or other means to be determined following consultation with the Fire Department; and
  - [2] That water supplies for domestic use are likely to be able to meet Board of Health or DEP regulations for yield and quality.

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### (2) Construction.

- (a) Public water mains shall be not less than eight-inch diameter Class 52 cement-lined ductile-iron pipe with push-on gasket joints.
- (b) Connection to existing Town water mains shall be the subdivider's responsibility but shall be made only under the direction of the Department of Public Works Director. A water permit must be obtained from the Department of Public Works prior to tapping any main.
- (c) Water mains shall be laid in a dry trench on a twelve-inch bed of sand or approved material. Construction pipe shall be manually tamped with sand the full length of the pipe up to 1/2 the diameter of the pipe so as to eliminate any voids under the pipe.
- (d) Water mains shall be laid to provide a minimum cover of five feet below the finished grade and a maximum of seven feet.
- (e) A hydrant shall be located at each street intersection, and between intersections hydrant spacing shall not exceed 500 feet. Each hydrant shall be served directly from a water main through a six-inch mechanical joint connection with mega-lug restraint glands or approved equal. Hydrants shall be set in thrust blocks and of the type currently in use or approved by the Sturbridge Department of Public Works. A drainage sump of one-half cubic yard's volume of 1-1/2-inch stone shall be located at the base of the hydrant. Hydrants shall be located at the back of the sidewalk, with the breakaway hydrant flange at the finished grade or higher with a four-foot clear zone radius from the center nut and four-inch steamer connection center line shall be a minimum of 18 inches off the ground. Hydrants shall be M+H 929 or approved equal and shall be located on lot lines where possible. If only one sidewalk is to be installed, hydrants should be on the opposite side of the street. All hydrants shall be painted by the developer (color as determined by the Department of Public Works) after installation, prior to the first occupancy permit, once per year, and within six months of the release of final bonding moneys.
- (f) All water gates and hydrant gates shall be epoxy-coated. They are to be left to the finished grade in paved traveled ways and shall have a minimum of five feet and a maximum of six feet depth of cover. Service boxes are to be placed at the property line and to the finished grade, with a maximum depth of six feet and a minimum depth of five feet. Gate valves, of the type currently in use by the Department of Public Works, resilient seat openings left, shall be installed on each outlet of all tees and crosses, every 1,200 feet of main and on hydrant branches. Water main gates shall be located approximately six feet from all road tees.
- (g) All elbows, bends, tapping sleeves and tees shall be of ductile iron and designed for a working pressure of 200 pounds per square inch. They shall be installed with concrete thrust blocks of poured-in-place 2,500-pounds-per-square-inch concrete suitable in size to prevent pipe movement due to internal pressure changes or restrained joints approved by the Department of Public Works.
- (h) House service shall be obtained by the subdivider for each dwelling unit. The Sturbridge Department of Public Works will provide a water meter, pending the payment of fees, of its specification with outside register and inspect the house service. House service connections shall be Type K copper tubing of one-inch-minimum diameter. Service connections shall include a corporation stop [American Water Works Standards (AWWA) thread inlet] at the main and a curb stop with service box located behind the sidewalk at the property line. Corporation stops, curb stops and service boxes shall be of

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a type approved by the Department of Public Works. The subdivider shall provide the Department of Public Works with suitable sketches showing ties to all water gates, stops and curb stops before acceptance of the system. On field inspections, the developer shall supply manpower to assist the Department of Public Works in the inspection of all water service boxes and water main gates to assure that all are in working order. Before final bonding moneys are released, the developer must submit all ties to water gates and service boxes to the Engineering Department for filing. Failure to provide proper service ties will be cause for rejection. The system shall be pressure tested to 180 pounds or twice the working pressure.

- (i) The installation of water pipes or related equipment shall not be backfilled until inspected by the Department of Public Works. Backfilling and compaction techniques are the same as those for drainage.
- (j) Upon completion of the water main and prior to putting it into service, leakage and pressure tests are to be conducted in accordance with AWWA standards by a competent independent testing company approved by the Department of Public Works. After successful testing, mains shall be chlorinated according to AWWA specifications by a competent third party. Before mains are put into service, written test results for leakage and chlorination must be presented to the Director of the Department of Public Works. Chlorination tests are to be conducted by a laboratory approved by the Department of Environmental Protection. Both leakage and chlorination tests are to be witnessed by ~~at~~the Department of Public Works Director. Any defects shall be corrected immediately.
- (k) In the absence of Town water or where water pressure is inadequate, the developer may be required by the Board to provide a dry hydrant(s) or farm pond to allow for fire protection. Such systems shall be approved by the Fire Chief and shall be conveyed to the Town as public infrastructure.

### B. Sanitary sewers.

#### (1) Design.

- (a) Sanitary sewers, including all appurtenances, shall be designed to serve all lots in a subdivision and to provide connection to the municipal sewerage system wherever possible. Where no municipal system exists to tie into, on-site sewage disposal facilities shall only be installed and constructed in conformity with the rules, regulations and requirements of the Sturbridge Board of Health, DPW and state regulations.
- (b) No portion of a sewerage system shall be approved if it requires a connection to the municipal system over land of other owners, unless appropriate easements are first obtained.
- (c) Sewer grades shall be designed to allow sewer entrances below basement floor grades, where feasible.
- (d) Public sewers shall be designed according to professional engineering practices by a registered professional engineer.
- (e) The minimum design velocity of flow shall be two feet per second.
- (f) Manholes shall be located at every change in grade, change of horizontal alignment, change in pipe size and where two mains intersect, but not more than 300 feet apart.



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- (g) All sewer tie-ins must be approved by the Board of Selectmen as soon as practical but no later than the Planning Board's close of the public hearing of the definitive subdivision plan.
  - (h) All ~~seweragesewage~~ disposal systems shall be designed on a gravity system; however, when not feasible, a low-pressure system may be employed, with the approval of the Board of Selectmen under the Town's Sewer Regulations and Bylaws, ~~Section 5.32, (See Chapter 345, Sewers, § 345-35.)~~, after review and recommendations by the Board of Health and DPW Director. A sewer pumping station may require a standby generator or other appurtenances as necessary, and is subject to design approval by the DPW Director.
- (2) Construction in all locations.
- (a) Sewer pipes shall not be less than eight inches in diameter and shall be Class SDR-35 polyvinyl chloride, ductile iron or reinforced concrete. The joining method shall be with O-ring rubber gasket joints or other equals approved by the Department of Public Works. A six-inch bed of 3/4-inch screen gravel stone shall be provided for the pipe, and an additional layer shall be provided to a height of 1/2 the diameter of the pipe. To ensure proper installation of pipe laid to a minimum slope of 1/2 foot per 100 feet, laser instruments shall be used to control the grade.
  - (b) Manholes shall be a minimum of four feet in diameter and shall be precast reinforced concrete. A four-inch-minimum base shall be constructed, on top of which a brick table inverted arch shall be built with the bricks laid on edge as stretchers. Rung manhole steps, 15 inches on center, shall be built into the vertical side of the eccentric cone section. A typical sanitary manhole section is shown in the Appendix. Sewer manhole covers shall be flush with the finished grade and shall be constructed in accordance with applicable requirements of § 350-4.3B(3)(g) and (h) regarding drain manholes.
  - (c) Where sewer lines intersect with a manhole, brick invert arches are to be rounded into the flow line.
  - (d) The frame and cover for a sanitary manhole is similar to a drain manhole in every respect except that the name "sewer" shall be cast into the solid cover in letters at least three inches in height.
  - (e) Standard Y-tees shall be installed in the main line for each residence or lot. The subdivider shall install the building sewer in accordance with the sewer regulations of the Town of Sturbridge from the main to the residence. A separate sewer permit shall be obtained from the Department of Public Works for each dwelling unit.
  - (f) The installation of public sewers or building sewers shall not be backfilled until inspected by the Department of Public Works. Backfilling procedures are the same as for drainage. The pipe must be properly tamped by hand with sand or suitable material up to 1/2 the diameter of the pipe for the full length of the pipe, to eliminate any voids under the pipe. No sewer pipe shall be laid on a ledge. Where a ledge is encountered, the pipe shall be laid on a twelve-inch bed of sand or approved material.
  - (g) Before a new public sewer is accepted or placed in service, a low-pressure air test conforming to ASTM C828 and an infiltration/exfiltration measurement shall be performed to demonstrate the integrity of the sewer line and manholes. Lines demonstrating leakage of less than 50 gallons per day per inch per diameter per mile shall be accepted or placed in service.

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- (3) Construction within a ~~well head~~Wellhead Protection District.
  - (a) Sewer pipes shall be of material deemed watertight and corrosion-resistant. Solid-wall plastic pipe (~~polyvinylchloride (PVC)~~ (Class SDR-35 minimum), ductile-iron pipe (Class 52 minimum), reinforced concrete cylinder pressure pipe and reinforced concrete pipe (RCP), or material of equal strength and durability according to ASTM standards and as approved by the Sturbridge Department of Public Works, shall be considered adequate for purposes of this section. In areas where a force main is required, only SDR-21 or -26 shall be used. Where a sewer line is to cross a creek, brook, stream or other body of surface water, the line shall be placed no less than two feet below the creek, brook or stream bed, and the pipe shall be enclosed in concrete ~~{~~(4,000 pounds per square inch~~}~~) for all creek, brook or stream crossings, and the pipe must be ductile-iron pipe, Class 53 minimum.
  - (b) Sewer joints shall be compression gasket joints. In areas where a force main is required, ductile-iron mechanical joints shall be used at all bends.
  - (c) Trenches shall be as narrow as engineering considerations allow, and bentonite dams shall be installed in all trenches. Bedding and backfill shall be a combination of both coarse and fine aggregate, and filter fabric shall be used in fine sands, silts or clay in bedding preparation. Construction shall proceed only in dry conditions.
  - (d) Manholes shall be precast concrete and designed with as ~~fewer~~few construction joints as possible, and all joints shall be sealed with neoprene O-rings or bitumastic sealant. In areas of the Water Resource District which lie within the Floodplain District, only watertight or bolt-down manhole covers shall be used.
  - (e) Before a new public sewer is accepted or placed in service, a low-pressure air test conforming to ASTM ~~C826~~C828 and an infiltration/exfiltration measurement shall be performed to demonstrate the integrity of the sewer line and manholes. Within the Water Resource District, only lines demonstrating leakage of less than 50 gallons per day per inch per diameter per mile shall be accepted or placed in service.
- (4) Sewer pump/lift stations shall be designed in accordance with the current standards and specifications of the Department of Public Works. Sewer pump stations shall be placed on a separate parcel with access easements, and shall be the responsibility of the developer and subsequently the ~~home owner's~~homeowners' association until such time as the Town may assume ownership. Said pump stations with appurtenances shall be guaranteed free from defect in construction and operation by the posting of a performance or defect guarantee for a minimum period of 20 years in an amount not to exceed 20% of the value of said improvement.

### C. Other utilities.

- (1) Wiring. Electrical, telephone and television community cable conduits shall be placed underground. Size and materials of these conduits and lateral spacing between conduits shall meet the requirements of the respective utility company. The utilities shall not be located under the sidewalks. Poles and any associated overhead structures, of a design approved by the Planning Board, shall be provided for use for police and fire alarm boxes and any similar municipal equipment and for use for streetlighting.
- (2) Streetlighting. It is the responsibility of the developer of any subdivision within the Town of Sturbridge to provide for the installation of streetlighting within that subdivision in accordance with National Grid/Massachusetts Electric Company "Street Lighting  $\hat{a}$ " Underground  $\hat{a}$ " Division of Ownership S-3" standards, as may be amended or updated from time to time by the

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Massachusetts Electric Company. In those situations where a dwelling unit is completed, the developer shall install all roadway lighting in those designated locations along the roadway that would be considered the normal path of ingress to and egress ~~to~~from that dwelling. A developer may select either of the following options:

- (a) Unaccepted streetlighting. Where the Town has not agreed or is likely not to accept future payment for streetlighting, the developer, contractor or association of customers shall:
  - [1] Provide, install and retain ownership of all streetlighting equipment, including underground conductors, conduits, foundations, poles and luminaries; and
  - [2] Contract directly with Massachusetts Electric Company to provide electricity for light operation and to service and maintain all equipment on a long-term basis.
- (b) Accepted streetlighting.
  - [1] Where the Town has accepted a roadway or is likely to accept streetlighting, the developer, contractor or association of customers shall provide and install all streetlighting, including underground conductors, ~~conduit~~conduits and foundations on which poles and luminaries are set; and provide and install such pole or enter into an arrangement with Massachusetts Electric Company to provide and install such poles at the developer's, contractor's or association's expense.
  - [2] In case of accepted streetlighting, the Town shall contract with Massachusetts Electric Company to provide electricity for light operation and to service and ~~maintenance of~~maintain equipment.
- (c) Installation.
  - [1] Streetlighting shall be installed as follows: Within a subdivision, each intersection, intersecting way, cul-de-sac, curve ~~f~~(with a radius of 60° or greater over a linear distance of 200 feet) or other road hazard shall be illuminated by a lighting fixture(s) which is to be installed on a structure(s) (pole, post, etc.) nearest the road hazard identified.
  - [2] The quantity, type and location of lights within a proposed subdivision shall be subject to Planning Board approval and shown on the definitive plan. The lighting fixture and structure specification is as follows:
    - [a] Fixture lumen rating: 4,000.
    - [b] Nominal structure mounting height above street grade: 25 feet.
- (3) Other requirements.
  - (a) All underground utilities shall be installed prior to application of the gravel base.
  - (b) All other utilities installed in a subdivision shall be shown on the as-built plans.
  - (c) All underground utilities shall be installed in a parallel fashion. The sewer line shall be in the center of the road and drainage and water on either side, with at least 10 feet separating the water and sewer lines.
- (4) Detention basins. Where employed, detention basins shall be designed in compliance with the following:

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- (a) Depth and grading. Basin overspill height shall be not less than one foot above the highest water surface projected for the design storm, and shall not exceed five feet above bed elevation. The slope of detention basin walls shall not exceed one foot vertical in three feet horizontal.
- (b) Base determination. The base of the detention basin shall be a minimum of two feet above the maximum water table as defined by the Town of Sturbridge Board of Health regulations. (Deep tests shall be made between February 15 and May 15~~).~~) Groundwater level shall be certified by a Massachusetts registered professional engineer. The detention basin base must be entirely below the existing grade, not constructed on fill material.
- (c) Inflow. Inflow pipe invert shall be high enough that there will not be substantial backwater in the pipe with the detention basin at maximum depth. The downstream end of the inflow pipe shall be suitably protected against scour and shall protect the bed and sides of the basin.
- (d) Outflow. An outflow drain with trash interceptor shall be provided, with a design assuring that outflow will not exceed existing flows for any event up to the design storm, and that the basin will empty in not more than four days in the design storm. In no case shall an outflow pipe ~~shall~~ be less than eight inches in diameter. Outflow invert shall be not less than 0.50 foot above bed elevation. An overflow weir protected against erosion shall be provided for accumulations exceeding those of the design storm.
- (e) Planting. All disturbed areas, including basin side slopes and bottom, shall be provided with four inches of loam, and seeded.
- (f) Ownership. Where the detention basin is to be owned by the Town, it shall be located on a separate parcel that provides direct access from the nearest roadway. The developer shall provide easements for both the parcel and detention basin access before construction commences, and convey ownership to the Town at the time ~~off~~ acceptance at Town Meeting.
- (g) Maintenance. Maintenance of detention facilities, other off-street drainage elements and access shall be assured at no expense to the Town, until accepted at Town Meeting.

### § 350-4.5. Other improvements.

#### A. Sidewalks.

- (1) Number and location. In residential subdivisions, sidewalks are generally required on one side of the road, unless the Board determines that two sidewalks are necessary to adequately service pedestrian traffic. The Board shall also consider the preservation of natural features in making its determination concerning the number of sidewalks required. In the interests of good design and enhancement of pedestrian ways, the Board may also consider sidewalks that follow along or around natural features and do not parallel the roadway. Commercial and industrial subdivisions require sidewalks on both sides of the road.
- (2) Construction.
  - (a) In residential areas, sidewalks shall be four feet wide. In commercial and industrial areas, sidewalks shall be six feet wide. In all areas, all materials shall be removed or filled to a depth of 13 inches below the finished design grade. In areas of high groundwater, as determined by soil borings, all materials shall be removed or filled to a depth of 17 inches

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below the finished design grade. Any soft spots of undesirable materials shall be removed and replaced with gravel. The sidewalk area shall be filled with gravel and rolled or compacted with a vibratory plate of a suitable size to a compacted depth of eight inches with a slope of 3/16 inch per foot towards the curb. In areas of high groundwater as previously determined, the compacted depth of gravel shall be increased to 12 inches.

- (b) Sidewalks shall extend to the paved roadway at intersections to provide convenient walk-off for crossings and shall be ramped for the handicapped to the gutter with no curb. Handicap ramps shall be shown on the plan and shall be constructed in accordance with the latest revision of the Massachusetts Architectural Access Board codes.
- (c) If concrete, a five-inch-thick Class A [4,000 pounds per square inch (psi)] concrete shall be applied to the prepared gravel base. A slump test shall be performed by an independent testing lab for every other truck. The slump shall vary between two inches and four inches. Department of Public Works personnel shall observe and accept or reject the concrete delivery based on test results. Sidewalk grade shall be continuous across driveways openings. Transition in grade will not be allowed. Four-by-four-inch welded wire mesh or equal shall be installed at all driveway aprons. The welded wire mesh or equal shall be supported in place such that a minimum two-inch concrete coverage is maintained in all locations. The concrete shall be a plant mix, placed, floated, troweled and then finished with a broom. Curing and sealing compound shall be applied. Preformed expansion joints shall be installed 15 feet on center for five-foot-wide sidewalks and 18 feet on center for six-foot-wide sidewalks. Finished sidewalks shall be sloped 3/16 inch per foot towards the curb. Troweled joints shall be installed five feet on center in residential areas and six feet on center in commercial and industrial areas. Plant mix design data and delivery slips shall be submitted to the Department of Public Works for review. All construction and concrete repair (if necessary) shall be in accordance with Massachusetts ~~Highway~~ Department of Transportation Standards. Finished concrete sidewalks shall be inspected by the Department of Public Works Director and will not be accepted until the surface is uniform and contains no defects.
- (d) When in the opinion of the Planning Board bituminous concrete sidewalks are adequate, they shall consist of three inches of bituminous concrete applied in a base two-inch layer and a top one-inch layer.

### B. Grass plots.

- (1) Location. A vegetated area of at least four feet in width shall be located between the sidewalk and the curbing, maintained in grass or retained natural vegetation, unless the Board approves an alternate sidewalk placement.
- (2) Maintenance. All grass strips shall be maintained by the owner(s) until such time as the Town may accept the public infrastructure at Town Meeting.
- (3) Planting areas and shoulders shall pitch toward the traveled way not less than 1/4 inch nor greater than two inches to the foot. The area between the sidewalk and traveled way shall have six inches of loam which, when rolled, shall match with the top course of the sidewalk and the top of the front face of the slant granite.
- (4) All disturbed unpaved areas within the street right-of-way shall be loamed to a minimum of six-inch thickness and seeded.
- (5) Grass seed shall be spread during the growing season at the rate of four pounds per 1,000 square feet. It shall be a mixture of creeping red fescue and perennial rye grass. It shall be properly

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fertilized, limed and watered. A guaranty period of one year from full growth and final bond release shall be honored by the subdivider.

### C. Slopes.

- (1) Design. The area in back of the sidewalk or shoulder shall be sloped at not more than the ratio of three feet horizontal to one -foot vertical to a point where it precisely coincides with the surrounding ground or abutter's lawn. Side slopes shall be loamed and seeded or retained in existing vegetation exactly the same as grass strips.
- (2) Terracing.
  - (a) Terracing and/or sloping of grades to the roadway will be required when the normal runoff from a lot onto another has been made greater by new construction or by man-made land changes.
  - (b) Terracing shall be done with earthen embankments, and each terrace shall have no more than a three-foot vertical drop. Natural slopes or terraces will be no steeper than one -foot horizontal to one -foot vertical, although no slopes steeper than three feet horizontal to one -foot vertical shall be allowed within 10 feet of the lot line.
  - (c) "Terrace" shall mean a raised flat mound of earth with sloping sides, and should be used for slopes greater than 75 feet in length.

### D. Bounds.

- (1) Location.
  - (a) Bounds shall be installed at all street intersections, at all points of change in direction or curvature of street side lines, arcs on curves at intervals of 300 feet, all easement boundaries, and at other points where, in the opinion of the Planning Board, permanent bounds are necessary. Such bounds shall be granite not less than 36 inches in length and six inches square. Other than bounds that exist, bounds shall be installed at all turning points for parcels designated as open space.
  - (b) Each lot shall have at least one side line marked by a bound of pre-cast reinforced concrete, and not less than 36 inches in length and six inches square.
- (2) Installation. Bounds shall be set to the finish grade and installed only after all construction which would destroy or disturb them has been completed. Furthermore, a Massachusetts registered land surveyor shall certify to the Planning Board that the location of such bounds has been verified by him, following all earthwork and paving, before any lots are released. All bounds must be shown on as-built plans before building permits are issued.

E. Landscape plan. The applicant and/or his agent shall submit a shade tree and landscaping plan to the Planning Board. This plan shall indicate all arboricultural details, including, but not limited to, trees that are to be retained, the planting schedule and the maintenance program. The Planning Board shall approve said plan, with or without conditions, if said plan conforms to the standards set forth below. Said plan, upon approval, shall be filed with the Planning Board and shall constitute a condition of approval.

- (1) Retention. Outside of the street lines but within 20 feet of the right-of-way, no trees over six-inch caliper shall be removed or have the grade level underneath them altered more than six inches without approval by the Planning Board during the definitive plan review process.

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- (2) Planting.
  - (a) Existing trees shall be preserved and new trees planted so that, at the time a subdivision is completed, at least three trees of approved caliper shall be located on each lot within 15 feet of the nearest exterior line of the street. Shade trees shall not be planted where their growth will interfere with utility lines or entrances. New 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~~to the right-of-way line unless otherwise approved by the Planning Board.
  - (b) The subdivider shall be responsible for all approved trees for a minimum period of two years. Any unhealthy or dead tree shall be replaced with another that again shall be guaranteed for two years. Trees approved for planting are ~~Flowering and Green/Red Ash; Littleleaf and Silver Linden; Shademaster, Honey and Skyline Locust; Crimson King and Columnar Maple; White, Scarlet, Pin and Northern Red Oak;~~listed in Appendix 7. Other species may be planted if approved in advance by the Tree Warden. They shall be three-inch caliper measured four feet above grade and planted in at least 1/2 cubic yard of topsoil. At least three species shall be planted in every subdivision, and they shall be staggered so that no one species shall be next to a like species.
  - (c) The Planning Board may require landscaping for screening or other purposes, require existing trees and other vegetation to be preserved in accordance with other sections of this bylaw, and/or require the planting of additional trees as prescribed under this section. Any tree which is designated to be preserved by the Planning Board or Tree Warden, and which is subsequently damaged during construction of the project, shall be repaired or replaced at the subdivider's expense.
- (3) Trees: number and size. Trees shall be placed so ~~than~~that there ~~is~~are not ~~less~~fewer than two trees for every 100 feet of roadway length or portion thereof. For the purpose of this calculation, "roadway length" shall include all new roadways proposed in addition to all existing road frontage for which new building lots are proposed. The diameter of the trunk measured one foot above the base shall be not less than two inches.
- (4) Landscape plan content. After seeking input from the Tree Warden, the subdivider shall provide 10 copies of a landscape plan at a 1:40 scale to the Planning Board for its approval. The landscape plan shall show, ~~as~~at a minimum:
  - (a) Paved road layout;
  - (b) Road right-of-way;
  - (c) Location, diameter and species of all existing trees measured one foot above the base;
  - (d) Location, diameter and species of all new trees;
  - (e) Illustration of the planting technique to be used for each species of tree, subject to the general soil conditions found on the site;
  - (f) Location of all underground and above-ground utilities and proposed driveway cuts; and;
  - (g) Other natural and man-made distinguishing features which are located in the road right-of-way or lands to be presented to the Town.
- (5) Species. Tree species which are proposed for planting shall be listed by species and variety on the landscape plan. The proposed list of trees shall be reviewed by the Tree Warden, who shall make a recommendation to the Planning Board as to the adequacy and acceptability of the

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proposed species for the proposed project. The Planning Board, after obtaining the Tree Warden's input, shall approve the species which are acceptable for planting ("Approved Species List").

- (6) Existing trees. The existing trees remaining in the road right-of-way shall be pruned and trimmed to conform to the specifications of the National Arborist Association Class 1 Prune and Trim. Upon completion of pruning and trimming, the subdivider shall request the Tree Warden to inspect the trees and certify that they conform to the specifications.
- (7) New plantings. All new trees shall be planted in accordance with the landscape plan as approved under Subsection E(4) above, and shall be planted:
  - (a) After the street construction has been completed, including the installation of:
    - [1] All underground and above-ground utilities;
    - [2] Base course of pavement; and
    - [3] All subgrade fills and cuts within the road layout have been made; and
  - (b) Before the subdivider requests acceptance and/or release of the subdivision.
- (8) Guarantee. Each new tree shall be guaranteed by the subdivider for a period of two growing seasons. Any tree deemed by the Planning Board or Tree Warden to be unsatisfactory within two growing seasons shall be removed and replaced with a tree of a species which is acceptable to the Tree Warden and approved by the Planning Board at the expense of the subdivider.
- (9) Waivers.
  - (a) If the subdivider and/or Tree Warden ~~determined~~determines that the total number of trees shown on the landscape plan cannot be planted within the area of the subdivision due to site and/or development conditions, the subdivider may request a waiver from the tree planting regulations. The request shall be made to the Planning Board, and the Planning Board shall approve or deny such request after seeking input from the Tree Warden.
  - (b) Fees. For each tree waived by the Planning Board, the subdivider shall pay a fee of \$250.

### F. Street signs.

- (1) Location. The subdivider shall furnish and install double-faced, extruded-aluminum street signs, mounted on two-inch-diameter posts equal to those in use by the Sturbridge Department of Public Works, at each street intersection within the subdivision. At T-intersections, one sign post shall be sufficient; at four-way intersections, two posts and sets of signs are required.
- (2) Installation. Street signposts shall be 10 feet in length, three feet of which shall be buried in the ground. An anchor rod shall be installed with the underground portion to prevent turning or removal.
- (3) Other. Any street not yet accepted by the Town of Sturbridge shall be so indicated by a sign stating "Private Way" mounted on the same post just below the street sign. Prior to the issuance of an occupancy permit for a dwelling fronting a street within a subdivision, a sign indicating the name of that street shall be installed at the beginning of the street and at every intersecting way along that street.



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### § 350-4.6. Other requirements.

A. Open spaces. Before approval of the definitive plan, the Board may require the plan to show a park or parks suitably located for playground or recreation purposes. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Board may, by appropriate endorsement on the plan, require that no building be erected on such park or parks for a period of not more than three years without its approval. This shall in no way prohibit the gift of such land to any public or private cooperative nonprofit organization for recreational and open space use to improve community life and social welfare.

(1) Open space maintenance program.

(a) For all proposed subdivisions, the applicant shall propose a maintenance program which provides a mechanism, acceptable to the Planning Board, Public Works ~~Manager, Director~~ and Town Engineer, for the future maintenance of any public open space, park, or playground which ~~are~~is proposed as part of the definitive plan.

(b) For open space within a subdivision, to be owned by an association or land trust, the applicant shall submit an open space ownership and maintenance program, which shall describe how the open space will be owned and maintained in perpetuity, and meet standards acceptable to the Planning Board.

(c) When restrictions are involved, as may be the case where open space is proposed to be in private ownership of individual lot owners, such restrictions should conform to standards of the State Division of Conservation Services for Conservation Restrictions. Such restrictions included in the maintenance program must require that the open space shall be kept in its natural state, or acceptable recreational uses, or used for woodland or agricultural operations, (including but not limited to the cultivation of crops, flowers, fruit, hay, planting of trees, shrubs, mowing grass or other activities necessary to and appropriate for good woodland and agricultural practices), or any combination thereof. If the open space, or a portion of the open space, is to be conveyed to a homeowners' association, acceptable proof that all owners of building lots in the development shall be bound to maintain in perpetuity the common open land or community facilities shall be submitted with the definitive plan, guaranteeing continuing maintenance of such common land and facilities, and assessing each lot a share of maintenance expenses. Such a "homeowners' association agreement" shall be subject to the review and approval of the Planning Board. Provisions shall be included in the agreement that in the event the lot owners fail to maintain the open space, the lot owners shall be bound by deed to permit the Town, or a nonprofit conservation corporation acceptable to the Board of Selectmen, to maintain the common open land in accordance with the maintenance program and homeowners' association agreement. The cost of such work by the Town shall be borne by the lot owners as a lien upon their lots. Provision for future revision of the open space ownership and maintenance program should also be included.

(2) Open space, parks and playgrounds.

(a) Areas for open space, parks and/or playgrounds will normally be required to be set aside in accordance with MGL c. 41, § 81U, as amended. Such areas shall be of reasonable size, but generally not less than 5% of the total parcel area, depending upon the location and quality of the land being set aside. The minimum area acceptable, for later neighborhood or public acquisition, shall be 50,000 square feet. The land shall be of a character and location suitable for use as a playground, playing field, or for recreational purposes and shall be relatively level and dry. No building shall be erected or placed on

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such an area for a period of three years without the approval of the Board. The Planning Board shall determine the utility and appropriateness of all open space areas within a proposed subdivision, open space parcels created simply to avoid zoning violations or conflicts (for example: corner lot requirements) shall not be permitted. Designation of a parcel of land as "open space" will only be permitted upon approval of the Planning Board; open space parcels must serve a purpose. This purpose shall be determined based upon parcel size, location within the subdivision, and utility (i.e., landscape amenities, recreational use, scenic value, etc.). In all subdivisions, the Planning Board shall make the final determination regarding open space parcels. This shall include the location, size, shape and use of all proposed open space. If the land set aside for public use is excessively steep or wet, is not safely accessible, or is not dry for at least nine months out of the year, the Board may consider this an inappropriate contribution of open space, and may require additional land to satisfy this requirement.

- (b) Before approval of a plan, the Board shall require it to show parks, playground, recreation areas, or other open spaces to serve the future residents of the subdivision and by appropriate endorsement require that no building shall be erected on such site for three years without the approval of the Planning Board. Any open space park or playground shall provide at least 200 feet of continuous frontage on a street, and pedestrian ways will normally be required to provide access from each of the surrounding streets, if any, to which the open space, park or playground has no frontage. Further, such parks and/or playgrounds shall be required to have maintenance provided for by covenants and agreements acceptable to the Board, until acquisition by a homeowners' association or the Town. In areas designated as open spaces in a definitive plan, if such areas have been environmentally damaged prior to the completion of the development as a result of soil or gravel removal, harvesting of trees, refuse disposal, or any other activity deemed inappropriate with proposed uses of the open space, the Planning Board may require the developer to restore or improve the condition and appearance of the open space area, and may require the posting of a performance guarantee to ensure such restoration or improvement.

### B. Easements.

- (1) Utilities. Where utilities cross lots or are centered on the rear or side of lot lines, easements with a width of at least 30 feet shall be provided. Signed and notarized documentation for recordation shall be submitted with the as-built plan.
- (2) Drainage. Where a subdivision is traversed by a watercourse, ~~drainage way~~ drainageway, channel or stream or contains a water storage area, detention basin or other facility, the Board may require that there be provided a stormwater easement, drainage right-of-way and maintenance access of adequate width to conform substantially to the lines of said features and to provide for the possibility of flooding, protection of banks and adjacent properties, future maintenance or construction and other necessary purposes.

- C. Cleanup. Before issuance of an occupancy permit, the subdivider shall remove from the street and adjoining property all temporary structures, debris, tree stumps, loose rocks and surplus materials which may have accumulated during the execution of the work, leaving the subdivision in a neat and orderly condition. Prior to final completion of work, the applicant shall clean the entire stormwater management system, both on-site and off-site to its point of discharge, including ~~man holes~~ manholes and catch basins.

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D. As-built plans.

- (1) Contents. After all street construction is completed and before the release of the final bond or covenant, the subdivider shall file with the Board three prints of the definitive plan, corrected and certified by a Massachusetts registered professional engineer or registered land surveyor, in proper form for recordation or registration at the Worcester County Registry of Deeds, to show the following as-built conditions:
  - (a) Side-line locations of roadways and sidewalks.
  - (b) Center-line elevations, at fifty-foot intervals, of all roadways.
  - (c) Profiles and plans of the drainage system, with sewer and drain invert elevations.
  - (d) Bounds as installed.
  - (e) Main gates and utilities as installed, including ties to all services.
  - (f) Catch basins and ~~man holes~~manholes; bends and ~~tee stees~~.
- (2) Certificate. A certificate stamped and signed by the engineer or surveyor preparing such as-built plan shall be endorsed on the plan in the following form:

I hereby certify that this plan shows the actual as-built locations, profiles and elevations of the roadways, drainage facilities and utilities, based upon a field survey.

Date: \_\_\_\_\_

\_\_\_\_\_  
Registered Land Surveyor

\_\_\_\_\_  
Registered Engineer

- (3) The applicant shall submit the approved version of the plan on a CD-ROM disc, in AutoCAD Release -14 (or any subsequent release which the Sturbridge Town Planner adopts), to the Planning Board for review and approval. The computer version of the definitive plan shall be identical, full-size, and shall contain all information included on the plan print. Layer names shall conform to Town Planner standards. Failure to submit such diskette shall be cause for the Planning Board not to release any bond funds being held or for the Town not to accept the roadway(s).

E. Maintenance of improvements. Upon completion of the required improvements and release of all security by the Board, the developer shall properly maintain all roads and other municipal utilities within the subdivision until such time as they may be accepted by the Town.

F. Safety.

- (1) Precautions. All precautions should be taken by the developer and his subcontractors to observe common sense safety requirements. The Board designates the Building Inspector to report to the Board all unsafe activities in preparation of the subdivision.
- (2) Holes and piling of materials. Holes greater than five feet in depth and soil piles higher than five feet or materials stacked in an unsafe manner shall not be allowed unless the area is adequately protected. The contractor and his representatives shall comply with OSHA requirements.

G. Construction timing.

- (1) Any definitive subdivision plan approved hereunder, or any modification of any such subdivision plan previously approved, shall require that construction of the ways, utilities and

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other infrastructure in the proposed subdivision shall be completed within two years of the date of said approval or as contained in an approved phasing plan, and not from the date of endorsement nor from the date of recording of such subdivision plan. Failure to so complete shall constitute a default of a condition of approval as set forth in § 350-3.2I(3).

- (2) Once construction is begun, all construction of the ways, utilities and other infrastructure shown on such subdivision plan shall be completed within two years unless a development phasing plan has been approved by the Planning Board.

### ARTICLE V Administration

#### § 350-5.1. Pre-construction meeting.

Following approval of the definitive plan and before actual construction begins on the roadway or utilities, the subdivider is required to submit a revised definitive plan to the Planning Board and the Department of Public Works, showing Planning Board approvals, waivers and conditions, and to schedule a meeting with the Department of Public Works Director and his staff. The subdivider is urged to bring his engineer and his roadway contractor to this meeting. The subdivider's attorney is also welcome to attend. Any problems contemplated in the construction phase, as well as inspection stages, contact persons, etc., will be discussed, as well as procedures to be followed. A summary of said meeting, as prepared by the Town Planner, shall be initialed by the Town Planner and the subdivider and forwarded to the Planning Board.

#### § 350-5.2. Inspections.

- A. General. The Department of Public Works Director or his designee shall act as the Planning Board's inspector to ensure that the construction of roadways and utilities is carried out in accordance with these subdivision regulations and the Sturbridge Department of Public Works construction specifications. All elements of work are to be at all times subject to inspection. The Director shall require tests and interim as-builts to be done by the subdivider, at his expense, to demonstrate that these regulations and the construction specifications contained herein have been met. These tests shall include, as applicable, but are not limited to, the following: pressure and bacteriological test of the water lines; pressure and mandrill test of the sewer lines; vacuum test of the sewer manholes; thickness, gradation and compaction of the gravel road base; thickness, gradation and compaction of the binder ~~course~~ course of pavement; certification by a licensed engineer or surveyor, in writing or on a plan, at any time during construction. The Director may approve deviations indicated by these tests or interim as-~~built's~~ builts if they fall within acceptable engineering tolerances, if it maintains the intent of the Planning Board approval and the Department of Public Works Director informs the Planning Board in writing. The Planning Board may retain independent consultants, at the expense of the developer, in accordance with § 350-5.4, to ascertain whether these regulations and construction specifications have been met.
- B. Inspection form. The Department of Public Works Director or his designee shall maintain an inspection form, (see Appendix ~~45~~, 45, Form P~~7~~) for each subdivision. At each critical step, the Director shall initial and date it to indicate completion and approval. Where appropriate, additional written reports shall be filed with the Planning Board.
- C. Notification. A minimum of 48 hours' notice shall be given to the Department of Public Works Director by any subdivider requesting an inspection.
- D. Failure to comply. Failure to comply with the inspection procedure may necessitate removal of improvements, at the expense of the applicant, or rescission of the approval of the plan in accordance with MGL c. 41, § 81W, or withholding of the subdivider's posted bond. If work is not "authorized

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to proceed<sup>u</sup>," the contractor will be notified. It will be the subdivider's responsibility to prove quality of work through testing and/or certification.

- E. Determination of completion. The Department of Public Works Director shall, upon request of the subdivider and payment of any fees attendant thereto, cause the subdivision to be inspected for compliance with the Subdivision Rules and Regulations and the decision(s) of the Planning Board. If the Director is satisfied that the subdivision is in full compliance, he shall so certify on the determination of completion form, to which shall be appended the engineer's certification, and shall forward them to the Planning Board for acceptance.

### § 350-5.3. Waiver of requirements.

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

### § 350-5.4. Fee structures and regulations.

Reasonable fees shall be imposed for the review of applications which come before the Planning Board, as set forth in Appendix 4, ~~List~~Schedule of ~~Service Fee Rates, in Chapter 82 of the Code of the Town of Sturbridge,~~Administrative and Project Review Fees, and as set forth below.

#### A. Administrative fees.

- (1) Applicability. An administrative fee shall be assessed to offset the expense of review by the Planning Board and its office with regard to all applications set forth in Appendix 4, Schedule of Administrative and Project Review Fees.
- (2) Submittal. Administrative fees shall be paid at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
- (3) Fees for revised applications. Where an administrative fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee, the following rules shall apply:
  - (a) If the number of proposed lots or units increases, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.
  - (b) If the number of proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the Planning Board, no cost associated with the review of those lots or units has been yet incurred.
- (4) Fee waivers. The Planning Board may waive or reduce any administrative fee; if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.
- (5) Refund. Once the review process has been commenced, the Planning Board shall not refund administrative fees, including the case of withdrawal of the application by the applicant, except as provided in Subsection A(3)(b) above.

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### B. Project review and inspection fees.

- (1) Applicability. The Planning Board, at its sole discretion, may determine that a proposed project's size, scale, complexity, potential impact or use of the land warrants the review by outside consultants (such as engineers, planners, lawyers, ~~hydro-geologists~~hydrogeologists, traffic engineer or others). Such consultants shall assist the Planning Board, or any Town board or commission to which a matter is referred for review and comment prior to action by the Planning Board, in plan review, impact analysis, inspection or other technical assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant.
- (2) Submittal. Project review fees shall be submitted upon receipt of notice of estimated consultant review cost for deposit in an account established pursuant to MGL c. 44, § 53G (53G account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
- (3) Those projects which are deemed by the Planning Board to require review by outside consultants shall be delivered to the selected consultant or consultants, who will submit a cost to the Planning Board. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable project review fees shall be collected for deposit into the ~~Section~~-53G account, and not the sum of those fees.
- (4) Replenishment. When the balance in an applicant's 53G account falls below 25% of the initial project review fee, as imposed above, the Planning Board shall consider whether to require a supplemental project review fee to cover the cost of the remaining project review.
- (5) Inspection phase. After the granting of a definitive plan approval, the Planning Board may require a supplemental project review fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.
- (6) Handling of project review fees. The project review fee is to be deposited into a special account as set forth in MGL c. 44, § 53G.
  - (a) Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
  - (b) Project review fees shall be turned over to the Town Treasurer by the Planning Board for deposit into a 53G account.
  - (c) A copy of the latest statement from the banking institution handling the 53G account shall be forwarded from the office of the Town Treasurer to the Planning Board office as soon as it is received for timely and accurate accounting.
  - (d) The Town Treasurer or Town Accountant shall prepare a report on activity in the 53G account on an annual basis.
    - [1] This report shall be submitted to the Planning Board for its review.
    - [2] This report shall be printed in the Annual Report for the Town of Sturbridge.
  - (e) An accounting of an applicant's funds held in the 53G account may be requested by the applicant.

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- [1] The Planning Board office shall respond to the request in a timely fashion.
- [2] This accounting shall include the following information:
  - [a] The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' ~~aeecount~~accounts. Otherwise, a statement of principal and interest, prepared by the Planning Board office, based on the latest statement from the banking institution.
  - [b] A report of all checks authorized for issuance since the last banking statement.
- (f) An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- (g) Excess fees in the 53G account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
  - [1] With the approval or disapproval of a preliminary subdivision plan.
  - [2] With the disapproval of a definitive subdivision plan.
  - [3] With the release of the performance bond at the end of construction of an approved definitive subdivision plan.
- (7) Selection appeal. The applicant shall be notified in writing of consultant selection at least seven days prior to the initiation of consultant efforts, unless this notice period is waived in writing by the applicant. As provided in MGL c. 44, § 53G, the applicant may administratively appeal the selection of the consultant to the Sturbridge ~~Town Council~~Board of Selectmen, on grounds that the proposed consultant selected has a conflict of interest (A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process. Consultants must be in compliance with the Massachusetts Conflict of Interest Law, MGL c. 268A.) or does not possess the minimum required qualifications of an educational degree or three or more years of practice in, or closely related to, the field at issue. Such an appeal may be initiated by the applicant filing notice with the Town Clerk within seven days of notice of the selection. Consultant efforts shall not begin until any appeal has been decided or until one month passes without Council decision, in which case the selection made by the Planning Board shall stand. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal. This appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.
- (8) Remedy. Failure of an applicant to pay the consultant review fee determined by the Planning Board, or to replenish the special account when requested, shall be grounds for plan disapproval, denial of the application or permit or refusal to release development security.

### § 350-5.5. Matters not covered.

For matters not covered by these rules and regulations, reference is made to MGL c. 41, §§ 81K to 81GG, inclusive.

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**Chapter 360 - WATER RULES, REGULATIONS AND FEES**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Sturbridge as amended 11-13-2012. Subsequent amendments noted where applicable.]**

ARTICLE I  
**General Provisions**

**§ 360-1.1. Contract requirements; payment of property taxes.**

- A. The rules, regulations and fees (the "regulations") of the Town of Sturbridge Water Department (the "Water Department") shall be considered a part of the contract with every property owner or consumer (the "water customer") supplied with municipal water from the Town of Sturbridge, and every such water customer shall be considered as having expressed their consent to be bound thereby. The water customer shall complete, execute and file with the Department Public Works (the "DPW") a "water service application and contract" form or a "transfer of property ownership" form, as applicable.
- B. Property taxes must be current in order to request Town water service.

**§ 360-1.2. Authority to amend regulations and change rates.**

- A. The Board of Selectmen, in its capacity as Water Commissioners (the "Board"), reserves the right to adjust, at any time, the water rates and fees identified in "Appendix A-2, Schedule of Water Rates and Fees" ("Appendix A-2"), which is attached hereto and incorporated herein by reference.
- B. The Board may establish any special rates, amend the regulations, and/or establish any other reasonable restrictions upon the use of water, with or without prior notice, if it be deemed to be in the best interest of the Town.
- C. Any approved amendments to the regulations shall be publicly posted at the Town Clerk's office and on the Town's website ([www.Town.sturbridge.ma.us](http://www.Town.sturbridge.ma.us)); however, the responsibility for knowledge thereof rests solely with the water customer.

**§ 360-1.3. Enforcement.**

These regulations shall be strictly enforced by the Town and its authorized agents.

ARTICLE II  
**Service Application and Contract**

**§ 360-2.1. Application form; fee.**

- A. All applications for new water service connections or the use of water must be made in writing on a form provided by the Town and executed by the water customer. The application must state truthfully and fully all uses of the water. No other use of the water shall be made without the prior written consent of the Board. A nonrefundable new customer and application fee as listed in "Appendix A" shall accompany every application for a new water service connection. The new service must be completed and connected within one -year of approval of the application. Services not completed within one year shall require a new application form and fee.
- B. The new customer and application fee does not apply to a transfer of property ownership on existing services.



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### § 360-2.2. Approved application as contract.

The application, once approved by the Board and accepted by the DPW, shall constitute a contract between the Town and the water customer, thereby obligating the applicant to comply with the regulations, and associated rates and charges, as may be amended from time to time.

### § 360-2.3. Access to public water main required.

Applications for service installations will be accepted subject to the existence of a public water main abutting the premises to be served and that is:

- A. Within a public way;
- B. Within a way shown on a plan approved under the Subdivision Control Law; or
- C. Within a private way wherein the Town has an easement for the purpose of maintaining a public water main.

### § 360-2.4. Customer liability for payment.

The water customer shall be responsible for the payment of all service until the time service is actually disconnected or until five business days have elapsed after actual receipt of notice to discontinue, whichever shall first occur.

### § 360-2.5. Maintenance of pipes and fixtures by customer.

All water customers must maintain their water pipes and all fixtures in good repair and protected from frost exposure, at their expense, and shall be held liable for all damages resulting from failure to maintain. Water customers must prevent all unnecessary waste.

### § 360-2.6. Alterations to pipes or fixtures.

No alteration shall be made to any pipe or fixture installed by the Town or Water Department unless expressly authorized by the Town.

### § 360-2.7. Right of entry.

Authorized employees or agents of the Water Department or DPW may enter upon the premises of the water customer to examine pipes and ascertain the amount of water used.

### § 360-2.8. Tie-in charges.

- A. Water services tie-in charges for 3/4-inch or one-inch service: If the DPW or Water Department installs the pipe and fittings from the main to the curb stop at the property line, a tie-in fee as listed in "Appendix A" shall be paid for by the applicant at the time of application. The water customer shall be responsible for all costs associated with all work that lies outside of the public highway; which may be installed by a contractor that has been licensed by the Water Department, and with said work supervised and inspected by the Water Department. Such supervision and inspection costs are included in the tie-in charge.
- B. Charges for water services 1 1/4 inches through eight inches and sprinklers:
  - (1) An application fee for water service as listed in "Appendix A" shall be paid for by the water customer at the time of application. The water customer shall be responsible for all costs

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associated with installations under this ~~section~~subsection.

- (2) This charge applies to 1-1/4~~-inches-inch~~ through two~~-inches-inch~~ copper services, four~~-inches-inch~~, six~~-inches-inch~~ and eight~~-inches-inch~~ services or sprinklers and under the following provisions:
  - (a) No tie-in fee for water main extensions.
  - (b) All tie-ins to Town~~-~~owned water mains shall be made by the Town or a licensed contractor at the expense of the applicant and inspected by the DPW or Water Department.
  - (c) All extensions on proposed Town streets or roads will be installed by the Town or a licensed contractor at the expense of the applicant and inspected by the DPW or Water Department.
  - (d) Requests for services or extension shall be made in writing, and accompanied by a plan, to the Sturbridge Board of Selectmen and the DPW.
  - (e) Installations made on private property by others shall be licensed, inspected and approved by the DPW or the Water Department.
  - (f) Size of service or main extensions and materials used shall be specified by the DPW, a licensed civil ~~P.E.,~~PE or sprinkler company and may be reviewed by any of the following, as needed, prior to processing of the application:
    - [1] Board of Selectmen~~;~~
    - [2] Planning Board~~;~~
    - [3] DPW~~;~~
    - [4] Water Department~~;~~
    - [5] Fire Department~~;~~ and
    - [6] Building Inspector/Commissioner.
  - (g) As~~-~~built plans shall be provided by the water customer for all work completed prior to sign~~-~~off for the project by the DPW.

### ARTICLE III System Connection Fee

#### § 360-3.1. Fee imposed; use.

As of December 31, 2012, a system connection fee shall be imposed on all new water service connections to the water distribution system. The fee shall be in addition to the costs charged by the DPW for tying in a new water service. The system connection fee covers the impact on and additional capital costs which will be necessary to allow the Town to be able to meet the demand of additional users. The fees collected will accumulate in a special fund to be used for the purpose of funding capital expansion and improvements to the water system, or other water system specific endeavors.

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### § 360-3.2. Amount of fee.

A minimum system connection fee as listed in "Appendix A" shall be required for all new water services beginning December 31, 2012.

### § 360-3.3. Calculation of fee.

The system connection fee is based on the diametrical inch of the water line that services the building with domestic, sanitary or process water, exclusive of fire protection requirements.

### § 360-3.4. Payment of fee required for connection.

The system connection fee shall be paid at the time the water connection is made. The water service will not be activated until the system connection fee has been paid.

### § 360-3.5. Applicability.

All water services installed prior to December 31, 2012, but that are incomplete due to lack of a meter, are subject to the system connection fee.

## ARTICLE IV Service Installation

### § 360-4.1. Charges for service pipes.

All service pipes installed in Town ways, which are installed by the DPW or Water Department from the street main to the water service shut-off valve (curb stop), are subject to additional charges as listed in "Appendix A". The curb stop shall be installed by the Department as near as possible to the property line running adjacent to the Town-owned roadway. The water customer will be charged a tapping fee, plus all costs of the service connection, including labor, materials, excavating, ~~baek-filling~~backfilling, road repairs, police detail for traffic control, if required, and other necessary costs, including estimated cost of permanent patching of the road surface after trench settlement. Charges listed in "Appendix A" are applicable.

### § 360-4.2. Installation in Town way.

A Town-licensed contractor may install a service pipe in a Town way only with permission of the DPW. Approved contractors must maintain an approved street excavation permit and submit a certificate of liability insurance. Materials, approved by the DPW, shall be furnished by the contractor or owner. Any materials and/or labor furnished by the DPW shall be charged to the water customer. The DPW must inspect installation prior to ~~baek-filling~~backfilling. Charges listed in "Appendix A" are applicable.

### § 360-4.3. Installation to customer property.

The water customer must install, or cause to be installed, the remainder of the water service pipe from the curb stop into the house. Materials and labor, approved by the Department, are the responsibility of the water customer. All fittings supplied by the DPW or Water Department shall be billed to the water customer. The DPW must inspect installation prior to ~~baek-filling~~backfilling.

### § 360-4.4. Responsibility for pipe on customer property.

The service pipe, from the curb stop to the building (or all pipe beyond the Town property line), is the property and responsibility of the water customer.

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### § 360-4.5. Pipe cover.

All service pipes, to the building to be served thereby, shall have a minimum cover of at least five feet of suitable fill and a maximum cover of seven feet of suitable fill unless otherwise approved by the DPW prior to installation.

### § 360-4.6. Location of pipes in relation to other utilities.

No service pipes shall be laid in the same trench with gas, electric, phone, sewer pipes or any other facility of a public service company, nor within five feet of any other pipe, open excavation or vault, nor within 10 feet of any septic structure or leaching field. In the event water piping is installed below any sewer or septic piping, concrete encasement of the sanitary line shall be installed 10 feet in either direction of the actual crossing. Cement should be placed one foot outside the pipe diameter in all directions for the entire twenty-foot length.

### § 360-4.7. Nonmetallic installations.

All ~~non-metallic~~nonmetallic water service lines and all ~~non-metallic~~nonmetallic main extensions shall have an approved metal detectable tape, clearly printed with the word "WATER", placed at two feet below the finished grade for the entire length of piping if approved by the DPW.

### § 360-4.8. Limit on number of taps; clearance.

In no case will the main be tapped more than once for the same premises except by special permission of the Board of Selectmen, and then only when the entire expense is borne by the water customer. In no case shall a tap be installed with less than three feet of clearance from an existing pipe joint, fitting, or other tap unless reviewed and approved by the DPW prior to installation.

### § 360-4.9. Winter installations prohibited.

No water service shall be installed between December 1 and March 1. Application for water service must be received before November 10 for a service to be installed before December 1, provided that no unforeseen circumstances prevent the Department from doing so.

### § 360-4.10. Permission required for installation across adjacent property.

No water service shall cross an adjacent property in its travel from the street main to the water customer's premises without the permission of the adjacent property owner and the DPW and only when there is a deeded utility easement on the property that is being crossed.

### § 360-4.11. Activation of new service.

New water services are to be activated by the Water Department only. Failure to comply will result in a penalty listed in "Appendix A".

## ARTICLE V Temporary Construction Services

### § 360-5.1. Contract, fee and meter required.

A. Temporary services for construction purposes will be granted only upon execution of a contract and payment of the new water customer and application fee and service installation fees. There is also a

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monthly temporary construction service fee required. Please refer to "Appendix A".

B. All temporary services shall be metered and are subject to sanitary sewer charges, if applicable.

### ARTICLE VI Meters and Meter Fittings

#### § 360-6.1. Size and type of meter; maintenance.

The water meter shall be purchased by the water customer from the DPW. The DPW and/or Water Department ~~reserves~~ the right to stipulate the size, type and make of meter to be used, as well as the location of the setting and remote reader. The Water Department will purchase meters up to one inch. Any meters over one inch shall be the responsibility of the water customer. The Board of Selectmen ~~reserves~~ the right to have any meter inspected at any reasonable time by the DPW, Water Department or designee and to refuse to furnish water through any meter which, upon inspection, proves to be out of order or inaccurate.

#### § 360-6.2. Meter required.

Before final inspection is made and a building to be served by Town water is occupied, the water customer must purchase a water meter and have the same inspected and approved by the DPW or Water Department at the expense of the water customer. All outstanding real estate taxes and water/sewer fees must be paid current.

#### § 360-6.3. Original and replacement cost; location; protection from damage.

The original cost of all meters that are one inch or less shall include any future replacement costs, including price of a replacement meter and labor involved, if properly maintained. Replacement costs for meters over one inch shall be charged to the water customer. When possible, the meter will be set just inside the basement wall, in a convenient place to control the entire supply. Where this is impossible or impractical, it may be set at the property line or some other location designated by the Water Department. All expenses in connection with the property housing shall be borne by the water customer. The owner shall furnish a safe and convenient location for the meter and shall keep it accessible for reading at all times. Furthermore, the Water Department may require relocation of an existing meter, at the water customer's expense, if the Department deems its present location inaccessible. The water customer shall protect the meter from freezing and other damage and shall be responsible for damage caused by his failure to do so.

#### § 360-6.4. Individual meters required.

An individual meter shall be required for each separate service connection. Furthermore, all newly constructed condominiums and apartments will be metered individually. Under certain circumstances, at the discretion of the DPW or Water Department, one master meter may be required to service the entire condominium or project.

#### § 360-6.5. Customer liable for cost of water passing through meter.

The water customer shall be responsible for the cost of all water that passes through a meter.

#### § 360-6.6. Inspection, repair or removal by Department only.

The water customer shall permit no one, except an employee of the DPW or its authorized agents, to inspect, repair or remove for any purpose, the meter or other fixtures adjacent to the meter, including meter valve

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and meter connection, that were installed by the Department on their premises. The water customer shall be charged for all parts and labor for any repairs made by the Department to fixtures adjacent to the meter. The water customer shall notify the Department as soon as it comes to his knowledge of any injury to or leakage of the meter or adjacent fixtures or any cessation in registration of the meter.

### § 360-6.7. Damaged meters.

Any meter damaged through the negligence of the water customer, whether from falling objects, freezing, hot water, or otherwise, shall be repaired or replaced by the Department of Public Works or Water Department at the expense of the water customer. A labor fee of regular or overtime costs will apply in addition to replacement costs, if applicable.

### § 360-6.8. Charges for faulty meters.

If a meter becomes out of order and fails to register properly, the water customer shall be charged based upon the average daily rate of consumption as determined by historic volume for the same quarterly billing cycle. The Finance Department shall calculate average use from historic data for the same quarterly billing cycle dating back two prior years.

### § 360-6.9. Removal and testing of meters.

The DPW reserves the right to remove and to test any meter at any time, and to substitute another meter in its place. In the case of a disputed account involving the question as to the accuracy of the meter, such meter will be tested by the Water Department upon request of the applicant. A fee for testing such meter, as specified in Appendix A, will be required for meters one inch and smaller, payable in advance of the test. In the event that the meter so tested is found to have an error in registration in excess of 3% at any rate of flow within normal test flow limits, to the detriment of the water customer, the fee advanced for testing will be refunded and the current bill, based on the last reading of such meter, shall be revised based upon average use from historic data for the same quarterly billing cycle dating back two prior years.

### § 360-6.10. Testing and repair of large meters.

Meters larger than one inch shall be tested and repaired by the meter manufacturer, and all costs ~~therefore~~therefor shall be paid for by the respective water customer. Unless otherwise approved by the Director of the DPW, the meter manufacturer shall be engaged by the Town to do testing and repairing meters.

### § 360-6.11. Bypass on large meters.

Meters larger than two inches may, at the DPW Director's discretion, be equipped with a bypass to eliminate the need of shutting off water service, provided that seals installed by the Water Department ensure that water is bypassed only during testing and repair. All bypasses must be padlocked, and if tampering is discovered, a fine will be levied per Appendix A.

### § 360-6.12. Stop valve required.

An approved stop valve shall be installed near the outlet of the meter by the water customer, at their expense, to permit removal of the meter without ~~back flow~~backflow from the house pipes.

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### § 360-6.13. Check valves.

If, in the opinion of the DPW, the installation of an approved check-valve on the property, side of a meter, of any water customer, is considered necessary for the safety of the water system, such approved check valve shall be immediately installed at the expense of the water customer, after due notice, in writing, has been given to the water customer by said Department of Public Works.

### § 360-6.14. Water pressure.

The Water Commissioners do not guarantee, but will make every reasonable effort to maintain a positive pressure at all times.

### § 360-6.15. Secondary or deduction meters prohibited.

The Town of Sturbridge does not allow secondary or deduction meters.

## ARTICLE VII Service Discontinuation

### § 360-7.1. Causes for discontinuing service.

The Town may discontinue service for ~~cause~~causes including, but not limited to, the following reasons:

- A. Use of water for purposes other than described in the application.
- B. Misrepresentation in application.
- C. Molesting Town property or seals on appliances.
- D. Willful waste of water.
- E. ~~For~~ Vacancy.
- F. ~~Non-payment~~Nonpayment of bills when due.
- G. ~~For~~ Cross-connecting the Town service pipe with any other supply source without permission and an approved and tested ~~back-flow~~backflow preventer.
- H. Refusal of reasonable access to property.
- I. When the Department considers a service is in danger of freezing.

## ARTICLE VIII Conditions of Service and Liability

### § 360-8.1. Town does not guarantee pressure or service~~..~~.

The DPW does not guarantee positive pressure or uninterrupted service, nor does it assure the customer either a full volume of water or the required pressure per square inch necessary to effectively operate hydraulic elevators, sprinkler systems or other appliances, the same being subject to all the variable conditions that may take place in the use of water from the Town mains. The DEP regulation is 20 PSI at all times.

### § 360-8.2. No damages for interruption of service.

No water customer shall be entitled to damages, or to have payment refunded, for any interruption of supply

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occasioned by accident to any portion of the works, or by shutting off for the purpose of additions or repairs to the works, or by the stoppage or shortage of supply due to causes beyond the control of the Town.

### § 360-8.3. Right to shut off water supply.

The DPW reserves the right to shut off the supply of water without notice in case of accident or to make repairs, and in cases of severe drought or short supply to restrict the use of water or shut the water off from all places when in its judgment the supply for the time being can be suspended. Persons having boilers or other appliances on their premises depending on the pressure to the pipes to keep them supplied with water are hereby cautioned against the danger from the sources and are required to provide, at their own expense, suitable safety appliances to protect themselves against such danger. The Town will not be liable for damages to any person, premises, or belongings resulting from the shutting off of the water from any main or service, even in cases when no notice is given, and no deduction from the water rates will be made in consequence.

### § 360-8.4. Notice of water shut-offs.

When it becomes necessary to shut off the water to any section of the Town for the purpose of making changes or repairs, the DPW and/or Water Department will endeavor to give timely notice to as many of the customers affected thereby and will, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such cause. However, failure to give such notice will not render the Town liable for any damages that may result from the shutting off of the water or any coincident conditions.

### § 360-8.5. Limitation on Town liability following repairs.

The Town of Sturbridge, DPW and Water Department assume no liability for conditions which may exist in a water customer's pipes and cause trouble coincident, or following, the repairs of any main pipe, meter or other appliance previously installed by the Town.

### § 360-8.6. Limitation on Town liability for dirty or poor water quality.

The Town of Sturbridge, DPW and Water Department assume no liability for damages caused by dirty water or poor water quality.

### § 360-8.7. Right of entry.

The Director of the DPW, Water Department manager, or other authorized staff shall have the right to enter the premises of water customers to inspect the pipes and fixtures, set, repair and exchange meters and/or ascertain the quantity of water use.

## ARTICLE IX Seasonal Services

### § 360-9.1. Summer services defined; responsibility for cost of service.

"Summer services" are defined as water services that serve seasonal homes, where the service and/or meter are in danger of freezing. Upon notice from the water customer to the DPW, water service will be activated to seasonal homes on or after April 1, and terminated on or before October 30. Activating the service and installing the meter, or terminating the service and removing the meter, shall be at the sole expense of the water customer per the fee schedule in Appendix A.



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### § 360-9.2. Notification.

- A. Water customers who leave their property for any extended time may notify the Water Department so that provisions for temporary water shut-off at the street can be made. The cost of such shall be borne entirely by the water customer in accordance with Appendix A. Water customers who choose to keep their water service activated shall be assessed the minimum charge for water in accordance with Appendix A, regardless of any registered usage. The water customer assumes all liability for leaving the water service activated. In addition, any readings on the meter that do register will be billed to the water customer regardless of any absence.
- B. Note: The Department of Public Works strongly encourages those residents who will be away for an extended period of time during cold weather, ~~to~~ notify the DPW to have the water to their home turned off at the street. Though residents may think it convenient to shut off their water supply in the basement, ~~it's~~ it is important to note that the exposed pipe entering the residence up to the shut-off valve is very susceptible to freezing, which could result in failure of the valve and penetration/collection of large volumes of water in the home.

## ARTICLE X Frozen Water Services

### § 360-10.1. Repairs.

The DPW shall not be responsible for water service freeze-ups on private property. It is the water customer's responsibility to thaw frozen pipes under the supervision of the DPW or Water Department. Any materials and/or labor furnished by the Department shall be charged to the water customer. Should a water customer's pipes freeze, they must immediately notify the Water Department. Customers whose pipes have frozen and are subsequently thawed out are required to leave a faucet running after the pipes have thawed until such time as there is no further danger of freezing. Other user fees (sewer) shall be billed accordingly.

### § 360-10.2. Customer responsibilities.

Water customers must keep their water pipes and fixtures in good repair and protected from frost exposure, at their sole expense, and shall be held liable for all damages resulting from failure to do so. Water customers must prevent all unnecessary waste of Town water resources.

## ARTICLE XI Service Pipe Leaks

### § 360-11.1. Report of leaks; repairs.

Any suspected leakage from service pipes must be reported immediately to the DPW, which shall then investigate the leakage report. All leaks, from the street main to the curb stop (Town property) will be repaired by the Department at no expense to the water customer. Should the Department determine that there is leakage in the service pipe between the curb stop and the building (private property), the Department will notify the water customer of the customer's responsibility to repair the leak, at its own expense. The Department will allow a reasonable amount of time (15 days) for the leak to be repaired, before discontinuance of service, if the leak is not too severe. Any damaged caused by the leak will be the responsibility of the water customer. Any repair work must be inspected by the DPW, Water Department or other designee.

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### § 360-11.2. Repairs to large services.

Repairs to services greater than one inch shall be initiated immediately or the service shall be shut off until the repair is complete to prevent large-volume discharges.

## ARTICLE XII Air-Conditioning Units

### § 360-12.1. Recirculating devices and cross-connection prevention required.

Air-conditioning units with water cooling devices or systems shall be prohibited unless such units are equipped or operated with recirculating water cooling systems or devices. Cross-connection compliance and a metered supply are required under this article.

## ARTICLE XIII Fire Hydrants

### § 360-13.1. Use of water from hydrants.

Water from fire hydrants or other fire protection systems shall be used only for fire protection purposes, except that water from public fire hydrants may be used in a reasonable amount and at such time as the Town may permit for the purpose of testing water flows for fire-fighting, testing hydrants and testing fire-fighting apparatus. Such tests are to be conducted only by properly authorized agents or employees of the municipality to be served, with the consent of the DPW. A fee, as specified in Appendix A, will be charged for each fire flow test. Water from fire hydrants may be used for special purposes, such as a temporary construction water service, only with the express permission of the DPW or Water Department. Such approval shall be at the sole discretion of the DPW or Water Department and will only be granted when a meter has been installed on the fire hydrant, by the Water Department, prior to the removal of any water. The Fire Chief will be notified of the location and duration of the connection.

### § 360-13.2. Liability for damage to hydrants.

Damage to fire hydrants shall be billed to the party causing the damage.

### § 360-13.3. Notification of opening or accidents.

When hydrants are open in case of fire, and water is turned off for accidents, notice must be sent immediately to the DPW and Water Department.

### § 360-13.4. Fines for snow violations.

In accordance with MGL c. 148, § 27B, a fine as shown in Appendix A shall be imposed on any individual that willfully buries a fire hydrant with snow.

### § 360-13.5. Authorization required for use.

No person shall open or use water from any public hydrant without authorization from the DPW, Water Department, or, in the case of fire-related purposes, by the Fire Chief.

### § 360-13.6. Obstructions prohibited.

No shrubs, trees, flowers or obstacles shall be placed within a ten-foot radius of any fire hydrant. If a violation is noted by the DPW or Water Department, the homeowner will be notified in writing to remove

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such obstacles within 30 days, after which the DPW or Water Department will remove the obstacle and charge the owner all costs related to the removal of such obstacle.

### ARTICLE XIV New Water Main Installation

#### § 360-14.1. Liability for costs; specifications.

Owners of new developments approved by the Town of Sturbridge Planning Board shall bear the entire cost of installing new mains or extending existing mains in private ways in said development subject to approval of the Water Commissioners for a connection to the Town's water system. The size of all mains installed by the developer shall be determined by the Town and installed under the supervision of the DPW. In no case shall the size of the main installed by the developer be less than eight inches in diameter. The developer will cause the necessary trenches to be dug in accordance with the requirements of the Director of the DPW. All work must be inspected before being backfilled. The owner shall bear all expense of pressure testing and chlorination of the main prior to the subdivision ways being accepted as a public way by Town Meeting. Upon installation of a water main on a public way, the Town assumes immediate ownership; however, the developer is still required to bear all costs of installation, pressure testing and chlorination.

#### § 360-14.2. Excavation permit required; site plan review.

The developer must acquire a street excavation permit from the DPW. To obtain a permit, the developer must utilize a Town-licensed contractor and provide an acceptable certificate of liability insurance prior to commencement of any work. Minimum requirement of liability coverage varies according to contract size (\$1,000,000 coverage recommended). Furthermore, developers must abide by additional rules, regulations or conditions associated with subdivision ~~Site Plan Review~~-review.

### ARTICLE XV Cross-Connection Control

#### § 360-15.1. Cross-connections prohibited.

In accordance with Massachusetts Department of Environmental Protection Cross-Connection Regulations (310 CMR 22.22), no person shall maintain, upon premises which they own or occupy, a cross-connection between the distribution system of the public water supply, the water of which is being used for drinking, domestic, or culinary purposes, and the distribution system of any unapproved water source, unless the installation has been approved by the appropriate reviewing authority as determined by the DPW Director and permits have been issued.

#### § 360-15.2. Notice of noncompliance; time frame for corrective action.

Any owner of a facility where cross-connections are maintained without required backflow prevention devices approved by the reviewing authority, as determined by the DPW Director, will receive a notice of ~~non-compliance~~noncompliance with corrective action to be taken. Failure to take corrective action within 15 days of issuance of the notice will result in a penalty as specified in Appendix A per each calendar day for each violation for as long as the violation(s) continue. Failure to take corrective action within the next 15 days will result in a termination of service. Compliance will not be considered until all assessed penalties have been paid.

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### § 360-15.3. Termination of water service for failure to comply.

The DPW reserves the right to terminate any water service connection immediately to any facility where cross-connections are maintained without required backflow prevention devices approved by the reviewing authority as determined by the DPW Director.

## ARTICLE XVI Booster Pumps

### § 360-16.1. Permitted in residences.

Booster pumps are permitted in residences only with the express permission of the DPW or Water Department. All booster pumps must be purchased, installed and maintained by the water customer at its sole expense.

### § 360-16.2. Elevation restrictions.

- A. No building or structure shall be connected to the Town water distribution system if the ground elevation is above 750 feet USGS sea level datum unless a booster pump and tank are installed per § 360-16.1.
- B. No building or structure shall be connected to the Town water distribution system if the ground elevation is above 785 feet USGS sea level datum.
- C. No building shall be connected if the elevation is below flood stage of 576 feet USGS sea level datum unless the connection falls outside of a flood zone.

### § 360-16.3. Application; inspection fee.

All booster pump applications must be inspected by Water Department personnel prior to being put into service. An inspection fee will apply per Appendix A.

## ARTICLE XVII Penalties

### § 360-17.1. Payment due dates; late payment charges.

Bills are due and payable within 30 days of issue. Late payments are subject to a ~~\$10~~ demand charge, as set forth in Appendix A. Interest will be charged at 14% per annum on any payment not received by the Finance Department by the due date. Postmarks are not accepted. ~~Non-payment~~Nonpayment of charges may result in termination of water service. A lien will be placed on the following year's real estate tax bill when water and sewer charges are unpaid. No more than \$5 in coins will be accepted as part of any payment.

### § 360-17.2. Penalties for tampering with Town water service and facilities.

Whoever opens a hydrant, removes the caps therefrom, tampers with gate valves or valve boxes, removes or tampers with a meter, makes any connection with the main or service pipes, or turns off, or on, the water without permission of the DPW shall be liable for any penalties as allowed by law.

### § 360-17.3. General penalties.

Any person who shall violate any provisions of these rules and regulations shall be liable for penalties as specified Appendix A.

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### ARTICLE XVIII Appeals Process

#### § 360-18.1. First appeal.

- A. In the event a water customer wishes to appeal the water usage or fees applied to the account, the customer shall request a reread from the Finance Department by letter, phone or email. The request must be made within 30 days of the issue date of the bill. The Town will then review the account and, in the event of an error, will adjust the bill as needed and issue a corrected bill, or<sup>5</sup> will advise the customer that the bill shall remain due and payable as issued. The Town will issue its response within five business days from the date of first appeal.
- B. Customers that fail to request an appeal within 30 days of the date of the bill shall waive any right to further administrative appeal.

#### § 360-18.2. Second appeal.

- A. If the water customer is not satisfied with the Town's response under § 360-18.1, the customer may submit a written appeal to the Town Administrator (via email or correspondence) within 15 days of the Town's response under § 360-18.1.
- B. The second appeal consists of a review of the account by the Town Administrator, Finance Director and DPW Director<sub>2</sub> who will issue a determination to the customer by majority vote.
- C. Customers that fail to request an appeal within 15 days of the Town's response under § 360-18.1 shall waive any right to further administrative appeal.

#### § 360-18.3. Final appeal.

- A. If the water customer is not satisfied with the Town's response under § 360-18.2, the customer may submit a written appeal to the Board of Selectmen, acting in its capacity as Water Commissioners (via email or correspondence), within 15 days of the Town's response under § 360-18.2. The customer will then be placed on the next available Board of Selectmen meeting agenda. The Board of Selectmen shall render its decision by majority vote and is the final appeal.
- B. Customers that fail to request an appeal within 15 days of the Town's response under § 360-18.2 shall waive any right to Board of Selectmen appeal.

### ARTICLE XIX Water Rates and Charges

#### § 360-19.1. Quarterly billing.

Water and sewer bills are billed quarterly and generally issued as follows:

- A. January, February<sup>7</sup> and March usage<sup>—</sup><sub>2</sub> billed in the month of April.
- B. April, May<sup>7</sup> and June usage<sup>—</sup><sub>2</sub> billed in the month of July.
- C. July, August<sup>7</sup> and September usage<sup>—</sup><sub>2</sub> billed in the month of October.
- D. October, November and December usage<sup>—</sup><sub>2</sub> billed in the month of January.

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### § 360-19.2. Payment due dates; delinquent payment penalties and interest.

Bills are due and payable within 30 days of issue. Late payments are subject to a \$10 demand charge. Interest will be charged at 14% per annum on any payment not received by the Finance Department by the due date. Postmarks are not accepted. ~~Non-payment~~Nonpayment of charges may result in termination of water service. A lien will be placed on the following year's real estate tax bill when water and sewer charges are unpaid. No more than \$5 in coins will be accepted as part of any payment.

### § 360-19.3. Calculation of water charges.

Water service is based on actual metered use. (Note: Sewer customer charges are based upon metered water use.) The meters are read and maintained by the Water Division of the Department of Public Works, and billing is managed by the Finance Department. The current rates can be found in Appendix A.

### § 360-19.4. Estimated bills.

If a meter is not read during a regular quarterly reading period, an estimated bill will be mailed to the water customer, based on the same quarterly billing cycle dating back two prior years. Adjustments of the bill will be made only after an actual meter reading has been taken.

### § 360-19.5. Bills to property owners.

Bills for service will be rendered only to property owners of record and they will be responsible for the payment of the bill when due. Water customers must notify the Finance Department prior to sale of their property so that the meter can be read and a final bill prepared. A fee, based upon either 24- or 48-hour notice, as specified in Appendix A, shall be charged for a final meter reading.

### § 360-19.6. Adjustment of bills.

All claims for adjustments of water bills shall be made in accordance with Article XVIII of these regulations.

### § 360-19.7. Payment to Town.

All monies due to the Department of Public Works shall be made payable to the Town of Sturbridge and tendered to the DPW. Payment of all bills for water usage fees shall be made payable to the Town of Sturbridge and tendered to the Finance Department.

### § 360-19.8. Liens.

In accordance with the provisions of MGL c. 40, §§ 42A through 42F, a water charge is a lien on the real estate.

## ARTICLE XX

### MassDEP/Town of Sturbridge Water Ban Compliance

#### § 360-20.1. Authority to impose water use restrictions; notice.

To meet the Water Management Act Permit # 9P2-2-09-287 01 (Quinebaug River Basin) issued by ~~MA~~MassDEP, the Sturbridge Water Department has been required by MassDEP to enter into a mandatory water ban when the Quinebaug river flow rate at the USGS Quinebaug River Gauge Station near Southbridge #01123600 falls below 87 cubic feet per second (cfs) for three consecutive days May 1 through

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June 30 and 37 cfs July 1 through September 30. When and if the flow rate falls below the trigger conditions, the following water use restrictions will be in effect and will be enforced to comply with the Town's Water Management Act permit issued by MassDEP. Once implemented, the restrictions shall remain in place until stream flow at the gauge meets or exceeds the trigger stream flow for seven consecutive days. You can view this flow rate and historical data online at [https://waterdata.usgs.gov/dep/water/drinking/swapreps.nwis/dv?cb\\_00060=on&format=html&begin\\_date=2007-09-02&end\\_date=2008-09-01&site\\_no=01123600&referred\\_module=sw](https://waterdata.usgs.gov/dep/water/drinking/swapreps.nwis/dv?cb_00060=on&format=html&begin_date=2007-09-02&end_date=2008-09-01&site_no=01123600&referred_module=sw). The Water Department will set up signs on ~~Rt.~~Route 20, ~~Rt.~~Route 131 and major entrances into Town when the water ban is in effect to notify Town residents.

### § 360-20.2. Applicability.

These rules apply annually from May 1 until September 30.

### § 360-20.3. Restrictions during water ban.

~~Non-essential~~During a water ban, nonessential outside water use is not allowed, except that sprinklers may be used for lawn watering outside of the hours of 9:00 a.m. to 5:00 p.m. one day a week. "Nonessential water use" is defined as water use that is not required: A-) for health or safety reasons, B-) by regulation, C-) for production of food and fiber, D-) for the maintenance of livestock, or E-) to meet core functions of a business. Examples of nonessential use are irrigation of lawns, washing of exterior ~~buildings~~building surfaces, parking lots, driveways or sidewalks unless it is to apply paint, preservatives, stucco, pavement or cement. Acceptable outside examples are irrigation to establish a new lawn during the months of May and September, irrigation for production of food and fiber or the maintenance of livestock, irrigation by plant nurseries as necessary to maintain stock. The irrigation of public parks and recreational fields shall follow the same restrictions.

### § 360-20.4. Lawn sprinkling.

Lawn sprinklers are very popular, and many people have installed underground automatic systems. While this can be positive, it can also create serious problems if not installed properly. Any landscaping company will tell you that the best time to water your lawn is in the early morning or during the evening. Watering your lawn during the day wastes water due to the evaporation that occurs. Some experts say that as much as 50% of the water will evaporate before it soaks into the ground on a hot sunny day. Please cooperate with these rules.

### § 360-20.5. Additional restrictions.

From time to time, as deemed necessary by the Sturbridge DPW and Water Department, the Town may voluntarily impose bans regulating the use of water in an effort to reduce the need for a DEP-imposed ban. Such bans may restrict the use of all outside water or limit use to odd-/even-numbered services where odd-numbered services may water lawns on odd-numbered days and even-numbered services may water lawns on even-numbered days. There shall be no lawn watering between ~~8~~9:00 a.m. and 5:00 p.m.

### § 360-20.6. Violations and penalties.

Each day that water is used in violation of the restrictions in this article shall constitute a separate violation. Violators will be subject to the following:

- A. First offense: written warning with a list of rules on the warning.
- B. Second offense: \$50 fine.

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- C. Third offense: \$250 fine.
- D. Fourth offense: \$750 fine.
- E. Subsequent offenses: \$750 fine for each offense and possible court action.



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### Chapter 365 - WETLANDS REGULATIONS

[HISTORY: Adopted by the Conservation Commission of the Town of Sturbridge 11-22-2002; amended 2-17-2004 and 11-28-2018. Subsequent amendments noted where applicable.]

#### ARTICLE I Introduction

##### § 365-1.1. Statement of jurisdiction; protected interests; general restrictions; waivers.

- A. Areas subject to protection under the Sturbridge Wetlands Bylaw and its Regulations include all resource areas protected under the Wetlands Protection Act and its regulations: bank, land under water bodies and waterways, bordering vegetated wetlands, riverfront area, land subject to flooding, and lands within the 100-foot buffer zone of bank and bordering vegetated wetland. In addition, under the Sturbridge Wetlands Bylaw and Regulations, the following resource areas are subject to protection: seasonal wetlands, vernal pools, lands subject to flooding or inundation, and lands within the 200-foot buffer zone of any of the aforesaid jurisdictional areas under the Wetlands Protection Act or Sturbridge Wetland Protection Bylaw, whether or not they border surface waters. For the purpose of this document, "resource areas identified" or "resource areas protected" refer to the above-stated areas.
- B. Resource area interests include those listed in the Wetlands Protection Act and ~~its~~ regulations: protection of public and private water supply, protection of ~~Ground Water~~ groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of fisheries and protection of wildlife habitat (protection of land containing shellfish is not applicable, since this refers to "land under the ocean"). The following five additional interests apply to the Sturbridge ~~Wetland~~ Wetlands Bylaw and Regulations: erosion and sedimentation control, protection of water quality, protection of rare species habitat, protection of recreational values, and protection of agriculture and aquiculture activities.
- C. Activities within the areas subject to protection, as well as activities within the 200-foot buffer zones to areas subject to protection, and 500-foot buffer zone of areas with 8% slope or greater which will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter said resource areas and buffer zones fall under the jurisdiction of the Sturbridge Conservation Commission ("the Commission"). Said activities, if in an area subject to the Wetlands Protection Act, require a public hearing for prior review and approval by the Commission to insure there will be no significant adverse impact to the resource area. Said activities, if in an area subject to protection under the Sturbridge Wetlands Protection Bylaw and Regulations, require review and approval during a public meeting of the Conservation Commission to insure there will be no significant adverse impact to the resource areas and buffer zones specifically covered by these regulations.
- D. Activities undertaken in close proximity to wetlands and other resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or other activities. These adverse impacts from construction and use can include but are not limited to erosion, siltation, loss of groundwater recharge, disruption of hydrologic connections, nutrient runoff, poor water quality, harm to wildlife habitat, or disruption of wildlife habitat corridors. The Commission may therefore require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 200-foot area and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.

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- E. Work and activity within 200 feet of wetlands and resource areas should be avoided and discouraged and reasonable alternatives pursued. Accordingly, the Conservation Commission shall begin with the presumption that lands within 200 feet of the resource areas previously discussed in this section are best left in an undisturbed and natural state.
- F. Disturbance of vegetation or soils within 25 feet of a resource area creates direct observable impacts to the resource area, including but not limited to those stated elsewhere in these regulations. The minimum strip of continuous undisturbed vegetative cover for any and all resource areas is 25 feet from the outermost edge of the resource area in all directions. The twenty-five-foot buffer is to be considered a ~~No-Disturb~~ "no disturb" buffer.
- G. Any structures less than 50 feet from a resource area can create temporary construction and long-term "normal daily use" impacts within the twenty-five-foot buffer. The minimum distance for a new structure will be 50 feet from any resource area. The fifty-foot "no structure" buffer will not apply to any structure existing prior to the adoption of these regulations. However, structures being removed and replaced must comply with the regulations in effect at the time of the reconstruction. For preexisting structures within the fifty-foot buffer, which are not being removed but for which the footprint is changing, any increase in footprint must take place no closer than 50 feet ~~from~~to the resource area.
- H. Waivers.
- (1) The Commission shall have the power to issue a waiver to perform activities as described in § 365-1.1 of this Town of Sturbridge ~~Wetland~~Wetlands Bylaw Regulation, after said applicant files a notice of intent (if proposed activities are subject to the Wetlands Protection Act) with the Commission and the Commission conducts a public hearing. If said activity is subject to the Sturbridge Bylaw and Regulations, the applicant shall file a wetland bylaw permit application. Such waiver shall be set forth by the issuance of an order of conditions or wetland bylaw permit by the Commission. In order for the Commission to issue a waiver with respect to a particular project, the Commission must find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without detriment to the values protected by the Town ~~wetland~~Wetlands Bylaw and these regulations and without substantially derogating from the extent or purpose of the Town ~~wetland~~Wetlands Bylaw and these regulations.
- ~~I.~~(2) A waiver (as stated above) to the fifty-foot ~~No-Structure~~ "no structure" buffer and the twenty-five-foot ~~No-Disturb-Buffer~~ "no disturb" buffer may also be granted to applicants under the following circumstances; the area is already previously disturbed and the proposed project will improve the protection to the resource area; or, the applicant can prove with documented evidence that there are no other substantially equivalent alternatives available. Said applicant must show that measures will be incorporated into the project to ensure that there will be no significant adverse impact to the resource area and must provide additional protection at a ratio of 2:1 to the value of the resource buffer being altered.
- ~~J.~~(3) Single-family homes, existing prior to the adoption of these regulations, on small, lakefront lots may, on a case-by-case basis, be granted a partial waiver from the twenty-five-foot and fifty-foot buffer requirements. Granting of a waiver will be based on the following minimum criteria;

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- (1a) A plan providing for 2:1 mitigation for area disturbed. Said plan shall include, but not be limited to, plantings of naturally occurring vegetation, along the ~~lake front~~lakefront, which increase the vegetative cover and decrease erosion within the first twenty-five-foot buffer to the lake.
  - (2b) Any proposed disturbance shall be minimized and shall be located at the furthest possible distance from the lake.
  - (3c) Said plan shall prioritize sedimentation and erosion control improvement issues along the most disturbed and vulnerable portions of the ~~lake front~~lakefront.
  - (4d) Mitigation must occur within the twenty-five-foot buffer first and work outward until the required mitigative effects are achieved.
  - (5e) Any additional structure in the fifty-foot buffer must be minimized and placed as far from the lake as possible.
  - (6f) Walkways and pathways within the fifty-foot buffer shall utilize pervious materials, to be approved by the Commission.
- ~~K-(4)~~ The Commission may impose conditions, safeguards, and limitations in a waiver permit to protect or further the interests protected by the Sturbridge ~~Wetland~~Wetlands Bylaw and Regulations. It should be understood that waivers are intended to be granted only in rare and unusual cases and are issued at the sole discretion of the Commission.
- ~~L1.~~ At the discretion of the Commission, concrete bounds or other appropriate permanent markers clearly delineating the twenty-five-foot ~~No Disturb Buffer~~"no disturb" buffer, or any alternative approved width ~~No Disturb~~"no disturb" buffer the Commission imposes for each property, are to be installed prior to the start of any work on-site.

### § 365-1.2. Practicable alternatives.

- A. Applicants are required to demonstrate that there are no practicable alternatives to the proposed project with less adverse impact on the protected resource and interests. A "practicable alternative" is an available and feasible alternative, which will accomplish the project's purpose, taking into account costs, logistics, the proposed use, and the most current technology.
- B. The area in consideration must extend to the subdivided lots ~~{[this includes approval not required {[ANR]} lots],~~ any parcel out of which the lots were created, any adjacent parcels held in common ownership or interest, any parcels which are in the process of being obtained, any parcels previously held in common ownership or interest with the subject property and any other land, which can reasonably be obtained, as of the effective date of the related regulation as listed in § 365-4.19 of these regulations 90% upland requirement. (Also see Sturbridge Zoning Bylaws § 300-4.1D.)
- C. The effect of the practicable alternatives analysis and the purpose of evaluating alternatives is to determine whether impacts to resource areas can be avoided. See the Alternatives Analysis Scope of Requirement in the appendices of these regulations for a complete description.

### § 365-1.3. No significant adverse impacts.

- A. An applicant is required to demonstrate that any work, including proposed mitigation measures, will have no significant adverse impacts on the resource area. The Commission requires a twenty-five-foot undisturbed vegetated corridor ~~(No Disturb~~"no disturb" buffer) around all resource area boundaries, with the exception of certified or identified vernal pools, which will require a minimum

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of a 100-foot undisturbed buffer. This buffer may range up to 200 feet depending on the characteristics and species present. The term "identified vernal pool" refers to a vernal pool for which sufficient evidence to certify the vernal pool is present and is identified by the Commission or a representative of the Commission. The Commission prohibits the use of pesticides, fertilizers and herbicides within the 100-foot buffer to all resource areas and prohibits the use of salts, quick-release pesticides, quick-release fertilizers and quick-release herbicides within the 200-foot buffer to all resource areas except by licensed applicators. Activities, which increase the potential for hazardous impact to the resource areas, such as vehicle maintenance, are prohibited within the 200-foot buffer to resource areas.

- B. When determining whether significant adverse impact could occur/has occurred, the Commission shall include in its review all potential cumulative impacts to resource areas and all work conducted within the 200-foot buffer from the time of adoption of the applicable regulation (See § 365-4.19~~).~~) through the proposed project time frame.
- C. Additional limitations exist under the Sturbridge Bylaw and Regulations for riverfront resource areas. Riverfront area (RFA) is the area of land extending between a river's mean annual high water line measured horizontally 200 feet (in a horizontal line). The 200-foot RFA consists of a 100-foot inner riparian zone and a 100-foot outer riparian zone. No disturbance is allowed within the inner riparian zone. Disturbance of up to 5,000 square feet or 10% of the riverfront area within the lot, whichever is greater, may be allowed by the Conservation Commission on a case-by-case basis. Alternatives analysis may be required. See § 365-5.5 of these Sturbridge Wetland Regulations. Additional definitions, requirements, conditions and performance standards under the Wetlands Protection Act Regulations can be found at 310 CMR 10.58. Work may not impair the capacity of the riverfront resource area to provide wildlife and vernal pool habitat. A wildlife habitat evaluation may be required for work within riverfront resource areas. A wildlife habitat evaluation may also be required at the discretion of the Commission for work within the 200-foot buffer to any other resource area on a case-by-case basis. Certified and identified vernal pools are protected at the same standard as rare species habitat. Vernal pools, which are state-certified or locally documented during the course of the public hearing, are also protected at the same standard as rare species habitat.
- D. These standards are intended to identify the level of protection that the Commission must impose in order to contribute to the protection of the interests identified. It is the responsibility of the owner to insure that proposed work is designed and completed in conformance with these performance standards. It is the responsibility of the Commission to impose such conditions on a proposed project as to ensure that the project is designed and completed in a manner consistent with these standards.

**§ 365-1.4. Buffer zones.**

- A. This section is intended as a general overview. Additional regulations, restrictions or waivers may apply to the specific buffer, project or site in question. For additional information, please refer to the chapters and sections noted in the Table of Contents or contact the Commission office.
- B. As of the date of these regulations, a summary of the state and local conservation-related buffer zones are as follows:

25-foot	<b>"No disturb" buffer</b> - for new construction (See § 365-1.1F <del>).</del> )
25-foot	<b>No additional disturbance allowed for reconstruction.</b> Projects must result in better conditions for the resource area based on scientific evidence of benefit to the resource, 2:1 mitigation required for any new work in this buffer. (See § 365-1.1H.)
50-foot	<b>"No structure" buffer</b> - no new structures (See § 365-1.1G.)

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50-foot	<b>Addition to existing structures must be no closer to the resource area than the existing structure.</b> 2:1 mitigation required for reconstruction. Change of the footprint is considered new construction. (See § 365-1.1H.)
100-foot	<b>Wetlands Protection Act (WPA) and Sturbridge Wetland Protection Bylaw buffer,</b> work requires the filing of a state WPA permit. A notice of intent will be required for all work in a resource area, or if there is actual or potential resource area alteration. A request for determination of applicability will be required for any work within the WPA 100-foot buffer zone. All new disturbance should be located outside the 100-foot buffer to the extent possible. (See § 365-1.1D and E.) If the proposed activity is considered a minor activity as defined under 310 CMR 10.02(1-), Minor Activities, a wetland bylaw permit or tree removal permit will be required.
200-foot	<b>Local <del>Wetland</del> Wetlands Bylaw buffer.</b> Review by the SCC is required to ensure no significant adverse impact. Any work proposed between the 100- and 200-foot buffer requires the filing of either a request for determination of applicability, a wetland bylaw permit, or a tree removal permit.
200-foot	<b>Riverfront resource area</b> starts at the edge of mean annual high water mark. This area is considered a resource area and not a buffer zone. The Conservation Commission carefully reviews all proposed riverfront area alterations and requires a notice of intent be filed with the Conservation Commission.
	<b>Vernal pool buffer,</b> the first 100 feet is to be considered the minimum "no - disturb" buffer. This buffer zone may be extended to 200 feet based on site conditions and impacts to critical wildlife habitat needed to keep the pool viable. A 500-foot buffer may be applied where slopes exceed 8%.

**ARTICLE II  
Definitions**

**§ 365-2.1. Terms defined.**

As used in these regulations, the following terms shall have the meanings indicated:

**ABUTTER** — The same as "owner of land abutting the activity;" defined as any property with a lot line within 200 feet of any lot line of the subject property.

**ACT** — The Wetlands Protection Act, MGL c. 131, § 40 or 310 CMR 10.00.

**ACTIVITY** — Any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the construction, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of run-off characteristics; the intercepting or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land.

**AGGRIEVED** — Person aggrieved.

**AGRICULTURE** — Land in agricultural use means land within resource areas or the buffer zone presently and primarily used in producing or raising one or more agricultural commodities for commercial purpose.

**ALTER** — As defined in ~~the Town of Sturbridge General Bylaws, Chapter 286, Wetlands Protection, of the Town bylaws,~~ § 286-9, definition of "alter."

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**AQUACULTURE** — Land in ~~aqua-cultural~~aquacultural use means land presently and primarily used in the growing of aquatic organisms under controlled conditions.

**ARBORIST** — A professional certified in the practice of arboriculture. Arborists frequently focus on health and safety of individual trees, or wooded landscapes, rather than managing forests or harvesting wood.

**AREA SUBJECT TO PROTECTION** — As defined in § 365-1.1 of these regulations.

**BANK (INLAND)** — Portion of land surface, which normally abuts or confines a waterway. It occurs between a water body and bordering vegetated wetland and adjacent to floodplain, or in the absence of these it occurs between a water body and upland. The upper boundary of bank is the first observable break in slope or mean annual flood level, whichever is higher. The lower boundary of bank is the mean annual low flow level. Where slopes leading to a wetland or water body are greater than or equal to 1:4, the area is still considered bank, subject to an enhanced performance standard.

**BANKFULL DISCHARGE** — Corresponds to the elevation, or stage of the river, that actively creates, modifies, and maintains the river's channel. In the context of these regulations, the river's channel can be described broadly as the cross-sectional area that carries the river's annual high water flows, which typically occur in early spring. During bankfull discharge, the water is moving sediment, forming or removing bars, forming or changing bends and meanders, and generally doing work that results in morphologic change to the river system. These morphologic changes to the river system can be observed in the field. Bankfull field indicators include changes in vegetation (usually changes in vegetational community), stain lines, top of point bars (depositional features), changes in slope, changes in bank material, and bank undercuts. However, in some river reaches, characterized by features such as a low gradient, meanders, oxbows, histosols, a ~~low-flow~~low-flow channel, or poorly defined or nonexistent banks, the mean annual high water (MAHW) line will be evidenced by some combination of the bankfull field indicators listed above. It is important to understand that no one bankfull field indicator should be taken alone; multiple corroborating features should be sought. Bankfull field indicators may be quite subtle in a meandering river with a broad floodplain, or in a wetland stream, so multiple observations along both sides of the river, combined with field indicators located up and down the river reach, may be necessary.

**BANKFULL FIELD INDICATORS** — Changes in vegetation (usually changes in vegetational community), stain lines, top of point bars (depositional features), changes in slope, changes in bank material, and bank undercuts in regards to rivers.

**BEACH (INLAND)** — A naturally occurring inland beach means an unvegetated gently sloping bank abutting a pond or lake and the site of potential recreational activities.

**BEST AVAILABLE MEASURES** — The most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.

**BEST PRACTICAL MEASURES** — Technologies, designs, measures or engineering practices that are in general use to protect similar interests.

**BORDERING** — An area is bordering on a water body listed if some portion of the area is touching the water body or if some portion of the area is touching another area, some portion of which is in turn touching the water body.

**BORDERING VEGETATED WETLAND (BVW)** — Is defined in § 365-5.2A of these regulations.

**BOUNDARY** — The boundary of an area subject to protection. A description of the boundary of each area is found in the appropriate section of these regulations.

**BREEDING AREAS** — Areas used by wildlife for courtship, mating, nesting or other reproductive activity, and rearing of young.

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BROOK, CREEK OR RUN — The same as a stream.

BUFFER ZONE — Area of land extending horizontally outward from the boundary of any resource area.

CERTIFICATE OF COMPLIANCE — Written determination by the issuing authority that work or a portion thereof has been completed in accordance with an order.

COMMISSIONER — A Commissioner of the Sturbridge Conservation Commission.

CONDITIONS — Requirements set forth in a written order of conditions or determination issued by a Conservation Commission for the purpose of permitting, regulating or prohibiting any activity that will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter an area subject to protection.

CONSERVATION COMMISSION and COMMISSION — Body comprised of members lawfully appointed pursuant to MGL c. 40, § 8C. For the purposes of MGL c. 131, § 40, 310 CMR 10.00, and the Town of Sturbridge Bylaws.

DATE OF ISSUANCE — The date an order is mailed, as evidenced by a postmark, or the date it is hand delivered.

DATE OF RECEIPT — The date of delivery to an office, home or usual place of business by mail or hand delivery.

DBH (dbh) — Diameter at approximately breast height (4 1/2 feet).

DEP — Department of Environmental Protection, and shall include the Commissioner of Environmental Affairs and any other person employed by said.

### DETERMINATION

- A. A "determination of applicability" (Form 2) means a written finding by the Conservation Commission or the DEP as to whether a wetland delineation is correct and confirmed as accurate, and/or whether a given area and/or the work proposed thereon is subject to the jurisdiction of the Wetlands Protection Act, and/or whether the work proposed is jurisdictional under the local bylaw.
- B. A "determination of significance" means a written finding by the Conservation Commission, after a public hearing, or by the DEP, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interests identified.
- C. A "notification of ~~Non-Significance~~non-significance" means a written finding by the Conservation Commission, after a public hearing, or by the DEP, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests identified.

DFW-NHESP — Department of Fisheries and Wildlife, Natural Heritage and Endangered Species Program.

DFWELE — Department of Fisheries and Wildlife, Environmental Law Enforcement.

DREDGE — To dig, deepen, or widen a given area by excavation, either temporarily or permanently.

DROUGHT — Periods of extended drought for purposes of 310 CMR 10.00 and these local regulations shall be those periods, in specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force.

EXISTING — Existence at the time of the adoption of the relevant policy, regulation, bylaw or law.

EXTENSION PERMIT — A written extension of time within which the authorized work shall be completed.

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FEN — One of the six major types of wetlands. It is low, marshy and frequently flooded area of land, typically fed by ~~ground water~~groundwater. A fen is bog-like, but far less acidic due to its water source and, predictably, a high water table in these areas.

FILL — To deposit or discharge any material so as to raise an elevation of given resource or jurisdictional area, either temporarily or permanently.

FINAL ORDER — The order issued by the Commissioner of Environmental Affairs after an adjudicatory hearing or, if no request for hearing has been filed, the superseding order or, if no request for a superseding order has been filed, the order of conditions.

FLOOD CONTROL — The prevention or reduction of flooding and flood damage.

FOOTPRINT — The surface area of space covered by structures (~~i.e.,~~ building(s), house(s), garage(s), other accessory structures and impervious surfaces)~~;~~].

FRESHWATER WETLANDS — Wet meadows, marshes, swamps, bogs, fens, and vernal pools. Areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; freshwater wetlands can be bordering or isolated. If delineated, must have evidence of hydrology, and vegetation (hydric soils are also considered an indicator of hydrology).

GENERAL PERFORMANCE STANDARDS — Those requirements established by 310 CMR 10.00 for activities in or affecting jurisdictional resource areas.

~~GROUND WATER~~GROUNDWATER SUPPLY — Water below the earth's surface in the zone of saturation.

IMPORTANT WILDLIFE HABITAT FUNCTIONS — Important food, shelter, migratory, breeding, or overwintering areas, or breeding areas for wildlife.

INTERMITTENT STREAM — Intermittent streams are not rivers as defined in 310 CMR 10.58 because surface water does not flow within them throughout the year. Certain identified intermittent streams receive increased protection under this local regulation based on their significance to surrounding resource areas and wildlife habitat needs.

ISSUING AUTHORITY — The Conservation Commission.

LAKE — Any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.

LAND SUBJECT TO FLOODING — Defined in § 365-5.4 of these regulations.

LAND UNDER WATER BODIES AND WATERWAYS — The bottom of, or land under, the surface of the ocean or any estuary, creek, river, stream, pond, or lake. The boundary of land under ~~Waterbodies~~water bodies and waterways is the mean annual low water level.

LOT — An area of land under common ownership or interest. For the purpose of these regulations, "lot" will mean both "lot" and "parcel."

MAJORITY — More than half of the members of the Conservation Commission holding an office.

MARSH — Defined in MGL c. 131, § 40, paragraph 11.

MEADOW (OR WET MEADOW) — Defined in MGL c. 131, § 40, paragraph 10.



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MEAN ANNUAL HIGH-WATER LINE — ~~Defined as,~~ "The line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water as evidenced by ~~"bankfull field indicators,"~~ or ~~"bankfull discharge";~~

MEPA — Massachusetts Environmental Policy Act.

MIGRATORY AREAS — Areas used by wildlife moving from one habitat to another, whether seasonally or otherwise.

MITIGATION — Rectifying an adverse impact or potential adverse impact by repairing, rehabilitating or restoring the affected resource area or compensating for an adverse impact by enhancing or providing replacement resource areas.

NO SIGNIFICANT ADVERSE IMPACT — Meeting or exceeding the level of protection of the performance standards provided throughout these regulations while concurrently not causing alteration to resource areas or buffer zones as defined in these ~~regulation~~ regulations.

NOTICE OF INTENT — WPA Form 3 filed for an activity proposed in a jurisdictional area, which may alter (remove, fill, dredge, build upon, degrade, discharge into) an area subject to protection.

ORDER — Order of conditions (WPA Form 5), superseding order or final order; or an order of resource area delineation (WPA Form 4B) ~~),~~ whichever is applicable.

ORDER OF CONDITIONS — WPA Form 3 document issued by a Conservation Commission containing conditions; which regulate or prohibit an activity.

OWNER OF LAND ABUTTING THE ACTIVITY — The owner of land sharing a common boundary or corner within 200 feet of any property line for the property containing the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.

PARCEL — An area of land under common ownership or interest. Within these regulations, "parcel" and "lot" mean the same.

PARTY TO ANY PROCEEDING BEFORE THE DEP — The applicant, the Conservation Commission and the DEP, may include the owner of the site, any abutter, any person aggrieved, any 10 residents of the city or Town where the land is located and any 10 persons pursuant to MGL c. 30A, § 10A.

PERSON — Includes any individual, group of individuals, business or social organization, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of Massachusetts or political subdivision thereof, administrative agency, public or quasi-public corporation or body and any other legal entity, its legal representatives, agents or assigns.

PERSON AGGRIEVED — Any person who, because of an act or failure to act by the issuing authority, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of the interests identified. Such person must specify in writing sufficient facts to allow the DEP or Superior Court to determine whether or not the person is in fact aggrieved.

PLANS — Such data as; maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site and/or the work, to determine the impact of the proposed work upon the interests identified.

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### POND

- A. Any open body of fresh water of any size. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought.
- B. The following man-made bodies of open water shall not be considered ponds:
  - (1) Basins or lagoons which are part of stormwater management systems;
  - (2) Swimming pools or other impervious man-made basins; and
  - (3) Individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

**PRACTICABLE** — Available and capable of being done after taking into consideration costs, existing technology, proposed use, logistics, and potential adverse consequences (e.g., degradation of rare species habitat, increased flood impacts to the built environment) in light of the overall project purposes and is permissible under existing federal and state statutes and regulations.

**PRESUMPTION** — The ground, reason, or evidence lending probability to a belief.

**PREVENTION OF POLLUTION** — The prevention or reduction of contamination of surface or ground water.

**PRIVATE WATER SUPPLY** — Any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

**PROGRAM** — Shall refer to the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

**PROJECT PURPOSE** — The general, functional description of an activity proposed within the riverfront area (e.g., construction of a single-family house, expansion of a commercial development).

**PROTECTION OF FISHERIES** — The protection of the capacity of an area subject to protection in order to prevent or reduce contamination or damage to fish; and to serve as their habitat and nutrient source.

**PUBLIC WATER SUPPLY** — Any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to MGL c. 111, § 160 by the Division of Water Supply of the DEP, or demonstrated to have a potential for public use.

**RARE SPECIES** — Vertebrate and invertebrate animal species, without limitation, listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division. Estimated and priority habitats of rare and endangered species can be found on the most current NHESP Map.

### RECREATION

- A. **ACTIVE RECREATION** — Recreation that involves playing fields and team participation.
- B. **PASSIVE RECREATION** — The use and enjoyment of natural surroundings in a manner consistent with their preservation (i.e., hiking, mountain biking, horseback riding). Activities shall not be detrimental to resource areas.

**REDEVELOPMENT** — Replacement, rehabilitation or expansion of existing structures, improvements of existing roads, or reuse of degraded or previously developed areas due to impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds.

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REMOVE — To take away any type of material, thereby changing an elevation, either temporarily or permanently.

REQUEST FOR DETERMINATION OF APPLICABILITY (RDA) — The filing of Form 1 by any person to the Conservation Commission or the DEP for a determination as to whether a resource delineation is confirmed as accurate, whether a given area or work in a given area is subject to MGL c. 131 § 40, 310 CMR 10 or the Town of Sturbridge Wetlands Bylaw.

RESOURCE AREA — Any of the areas specified § 365-1.1 of these regulations.

RIVER — Any natural flowing body of water that empties to any ocean, lake, pond, or other river and which flows throughout the year. "River" is defined further in § 365-5.5 of these regulations.

RIVERFRONT AREA — Is defined in § 365-5.5 of these regulations. In addition, the presumption of the mean annual flood level (i.e., the beginning of the 200-foot riverfront resource area) shall be coincident with the outer edge of BVW. This presumption shall rule unless conclusive scientific evidence is presented to the contrary.

RUN, BROOK, OR CREEK — The same as a stream.

SCC — Sturbridge Conservation Commission.

SEASONAL WETLAND — As defined in ~~Town of Sturbridge General Bylaws~~, Chapter 286, Wetlands ~~Protection, of the Town bylaws~~, § 286-9, definition of "seasonal wetland."

SELECT SPECIES OF AMPHIBIANS — Shall define species of amphibians which depend on seasonal wetlands for breeding habitat, including, but not limited to: mole salamanders (*Ambystoma maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four-toed salamanders (*Hemidactylum scutatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and ~~Fowler's~~ *Fowler's* toads (*Bufo a. americanus* and *B. woodhousii fowleri*); spring peepers (*Hyla c. crucifer*); gray treefrogs (*Hyla versicolor*); and wood frogs (*Rana sylvatica*).

SHELTER — Protection from the elements or predators.

SIGNIFICANT — Plays a role. A resource area is significant to an interest identified when it plays a role in the provision or protection, as appropriate, of that interest.

SNAG — A standing dead or dying tree, often missing the top or most of its branches.

STATE-LISTED SPECIES — The same as "rare species."

STORM DAMAGE PREVENTION — The prevention of damage caused by water from storms, including, but not limited to, erosion and sedimentation, damage to vegetation, property or buildings, or damage caused by flooding, water-borne debris or water-borne ice.

STREAM — A body of running water, including brooks and creeks, which moves in a defined topographically observable channel in the ground due to a hydraulic gradient, and which flows within, into or out of an area subject to protection. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is generally intermittent) is a stream, except for that portion upgradient of all bogs, swamps, wet meadows, marshes and underground watercourses.

STRUCTURE — Any man-made or man-assembled impervious or partially impervious combination of materials and includes but is not limited to buildings, asphalt driveways, retaining walls, patios, swimming pools, sheds, (decks, porches), framework, or any part thereof existing on, above or below the level of land or water.

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SUBDIVIDED — Any part or parcel of land created by redefining property boundaries which includes but is not limited to approval not required lots, subdivision lots, commercial or industrial lots, etc., regardless of size or proposed or existing use.

SUPERSEDING DETERMINATION — A determination of applicability, of significance or of ~~non-significance~~non-significance, as the case may be, issued by the DEP.

SUPERSEDING ORDER — A document issued by the DEP containing conditions, which regulate or prohibit an activity.

SWAMP — Area where ~~ground-water~~groundwater is at or near the surface of the ground for a significant part of the growing season; for full definition, see MGL c. 131, § 40, paragraph 9.

TREE — Any woody vegetation with a stem diameter of two inches at 4 1/2 feet from the ground (dbh).

TSS — Total suspended solids.

VERNAL POOL HABITAT — As defined in ~~Town of Sturbridge General Bylaws~~, Chapter 286, Wetlands ~~Protection, of the Town bylaws~~, § 286-9, definition of "vernal pool."

WAIVER — A permit issued to an applicant or homeowner who proves to the satisfaction of the Commission, that, owing to circumstances relating to soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without detriment to the values protected by the Town ~~wetland~~Wetlands Bylaw and these Regulations and without substantially derogating from the extent or purpose of the Town ~~wetland~~Wetlands Bylaw and these Regulations.

WATER-DEPENDENT -USES — Those uses and facilities which require direct access to, or location in, inland waters and which therefore cannot be located away from said waters, including, but not limited to: marinas, public recreational uses, navigational fishing and boating facilities, water-based recreational uses, navigation aids, basins, and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an upland site, crossings over or under water bodies or waterways (but limited to railroad and public roadway bridges, tunnels, culverts, as well as railroad tracks and public roadways connecting thereto which are generally perpendicular to the water body or waterway), and any other uses and facilities as may further hereafter be defined as water-dependent.

WORK — The same as "activity."

### ARTICLE III General Provisions

#### § 365-3.1. Burden of proof; presumption of significance.

- A. When a proposed activity will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter a resource area, the Commission shall presume that said area is significant to the interests identified. The burden shall be on the applicant to overcome the presumption of significance.
- B. Any person who files a notice of intent, request for determination, or other permit application, to perform any work within an area subject to protection or within the buffer zone to any resource area, has the burden of demonstrating to the Commission beyond any reasonable doubt:
  - (1) That the area is not significant to the protection of any of the interests identified; or

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- (2) That the proposed work within a resource area will contribute to the protection of the interests by complying with the general performance standards for that area; or
  - (3) That proposed work within the buffer zone will contribute to the protection of the interests identified; except that proposed work which lies both within the riverfront area and within all or a portion of the buffer zone to another resource area shall comply with the performance standards for both areas, with the strictest performance standards being required to be met.
- C. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny the application or to grant the permit with limits or conditions which modify the proposed project.

### § 365-3.2. Building on subdivided lots.

- A. Review of projects which fall under the Town of Sturbridge Wetlands Bylaws shall be based on reasonable use of property based on pre-subdivided lot lines and on any other land owned in common or in common interest or which is reasonably obtainable as detailed in the Alternatives Analysis Basis of Request and Scope of Alternatives in the Appendices of these regulations.
- B. Any deliberations and decisions issued by the Commission, based on state law or regulation, shall be based on reasonable use of property based on lot lines as they existed at the time of the adoption of the referenced laws and regulations and on any other land owned in common or in common interest or which is reasonably obtainable as detailed in the Alternatives Analysis Basis of Request and Scope of Alternatives in the Appendices of these regulations. See § 365-4.3 of these regulations for a listing of effective dates for laws and regulations.
- C. For projects which must comply with state law, the Sturbridge Wetlands Bylaw, state or local regulation, or policy, the strictest regulations shall apply.
- D. Developments or projects, whether subdivisions or not, owned in common by an individual, a corporation, or a group of individuals with a common interest, with adjacent or bordering lot lines, whether during or prior to a project proposal, shall be considered a single project. Review, approval or denial, and conditioning shall be based on the cumulative impacts of the project and pre-divided site, as a whole, not on individual or separate parts of the project.

### § 365-3.3. Alternatives for minor activities without review.

- A. The Commission allows some minor activities without review, including:
  - (1) Removal of invasive aquatic vegetation on a lakebed during drawdown is permitted by hand. No power equipment may be used.
  - (2) Removal of dead or broken tree limbs, and limited dead brush. Note: Removal of dead or dying trees will require filing of a tree removal application with the Conservation Commission.
- B. Basic yard maintenance. Basic yard maintenance is considered to be raking, mowing, and non-chemical yard grooming, with all clippings, cuttings, or grooming materials properly disposed of outside of the resource area and buffer.
  - (1) The following do not constitute normal maintenance: stripping embankments, grading, installing retaining walls or work requiring large power equipment, such as a backhoe or other earth-moving equipment.

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- (2) Inconsequential brush cutting; (less than 1/10 of the vegetation removed cumulatively within any five-year period) outside the twenty-five-foot ~~No Disturb~~ "no disturb" buffer line from any resource area is covered under this policy. This does not include tree cutting.
- C. For the purpose of this regulation, trees are defined as woody vegetation with a stem diameter of two inches or more at a height of approximately 4 1/2 feet from the ground (dbh).
- D. Site disturbance dramatically increases the chance of damage to the resource area unless erosion control measures are used correctly and effectively. Use methods that minimize site disturbance, especially minimize both removal of natural vegetation and exposure of bare soil.

### § 365-3.4. Wetland bylaw permits and tree removal permits.

(See § 365-6.2.)

- A. ~~Wetland~~ Wetlands Bylaw permit.
  - (1) The following may be permitted through a wetland bylaw permit application filed with the Commission office at least seven calendar days in advance of a public meeting:
    - (a) Any and all work taking place outside of the state 100-foot buffer zone.
    - (b) Any work within the 100-foot WPA buffer zone, which is classified under 310 CMR 10.02(1-~~2~~) as a minor activity under the Wetlands Protection Act.
    - (c) Replacement of beach material which constitutes normal grooming of any existing beach and not the expansion of or creation of a new beach. Grooming is considered to be adding or re-grading in a manner that results in an insignificant change in the amount, nature or distribution of surface materials. The work must be done by hand, with a rake, shovel, similar hand tool; or wheel barrow. The work may only be conducted during annual lake drawdown and must be done without disturbance to the buffer zone or lake. Addition of the equivalent of more than one pickup truck load (considered to be two cubic yards) goes beyond normal maintenance. Any sand to be placed on the beach must be washed sand.
  - (2) Wetland bylaw permits must be filled out in their entirety and identify all buffer zone impacts, signed by the property owner and accompanied by a plan. Plans must be at a minimum one inch equals 20 feet for consideration and should be drawn clearly and to scale. Depending on the scope of the project, the Commission has the discretion to require plans to be stamped and signed by a registered professional engineer, architect, landscape architect; or surveyor. Plans should always be submitted in a "plan view" and as necessary may be required in a "profile view".
- B. Tree removal permit application.
  - (1) Removal of trees and woody vegetation may be permitted through a ~~"Tree Removal Permit Application"~~ tree removal permit application filed with the Commission office at least seven calendar days in advance of a public meeting.
  - (2) Tree removal within the 200-foot buffer zone must receive prior approval from the Conservation Commission. Tree removal approved in a request for determination or notice of intent does not require separate approval. Trees and natural cover provide excellent protection against erosion, and provide habitat, food; and shelter for wildlife in and around the resource area. Trees provide essential shading, direct and indirect cooling and ~~promotes~~ promote good water quality. Root systems provide bank stability and protect against erosion into the resource

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area. Trees should be retained along and around the resource area as much as possible. Tree removal will only be considered in situations where the tree poses a threat to health or safety by being a hazard or in situations where a tree is diseased or partially dead. Healthy trees which pose no hazard will otherwise not be approved for removal, unless it is determined by the Commission that removal will pose no significant impact to resource area or buffer zone.

- (3) The Conservation Commission may require planting of up to two trees for each tree removed under a tree removal permit. The Conservation Commission shall consider remaining tree canopy and proximity to the resource area when requiring replacement of trees.
- (4) Tree removal previously reviewed and approved under an approved forest cutting plan are not subject to this permit.

### § 365-3.5. Limited projects.

(See Chapters 40 and 61 of MGL.)

A. Limited projects are activities within the existing wetlands which can proceed at the discretion of the Commission without fully meeting the resource area performance standards due to a lack of any practicable alternatives. Self-imposed hardship disqualifies an applicant from limited project consideration.

- (1) In permitting limited projects, the Commission may issue an order of conditions and impose such conditions as will contribute to the interests identified.
- (2) No such project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or invertebrate species, as identified by DFW-NHESP.
- (3) In the exercise of this discretion, the Commission shall consider the magnitude of the alteration and the significance of the project site to the interests identified, the availability of reasonable alternatives to the proposed activity, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified.

B. Limited project applications. Limited project applications may be approved, provided they are carried out in accordance with the following general conditions and any additional conditions deemed necessary by the Commission:

- (1) There shall occur no change in the existing topography or the existing soil and surface water levels of the area.
- (2) No fertilizers, pesticides, herbicides, salts and other such materials shall be used within 200 feet of any resource area except by Massachusetts state-licensed applicators.
- (3) All activities shall be undertaken in such a manner as to prevent erosion and siltation of adjacent resource area.
- (4) A minimum of 2:1 in-kind mitigation shall be provided for any and all resource area disturbance. Riverfront resource area shall also be mitigated at a minimum ratio of 2:1.

C. Limited project permits may be issued for the following:

- (1) Work on land to be used primarily and directly in the raising of animals.
- (2) Work on land to be used primarily and directly in the raising of forest products under a planned program.

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- (3) The construction, reconstruction, operation and maintenance of underground and overhead public utilities.
  - (4) The construction and maintenance of a new roadway or driveway of minimum legal and practical width (provided general performance standards for alteration are met).
  - (5) Maintenance and improvement of existing public roadways.
  - (6) The excavation of wildlife impoundments, farm ponds and ponds for fire protection.
  - (7) The maintenance of beaches and boat launching ramps which existed on April 1, 1983; documentation of such is the responsibility of the applicant.
  - (8) The maintenance, repair and improvement (but not substantial enlargement) of structures, including dams and reservoirs which existed on April 1, 1983. When water levels are drawn down for the maintenance, repair, or improvement of dams or reservoirs or appurtenant works to such dams or reservoirs, water levels that existed immediately prior to such projects being undertaken shall be restored upon completion of the work, and a new notice of intent need not be filed for such restoration.
  - (9) The construction and maintenance of catwalks, footbridges, wharves, docks, piers, boathouses, boat shelters, duck blinds, skeet and trap shooting decks and observation decks; provided, however, that such structures are constructed on pilings or posts so as to permit the reasonably unobstructed flow of water and adequate light to maintain vegetation.
  - (10) The routine maintenance and repair of road drainage structures, including culverts and catch basins, drainage easements, ditches, watercourses and artificial water conveyances to insure flow capacities which existed on April 1, 1983.
  - (11) Lake drawdown projects (except those related to the breaching of a dam or a reservoir or an appurtenant work to such dam or reservoir) undertaken in response to written orders or recommendation letters issued by the Department of Environmental Management, Office of Dam Safety (DEM). In no event shall a drawdown continue longer than three years without a new or extended order of conditions being obtained. Water levels that existed immediately prior to such drawdowns shall be restored no later than the expiration date of the order of conditions or any new or extended order of conditions, and a new notice of intent need not be filed for such restoration.
  - (12) The exploration, development, construction, expansion, maintenance, operation, and replacement of public water supply wells or wellfields (including necessary associated roads, ways, structures, and underground and overhead utility lines).
  - (13) The closure of landfills.
  - (14) Assessment, monitoring, containment, mitigation, and remediation of, or other response to, a release or threat of release of oil and/or hazardous material solely to reduce contamination to a level lower than that which is needed to achieve "no significant risk" as defined in 310 CMR 40.0006.
- D. The Commission may issue an order of conditions for projects which will improve the natural capacity of a resource area(s) to protect the interests identified. No such project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare or state-listed vertebrate or invertebrate species. Such projects include, but are not limited to, the removal of aquatic nuisance vegetation to retard pond and lake eutrophication and the thinning or planting of vegetation to improve habitat value.



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### § 365-3.6. Title 5 Sanitary Code requirements.

#### A. Title 5.

- (1) Subsurface sewage disposal systems are to be constructed in compliance with the requirements of 310 CMR 15.00 or the more stringent Town of Sturbridge Board of Health requirements. Approval for compliance with Title 5 will be deferred to the local Board of Health.
- (2) Impacts from the construction of said systems are not deferred and must be brought before the Commission. Impacts from construction shall be minimized by the placement of erosion and sedimentation controls during excavation and soil transfer, by limiting the placement of fill, by confining the removal of vegetation to that necessary for the footprint of the system, and by taking other measures deemed necessary by the Commission.

#### B. Percolation (perc) testing.

- (1) The Conservation Commission Agent shall sign off on all perc test applications that are submitted to the Board of Health. The plan attached to said application shall show any wetland or resource areas on site or within 200 feet of the proposed perc location(s). The proximity of the test pit location to the resource area shall be identified on the plan. The plan should include the proposed access to the perc site and approximate linear distance from the access drive to the resource area. Potential impacts to soils or vegetation must be noted. Time and day of the scheduled perc test must be noted. A contact name and phone number or address must be included. The perc site must be staked in the field (colorful indicators are appreciated). It is understood that this plan will not be considered a formal wetland delineation, nor will it be considered an approved site plan by the Commission. It is a field indicator, which the Commission can use to prevent impacts to resource areas prior to any formal Commission review process. The Commission understands the need for the perc process to precede the design and permit application process. The SCC still has the responsibility to prevent adverse impact to resources, regardless of whether a future permit will be filed.
- (2) As needed, a Commission representative will visit each site as quickly as possible to verify the details of the plan submitted. ~~For~~ sites for which access comes within 50 feet of a resource area, a Wetland Protection Act permit will be required. (A minimum of a two-week notice is required to schedule a site visit.) Plans for sites, which must cross a resource area to access a perc location, must be filed as a request for determination with the Commission. (The applicant should plan to follow the four- to six-week standard public hearing permit time schedule.) Sites where the perc location is more than 100 feet from a resource, and where the access location is more than 50 feet from any resource, may proceed with the perc test even if a representative of the Commission has been unable to get to the site prior to the scheduled test.
- (3) Applicants should be aware that if wetland soils or vegetation is disturbed on a site because a submitted plan incorrectly described the site, the Commission will consider this a self-imposed hardship on the part of the applicant and issue an immediate cease and desist order to the property owner and contractor. All work on site will stop and no further work of any kind will be allowed until full restoration and remediation is realized in the resource area and buffer, regardless of future plans for the site. This remediation process will take a year or more as vegetation and soils do not quickly recover from disturbance and damage.
- (4) Accordingly, it would be in the best interest of applicants to keep clear of wetlands and resource areas in planning perc locations. If it is necessary to impact resource areas, plans should clearly and accurately reflect this.

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### § 365-3.7. Stormwater standards.

- A. Minimum stormwater standards to be implemented for the Town of Sturbridge Conservation Commission purposes shall include the following, where appropriate: Sediment ~~fore-bays~~forebays are required in all stormwater basins (i.e., detention basins, infiltration basins, etc.); sediment traps; oil and grease traps, and hoods in all catch basins; check dams; stabilized construction entrances through the use of trap rock or other similar products; multi-chamber catch basins; all systems shall provide for slow release of stormwater and runoff into receiving waters or drainage systems.
- (1) To facilitate the percolation of runoff through the soil to groundwater and to help reduce stormwater runoff and reduce pollutant migration, infiltration basins and pervious surfaces shall be utilized, wherever possible.
  - (2) Vegetative features that maintain and improve natural site hydrology shall be implemented where possible. These include but are not limited to grassed swales, vegetated filter strips/buffers, or rain gardens and detention basins.
- B. Federal Phase II stormwater ~~requirements~~.
- (1) All single projects disturbing an area equal to ~~7~~ or greater than one acre, whether the work is contiguous or not, shall comply with Federal Phase II stormwater requirements. For stormwater considerations, developments, whether subdivisions or not, on lands subdivided after January 1, 2002, shall be considered a single project. Developments or projects, whether subdivisions or not, owned in common by an individual, a corporation, or a group of individuals with a common interest, with adjacent or bordering lot lines, shall be considered a single project. This includes multiple ANR lots.
  - (2) Stormwater controls shall be implemented for all projects to meet Phase II standards during the course of construction as well as for post-construction. To prevent erosion from leaving the site, best management practice measures shall include trap rock at all entrances and exits from the property until said entrances are permanently stabilized.
- C. 80% total suspended solids (TSS) removal ~~for~~ new construction. 80% TSS removal is to be considered the absolute minimum. Understanding that removal rate decreases with the age of the system, the expected target for initial removal for new projects shall be in excess of 90% TSS removal. Stormwater maintenance plans must be submitted to and approved by the DPW Director before the SCC will accept them. DPW approval shall be indicated by signature and date from the DPW Director.
- D. 80% TSS removal ~~for~~ previously developed sites. For redevelopment of previously developed sites, applicants must take every measure available to reach the highest possible TSS removal for the entire site. Applicants must document and present scientific evidence why the site cannot meet a minimum of 80% removal before a waiver from these regulations will be granted.

### § 365-3.8. Application of herbicides, pesticides, fertilizers or salt.

- A. The Commission prohibits the use of pesticides, fertilizers and herbicides within the 100-foot buffer and prohibits the use of salts, quick-release pesticides, quick-release fertilizers and quick-release herbicides within the 200-foot buffer.
- B. The only exemptions to these regulations are the application of herbicides within the buffer zone to a resource area, and application of salt in areas for the express interest of public safety where no other measures are adequate or practicable. The herbicide exemption applies only if the work is performed in accordance with such plans as are required by the Department of Food and Agriculture pursuant

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to 333 CMR 11.00 and is applied by a Massachusetts state-licensed applicator. Rights-of-way management shall apply only if the person proposing such activity has requested and obtained a determination of the boundaries of the buffer zone and areas subject to protection and has submitted that determination as part of the vegetation management plan. The salt exemption must be brought before the Commission using an RDA application prior to seasonal needs. Such exemptions are allowed for public utilities for work on structures or facilities used in the service of the public. Notification of aquatic or terrestrial herbicide treatment, to the Commission, the local Board of Selectmen and local Board of Health, is required at least 30 days in advance of the treatment.

### § 365-3.9. Consultant services.

- A. Upon receipt of any permit application (wetland bylaw permit, tree removal permit application, notice of intent, notice of resource area delineation or request for determination), or at any time during the hearing process, the Conservation Commission is authorized to require the applicant to pay for the reasonable costs and expenses of any consultant(s) deemed necessary by the Commission to review the application. These costs and expenses shall be paid directly to the Town of Sturbridge by the applicant, to be deposited in an agency account by the Town Treasurer. The Commission or its representative shall then authorize payment to the consultant after submittal and acceptance of documentation of said review. The exercise of discretion by the Conservation Commission in making a determination that outside consultant expertise is required shall be based on its reasonable finding that additional information or verification acquirable only through outside consultants would be necessary for the making of an objective decision. The specific consultant services may include, but are not limited to, performing or verifying area survey and delineation; analyzing wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.
- B. For all subdivision projects and commercial/industrial projects, the Commission may require a peer review as a matter of course for all delineations, proposed infrastructure, drainage calculations, proposed mitigation areas, construction sequence and associated work.
- C. The Conservation Commission or its Agent will solicit three quotes by qualified consultants. The Commission, or, if appointed, its Agent, will choose a consultant to independently review the submitted material and make recommendations for revisions to ensure the application complies with all applicable state and local laws administered by the Conservation Commission.

### § 365-3.10. Security requirements.

As part of any permit issued under these regulations, in addition to any security required by any other municipal or state board, agency or official, the Conservation Commission may require that the performance and observance of the conditions impose hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of both the Commission and the Town of Sturbridge DPW Director. This bond may be held in common with another Town board or agency for which the same restoration work is being bonded. Written, signed agreement that both boards will sign off prior to release of funds will be required.
- B. By a conservation restriction, easement or other covenant approved by both the Commission and the Department of Environmental Management, where applicable, which is enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of Sturbridge whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

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- C. If a lot covenant is used in place of a bond, the minimum allowed will be 150% of the market value of the designated lots deemed equivalent to the current cost of restoration as stated by the Town DPW Director. This is to account for possible downward fluctuation in market value during the course of the project.

### § 365-3.11. Self-imposed hardships.

- A. A self-imposed hardship is a circumstance brought on by decisions made by the landowner, such as:
- (1) Failure to consider wetlands when subdividing land.
  - (2) Selling off upland access which results in a project that ~~can~~cannot meet performance standards.
  - (3) Purchasing land knowing that all upland access to the property interior had previously been subdivided off.
  - (4) Disregarding impacts to the resource area.
- B. The applicant or landowner is advised to prevent situations where they may create their own hardship by not carefully considering all likely impacts to areas subject to the Wetland Protection Act or the Sturbridge ~~Wetland~~Wetlands Bylaw and Regulations.
- C. Projects may not be segmented in such a way that would limit the ability of the Conservation Commission to review all options and alternatives and take into consideration the resource area impacts.
- D. The applicant must disclose full development plans, even if such plans are not required as part of the notice of intent process.
- E. In determining whether a self-imposed hardship has been created, the SCC shall take into account whether alternatives exist/existed, including any lots currently or formerly owned by an applicant, and any other land which can be reasonably obtained.
- F. No special consideration will be given for not being aware of the requirements of the Wetlands Protection Act, 310 CMR 10.00, the Town of Sturbridge ~~Wetland~~Wetlands Bylaw, the Town of Sturbridge Conservation Commission Regulations or Policies or any part thereof.
- G. No special consideration will be given for self-imposed hardships. No special consideration will be given for not being aware of the requirements of the Wetlands Protection Act, 310 CMR 10.00, the Town of Sturbridge ~~Wetland~~Wetlands Bylaw, the Town of Sturbridge Conservation Commission Regulations or Policies or any part thereof. No special consideration will be given for those who seek and obtain Planning Board subdivision approval and partially develop parcels, lots or projects of any type prior to delineating and determining resource area boundaries and the 200-foot buffer zone to same.

## ARTICLE IV

### Procedures

#### § 365-4.1. Actions by Conservation Commission.

- A. Any action by the Conservation Commission is to be taken by a majority of the members present at a meeting. A meeting must be attended by a quorum of Commissioners. A quorum is defined as a majority of the members then in office. The Town of Sturbridge Commission has five appointed members; ~~3~~ three must be present. A majority of Commissioners in office must vote in favor of a

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project for it to be approved. The previously held standard for Conservation Commission approval was that a vote of a majority of the Commissioners present would approve a project.

- B. Where an order or notification shall be signed by a majority of the Conservation Commission, that action is to be taken by a majority of the members then in office, who need not convene as a body in order to sign, provided they met pursuant to the Open Meeting Law when voting on the matter. The administrative clerk, Agent, a member of the Conservation Commission or an individual designated by the Conservation Commission may receive requests or notices, conduct site visits on behalf of the Commission, and act on administrative matters.
- C. Orders of conditions and determinations of applicability shall be signed by a majority of the Conservation Commission. Copies shall be sent by the Conservation Commission to the DEP, the applicant or their legal representative, and the property owner. Delivery of the copy to the person making the request shall be by hand delivery or certified mail, return receipt requested. Said permit shall be valid for three years from the date of issuance. Orders of conditions and determinations of applicability issued for utility company right-of-way management shall be valid throughout the effective duration of the vegetation management plan. ~~Wetland~~Wetlands Bylaw permits and tree removal permits are valid for one year unless otherwise specified by the Commission at date of approval and issuance. Amended orders of ~~Condition~~conditions do not extend the expiration date of the original final order. Extensions of orders of conditions may be granted for up to three years at the discretion of the Commission. Determinations cannot be extended.
- D. Continuation of public hearings.
  - (1) At the discretion of the Commission, public hearings may be continued as follows:
    - (a) For the purpose of the applicant obtaining and presenting additional information.
    - (b) If the applicant does not request a continuation in advance of the hearing, or is not present to request a continuation at the public hearing, the hearing may be closed and a decision rendered based on the information available to the Commission at that time.
  - (2) The date, time and place certain of said continued hearing shall be stated at the public hearing and notice posted on the Commission office board and the Town ~~Clerks~~Clerk's office board at least 48 hours prior to the continuation date.

### § 365-4.2. Time periods.

All time periods of 10 days or less shall be computed using business days only. In the case of a determination or order, such period shall commence on the first day after the date of issuance and shall end at the close of business on the 10th business day thereafter. All other time periods specified in MGL c. 131, § 40 and 310 CMR 10.00 and the Town of Sturbridge Wetlands Bylaws shall be computed on the basis of calendar days, unless the last day falls on a Saturday, Sunday or legal holiday, in which case the last day shall be the next business day following.

### § 365-4.3. Grandfathering.

- A. Any projects possessing a valid order of conditions, or other permit, issued under the Massachusetts Wetlands Protection Act at the time of adoption of these regulations shall not be subject to re-review under these regulations. Any revisions to the projects after adoption of these regulations that require an amended or extended permit will be subject to review under these regulations.

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- B. Effective dates of regulations:
- (1) Inlands Wetlands Protection Act ~~"(Hatch Act")~~: 1965.
  - (2) Wetlands Protection Act (MGL c. 131, § 40-): 1972).
  - (3) Wetlands Protection Act Regulations: April 1, 1983.
  - (4) Agricultural: May 21, 1993.
  - (5) Endangered Species Act: June 30, 1995.
  - (6) Bordering vegetated wetland protection: April 23, 1993.
  - (7) Areas of critical environmental concerns: April 23, 1993.
  - (8) Rivers Protection Act: August 7, 1996.
  - (9) Town of Sturbridge ~~Wetland~~Wetlands Bylaw: October 6, 1996.
  - (10) Rivers Protection Act Regulations: October 6, 1997.
  - (11) Town of Sturbridge ~~Wetland~~Wetlands Bylaw Regulations: adopted November 22, 2002; Revision 1 adopted February 14, 2004.

### § 365-4.4. Public hearing notification requirements.

- A. Public hearing notification is required for all Wetlands Protection Act filings. See Article VII of these regulations for complete application requirements.
- B. The applicant is responsible for the publication of a legal notice of the public hearing review of the application, including time and place, in a newspaper of general circulation in the Town, not less than five days prior to the meeting.
- C. The Commission shall also require that the applicant mail a letter, giving notice to the abutter(s) within 200 feet of the project, proof of which shall be submitted to the Conservation Commission at the opening of the public hearing. The notice mailed shall be the standard notification to abutters form available online from the Town of Sturbridge website, the DEP website or through the Commission office. Proof of mailing shall be in the form of a certificate of mailing or certified letter return receipt (green card) from the USPS.

### § 365-4.5. Requests for determination of applicability.

- A. A request for a determination of applicability is filed when the Commission needs to determine whether or not a given area, or planned work in said area, is subject to the Wetlands Protection Act or Sturbridge Wetlands Bylaw. In order for the Commission to make a site visit for an accurate determination, applicant must submit sufficient information for the Commission to find and view the area.
- B. For work within riverfront areas, an applicant may submit a request for determination of applicability to identify the scope of alternatives to be evaluated, including sufficient information to enable the Conservation Commission to determine the applicable scope. Actual project work within the 200-foot riverfront resource area requires the filing of a notice of intent.
- C. If the area or work is in or near an area subject to protection under the Wetlands Protection Act, the applicant may submit a request for determination of applicability. If the area or work (proposed) is

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outside of the Wetlands Protection Act jurisdiction, then bylaw permits are recommended and may be required.

### § 365-4.6. Determination of applicability.

Within 21 days of receiving a complete request for a determination of applicability, the Conservation Commission shall open a public hearing (or obtain written permission from the applicant for a time extension) with the purpose of reviewing the application, conducting a site visit to confirm the information submitted, and issuing a determination of applicability. The Commission shall issue a determination within 21 days of the close of the public hearing or obtain permission at the public hearing or in writing from the applicant or applicant's representative for a defined time extension to issue said determination.

### § 365-4.7. Notices of intent.

- A. Any person who proposes to do work that will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter any area subject to protection shall file a notice of intent and other application materials in accordance with the submittal requirements set forth in the instructions for completing notice of intent in the NOI application packet. Two copies of the completed notice of intent, with supporting plans and documents, and including digital versions, shall be sent by certified mail or hand delivered to the Conservation Commission, and one copy of the same shall be sent concurrently to the DEP. Copies must also be sent to NHESP (Natural Heritage and Endangered Species Program) when work is being proposed within areas designated as potential habitat for rare and endangered species by NHESP.
- B. The following provisions shall apply to any notice of intent whenever filed. The Commission may require that supporting plans and calculations be prepared and stamped by a Massachusetts registered professional engineer (PE) when, in its judgment, the complexity of the proposed work warrants this professional certification. The Commission may also require the preparation of supporting materials by other professionals, including, but not limited to, registered landscape architect, registered land surveyor, environmental scientist, geologist or hydrologist, when, in its judgment, the complexity of the proposed work warrants the relevant specialized expertise.

### § 365-4.8. Orders of conditions regulating work and orders of resource area delineation.

- A. Orders of condition.
  - (1) The Conservation Commission shall issue an order of conditions within 21 days of the close of the public hearing, unless written or verbal permission for an extension is given by the applicant, the applicant's representative or the landowner during the public hearing.
    - (a) Findings. For work in a resource area or buffer zone, consult the "presumption" of significance for each resource area and identify applicable interests of the Wetlands Protection Act and ~~Wetland~~Wetlands Bylaw that apply.
    - (b) For each order of conditions, the Commission must issue a decision that approves or denies under both the Wetlands Protection Act and the Sturbridge Wetlands Bylaw. The Commission may approve the order under the Wetlands Protection Act and deny under the Sturbridge Wetlands Bylaw.
  - (2) The Commission must first make a decision on whether the proposed plan can be approved under the Wetlands Protection Act.

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- (a) The Commission may:
    - [1] Approve with general conditions, and attach special conditions under the Wetlands Protection Act and Sturbridge Wetlands Bylaw;
    - [2] Deny under the Wetlands Protection Act if the proposed work does not meet the performance standards, citing which performance standards have not been met;
    - [3] Deny under the Wetlands Protection Act if there is a lack of information necessary for making a decision per 310 CMR 10.05(6)(c), citing what information is lacking and necessary for the Commission to make a decision.
  - (b) The Commission must determine the resource area impacts being proposed, the permitted alteration based on WPA performance standards, proposed and permitted replacement.
  - (c) The Commission must make a decision as to whether or not the proposed plan can be conditioned to meet the standards set forth in the municipal ordinance.
  - (d) If denied under both the Wetlands Protection Act and the Sturbridge bylaw, the applicant appeals to DEP for a superseding order of conditions under the Wetlands Act, and appeals to the Worcester County Superior Court for the bylaw.
  - (e) If the Commission approves the plan under the Wetlands Protection Act, but denies under the Sturbridge Wetlands Bylaw, the applicant appeals only to Worcester County Superior Court.
- (3) An order of conditions or notification of non-significance shall be valid for three years from the date of its issuance except where otherwise specified. No order shall be deemed expired when an appeal is pending.
- B. Orders of resource area delineation. The Commission must determine whether the boundaries described in the referenced plans were accurately drawn for bordering vegetated wetlands and any other resource areas.
- C. Recording documents with the Registry of Deeds. It is the responsibility of the applicant to record orders of condition, orders of resource area delineation, and certificates of compliance with the Worcester Registry of Deeds, and provide the proof of recording back to the Sturbridge Commission.

### § 365-4.9. Combined permit applications.

- A. Combined application to the Conservation Commission for work regulated under the WPA and local ~~Wetland~~Wetlands Bylaw may take the form of a request for determination of applicability (WPA Form 1~~),~~) or a notice of intent (WPA Form 3).
- B. Permits may be combined for both the local bylaw and WPA using either a determination of applicability (WPA Form 2) or an order of conditions (WPA Form 5) as appropriate for the project.

### § 365-4.10. Site visit requirements and timing of delineations and resource verification.

- A. Site visit requirements.
  - (1) After permit applications are received, the Commission (or an agent or a representative) will conduct a visit to the site before the scheduled public hearing. The applicant and/or landowner is required to prepare the site for this visit by clearly flagging or marking the following areas:



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- (a) The boundary of the resource area.
  - (b) The corner and angle points of proposed buildings, wetland crossings, or other relevant aspects of the proposed project.
  - (c) The limits of disturbance/erosion control line.
  - (d) The twenty-five-foot, fifty-foot, 100-foot and 200-foot buffer zone lines.
- (2) Failure to have the site properly marked for a site visit may delay any decision by the Commission, or may be considered grounds to deny the project. An applicant may request a time extension for the Commission to conduct additional site visits. The reasonable time extension must take into account the volunteer status of the Commissioners, and the Commission's conservation-related work load, at the time of the public hearing in question.
  - (3) After receiving a permit from the Commission and prior to the start of any work, the erosion control shall be installed on the site as agreed to as submitted and approved by the Commission. The Commission shall be given seven calendar days' notice to inspect the erosion control and request changes. After that time period, the applicant may start work and the inspection and possible requests for changes in the erosion control will be made at the Commission's earliest convenience.
  - (4) Prior to any work commencing on site, a DEP sign showing DEP File #300-XXX must be installed at the entrance to the site and be clearly visible from the public way, but not placed on a living tree. Per DEP regulations, this sign must be no smaller than 24 inches by 24 inches, and no larger than 36 inches by 36 inches. For a letter permit issued through the SCC, this sign should read "SCC ## - ##".
  - (5) For phased projects, the applicant shall hold pre-construction briefings with the Commission and/or its representative prior to each major phase of work, i.e., erosion control installation, tree clearing, grading, roadway construction, etc.
- B. Timing of delineations and resource verification.
- (1) Timing of submittal of proposed plans shall allow for seasonally appropriate resource area delineations and verification of resource areas such as stream status, vernal pool viability or mean annual high water mark for perennial streams. Failure to submit applications with seasonal verification constraints at appropriate times of the year may result in a request by the Commission to continue the public hearing until the appropriate time of year for the project specific review, in a permit which requires a minimum of a 200-foot protective buffer around the resource in question, or in a denial of the proposed project.
  - (2) In the case of challenges to the presumption of vernal pool habitat, the Conservation Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission will either require its own site visits to confirm the evidence or rely on a neutral, third-party qualified consultant at the applicant's expense.
  - (3) In the case where precise field verification is necessary to confirm a proposed delineation, the Conservation Commission may require that the delineation be postponed until an appropriate time period where weather conditions allow verification of evidence being presented. The Commission will either require its own site visits as necessary to confirm the evidence, or rely on a neutral third-party qualified wetlands consultant at the applicant's expense.

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### § 365-4.11. Extensions or expiration of orders of conditions and determinations of applicability.

- A. The Commission may extend an order of conditions for one or more periods of up to three years each. The request for an extension shall be made to the issuing authority at least 30 days prior to expiration of the order. The extension permit shall be signed by a majority of the Commission.
- B. Extension permits will only be granted for those projects which meet current state and local regulations. Extensions will not be allowed for projects, which do not meet regulations, unless the project is also amended and modified to come in compliance with said regulations. Any review by the Commission for an extension to an approved project will be based on the regulations in effect at the current time.
- C. The Commission may deny the request for an extension and require the filing of a new notice of intent for the remaining work in the following circumstances:
  - (1) Where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals, in the obtaining of other necessary permits;
  - (2) Where new information, not available at the time the order was issued, has become available and indicates that the order is not adequate to protect the interests identified;
  - (3) Where incomplete work is causing damage to the interests;
  - (4) Where work has been done in violation of the order, MGL c. 131, § 40, 310 CMR 10.00, the Town of Sturbridge ~~Wetland~~Wetlands Bylaw or these regulations.
- D. The extension permit for orders of conditions shall be recorded in the Worcester Land Court or the Worcester Registry of Deeds, whichever is appropriate. Proof of recording shall be sent to the Commission prior to the start of any further work. If work is undertaken without the applicant so recording the extension permit, the Commission may issue a cease and desist order, or may itself record the extension permit.

### § 365-4.12. Certificates of compliance.

- A. Upon completion of the work described in a final order of conditions, the applicant shall request in writing the issuance of a certificate of compliance stating that the work has been satisfactorily completed.
- B. In order to review a request for certificate of compliance, the Commission will need the following information:
  - (1) Completed request for certificate of compliance form.
  - (2) Proof of substantial compliance ~~to~~with the plan approved by SCC~~;~~:
    - (a) A written statement from an appropriate registered professional, certifying substantial compliance ~~to~~with the approved plan and the order of conditions; or
    - (b) An "as built" plan, also signed and stamped by the above-named professional, showing all features in their "as built" location.
- C. Upon receipt of a complete request, the Commission or its Agent will conduct a site visit verifying compliance with the plan and stability of the site. The Commission has a period of 21 days within which to hold a review of the request for a certificate of compliance during public meeting. A certificate of compliance shall be issued within 21 days of receipt of the request and shall certify that the activity or portions thereof described in the order of conditions and plans ~~has~~have been completed

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~~insubstantial~~in substantial compliance with the order. The certificate of compliance shall indicate any ongoing condition required by the order of conditions. The certificate of compliance shall be signed by a majority of the Commission.

- D. If the issuing authority determines, after review and inspection, that the work has not been done in compliance with the order, it may refuse to issue a certificate of compliance. Notification of denial shall be issued within 21 days of receipt of a request for a certificate of compliance, it shall be in writing and it shall specify the reasons for denial.
- E. The Commission will decline to issue a certificate of compliance until the project site is fully stabilized and any replication or restoration areas are deemed successful by the Commission. The certificate of compliance shall specify any ongoing conditions.
- F. The certificate of compliance shall specify which, if any, of such conditions shall continue. The certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the order.
- G. The certificate of compliance shall be recorded in the Land Court or Registry of Deeds, whichever is appropriate. Proof of recording shall be sent to the Commission.

### § 365-4.13. Waivers.

- A. The Commission shall have the power to issue a waiver to an applicant requesting to perform activities as described in § 365-1.1 of this Town of Sturbridge ~~Wetland~~Wetlands Bylaw Regulation after said applicant files a notice of intent with the Commission and the Commission conducts a public hearing. Such waiver shall be set forth by the issuance of an order of conditions by the Commission.
- B. In order for the Commission to issue a waiver, the Commission must find, based on clear and convincing evidence set forth by the applicant, that a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant. Such a finding would be based upon a review of circumstances relating to soil conditions, hydrological conditions, and topography of such land, as well as a conviction that such a decision could be granted without detriment to the values or purposes protected by the ~~Wetland~~Wetlands Bylaw Regulations.
- C. A waiver (as stated above) to the fifty-foot ~~No-Build~~"no build" and the twenty-five-foot ~~No Disturb~~"no disturb" buffer, may also be granted to applicants under the following circumstances: the area is previously disturbed and the proposed project will improve the protection to the resource area; or, the applicant can prove with documented evidence that there are no other substantially equivalent alternatives available. The applicant must show that measures will be incorporated into the project to ensure that there will be no negative impact to the resource area and must provide additional layers of protection equivalent to the value of the resource buffer being altered.
- D. ~~Single-family~~ homes, existing prior to the adoption of these regulations, on small, ~~lake-front~~lakefront lots, may, on a case-by-case basis, be granted a partial waiver from the twenty-five-foot and fifty-foot buffer requirements. Granting of a waiver will be based on the minimum criteria noted in § 365-1.1.

### § 365-4.14. Emergencies.

Emergency projects necessary for the protection of the health and safety of the public are not bound by the permit and application process of this bylaw regulation. Notice of an emergency situation, oral or written, must be provided to the Conservation Commission, its Agent, or any single Commissioner prior to commencement of any work being performed or within 24 hours after said work has begun. The

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Conservation Commission, its Agent, or any single Commissioner must certify the work as an emergency project, and can act at the immediate onset of the emergency. The emergency certification must then be ratified by a majority of the Conservation Commission at the next regular meeting.

- A. Work must be performed (or ordered to be performed) by an agency of the Commonwealth or the Town of Sturbridge.
- B. Work will be performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency.
- C. Protective measures such as erosion controls or stormwater management required by the Conservation Commission must be in compliance with regulations.
- D. A permit application must be filed with the Commission within 21 days of the commencement of the emergency project.
- E. The Commission may, at its discretion, conduct a site visit to view the work being performed and to confirm that the information in the notice is correct.

### § 365-4.15. Appeals to DEP and Massachusetts Superior Court.

- A. Regarding state regulations. Those aggrieved ~~of~~by the Commission's actions based on the Wetlands Protection Act or the Riverfront Protection Act may appeal to DEP and request that DEP issue a superseding determination of applicability or order of conditions. This appeal must be made within 10 business days of the issuance of the order.
- B. Regarding local bylaw regulations. Those aggrieved ~~of~~by the Commission's actions based on the Sturbridge ~~Wetland~~Wetlands Bylaws may contest the Commission's decision through Massachusetts Superior Court. This appeal must be made within 60 calendar days of the issuance of the order.
- C. The following persons may request an appeal from the DEP or Superior Court:
  - (1) The applicant.
  - (2) The owner, if not the applicant.
  - (3) Any person aggrieved by an order.
  - (4) Any owner of land abutting the land on which the work is to be done.
  - (5) Any 10 residents of the city or town where the land is located.
  - (6) The Conservation Commission
  - (7) The Department of Environmental Protection.

### § 365-4.16. Enforcement and cease and desist orders.

- A. Orders.
  - (1) Enforcement orders or cease and desist orders are issued when it is found that an activity is in violation of the Massachusetts Wetlands Protection Act or its regulations, or the Town of Sturbridge Wetlands Bylaw or regulations or a final order by the SCC.
  - (2) Such orders may be issued by the Sturbridge Conservation Agent, or any of the sitting Commissioners, or directly by the DEP or the Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement (DFWELE).

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- B. Violations.
- (1) Violations include, but are not limited to:
    - (a) Conducting activities within a buffer zone or a resource area without a permit;
    - (b) Conducting work which has an adverse impact on a resource area;
  - (2) For permitted projects, violations can include:
    - (a) Failure to comply with a final order of conditions;
    - (b) Failure to complete work described in a final order of conditions;
    - (c) Failure to obtain a final order of conditions or extension permit.
- C. A final order of conditions may be enforced by the Conservation Commission, its Agent or any individual Commissioner, or designee authorized by the Commission; (the Board of Health Agent, the ~~Director of Inspections~~Building Inspector or the Police Department), or the DEP. The members, officers, employees and agents of the Conservation Commission and the DEP may enter upon privately owned land for the purpose of performing their duties under MGL c. 131, § 40, 310 CMR 10.08(2) and the Town of Sturbridge ~~Wetland~~Wetlands Bylaws. Entry onto private property by Town officials or their agents may only take place with the owner's consent or pursuant to an administrative search warrant.
- D. Enforcement orders shall be signed by a majority of the Commission, unless deemed an emergency. An emergency allows a single Commissioner; or the Agent to take immediate action. Consultation with other Commissioners is encouraged. Said order shall then be ratified by a majority of the Commission at the next scheduled meeting or be considered invalid.
- E. Owners of land on which violations occur will receive written notice of the violation, what measures are to be taken and the day and time on which the owner or the owner's representative is to meet with the Commission. These meetings will usually be held during the next scheduled public meeting. However, in the case of serious impact or threat of immediate serious impact to a resource area, the Commission may schedule the meeting at the earliest possible date. Determination of serious impact will be at the discretion of a majority of the Commission. Failure to attend the meeting scheduled or to notify the Commission and arrange an alternative acceptable time; will result in a cease and desist order being issued at the stated meeting time and date. Failure to respond to the cease and desist order will result in the issuing of an enforcement order. Said enforcement order will not be waived until the property and the violation are completely mitigated and restored, and approved by the Conservation Commission.
- F. Any person who violates the provisions of the Sturbridge ~~Wetland~~Wetlands Bylaw, rules and regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, rules and regulations, and permit violated shall constitute a separate offense.
- (1) Activities deemed to be violations of wetland/conservation laws, bylaws or regulations, requiring the Commission to initiate enforcement actions, will have penalties imposed.
  - (2) Fines may be issued to both homeowners and contractors. The SCC has the right to fine any contractor for work done without a permit, or for any other violation of the WPA or Sturbridge Wetlands Bylaw, the same as a homeowner.

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- (3) Fines shall be issued and collected using ~~Non-Criminal Dispositions~~noncriminal disposition. Failure to respond may result in additional enforcement actions.
- G. The SCC also has the right to consider all circumstances surrounding a violation, and may, at its discretion, choose to suspend some or all of fines imposed for any violation.
- H. The Commission may also, at its discretion, elevate the offense to the Massachusetts Department of Environmental Protection, which could result in criminal charges depending upon the severity of the action.

### § 365-4.17. Fees.

The following fees pertain to local bylaw review and are in addition to those required under the Wetlands Protection Act; amounts will be set by the Conservation Commission. Additional fees for other applications or requests may be imposed and set by the Sturbridge Conservation Commission.

- A. Requests for determination. A local filing fee ~~of \$25~~, made payable to the Town of Sturbridge as a separate check, shall accompany all ~~Request~~requests for determinations.
- B. Resource area delineations. A local filing fee ~~of \$0.10 per linear foot~~ shall accompany all state permit filings where resource area boundary confirmation or work occurs within the 100-foot buffer zone. If a resource area delineation has not been made and approved by the Commission within the three years prior to the submittal of an application, delineation will automatically become part of the project application. Delineations are valid for three years or for the life of the active permit. A local fee ~~of \$0.10 per linear foot~~, made payable to the Town of Sturbridge, as a separate check, shall be paid by the applicant, whether the delineation is filed as a notice of intent, a request for determination, or a request for resource area delineation.
- C. Notices of intent. A local fee ~~of \$50~~, made payable to the Town of Sturbridge, submitted on a separate check from any NOI filing fees, shall accompany all NOI filings.
- D. Certificate of compliance. A local filing fee made payable to the Town of Sturbridge as a separate check shall accompany all requests for certificates of compliance.
- ~~D~~E. Replication, mitigation monitoring. A local fee ~~of \$200~~ to cover the Town's cost for monitoring replication or mitigation areas over the five years normally required to monitor these areas, made payable to the Town of Sturbridge, submitted on a separate check, shall accompany all proposals for which replication or mitigation is proposed.
- ~~E~~F. Site visits. The Commission shall not impose additional fees for site visits unless more than one ~~public-hearing-related~~ site visit is required due specifically to an applicant's failure to properly mark the site or prepare the plan in accordance with § 365-4.10 of these regulations. In this circumstance, to cover the Town's cost and to account for the inconvenience imposed on the Commission and staff, a fee ~~of \$25~~ shall be submitted for each site visit necessary due to an applicant's negligence in preparing the field adequately. Multiple site visits necessitated by project complexity or the Commission's discretion to revisit the site, will not be charged an additional site visit fee. Failure to submit the fee will result in denial due to incomplete project application.
- ~~F~~G. Waivers. The Conservation Commission may waive the local filing fee for an application or request filed by a government agency, and may waive the filing fee for a request for determination of applicability filed by a person with no financial connection to the subject property. Said request for waiver shall be made at the time of submittal of the application.

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### ~~GH.~~ General permit.

- (1) Applications will not be considered complete unless all local and state fees are paid at the time of application submittal. The Conservation Commission shall notify the applicant, in writing, when the correct filing fee has not been paid to the Town and the filing is therefore incomplete. Said notification shall specify the correct fee amount. The fee will be based on the original project design as proposed in the notice of intent, the request for determination or the request for resource area delineation and based on any changes or amendments made during the public hearing process; which increase the size of the project. Rebates will not be given for projects which decrease in size during the public hearing, due to an applicant's failure to consider alternatives and reasonable use prior to the initial filing.
- (2) In lieu of paying any disputed amount of the filing fee, the applicant may file a request for determination of applicability with sufficient information to enable the Conservation Commission to determine the extent of the area, or the type and extent of the activity, subject to protection under MGL c. 131, § 40. When a request for determination of applicability is filed by an applicant to resolve a dispute over the filing fee, all proceedings under the permit filed with the SCC shall be stayed until all appeal periods for the determination have elapsed or, if the determination is appealed, until all proceedings before the DEP or Superior Court have been completed. A final determination of applicability as to the area, or the type and extent of the activity, subject to protection shall be binding on all parties and shall be used in calculating the fee.

### § 365-4.18. Denial or permits or orders.

- A. The Conservation Commission is empowered to deny a permit:
  - (1) For failure to meet the requirements and performance standards of the Wetlands Protection Act and Regulations, 310 CMR 10.00, and Local Wetlands Bylaw and Regulations;
  - (2) For failure to submit necessary information and plans requested by the Conservation Commission;
  - (3) When the Conservation Commission determines that it is not possible to conduct the requested activity without unacceptable wetlands alterations.
- B. An order of conditions denial shall include:
  - (1) Identification of missing requested information, as well as why it is important for the review;
  - (2) Specific reasons regarding why the project cannot be conditioned to protect the resource areas.
- C. Denials must be specific to either or both state and local bylaws and regulations.

### § 365-4.19. Requests for reclassification of streams.

- A. Intermittent stream. Generally, a body of running water which does not flow throughout the year has a watershed less than one square mile and is shown on the USGS topographic map as intermittent. If a stream is indicated on the USGS topographic map as perennial, the Conservation Commission may only consider finding a stream intermittent when an applicant has filed a request for determination of applicability and provided documentation meeting the provisions of 310 CMR 10.58(2)-(a-~~1~~)1.d. A determination or finding of the stream as intermittent is only valid for three years (the life of the determination). Occasionally a body of running water, which does not flow throughout the year, is perennial (dryness may be due to drought, impoundment or other unusual or unnatural

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circumstances).

- B. Perennial streams/ivers. See § 365-5.5 for a complete and detailed definition and description of river or perennial stream.
- C. Stream reclassification requirements.
  - (1) The SCC reserves the right to reconsider and overturn a reclassification before the three years has expired if newly available scientific data and evidence is obtained showing the stream to be perennial. This Commission discretion may occur at any time new evidence becomes available; such a finding invalidates a previously issued determination of applicability.
  - (2) In addition to the information required under the above-noted sections of the Wetlands Protection Act, the following additional evidence must be submitted by applicants requesting a reclassification of a stream as shown on current USGS topographical maps:
    - (a) Watershed (i.e., drainage basin) size at the point of the stream for which reclassification is being requested. (A watershed greater than one square mile shall be a strong indicator of a perennial stream or river). ~~(. A watershed greater than 1/2 square mile with a stratified drift component of 75% or greater shall be a strong indicator of a perennial stream or river).~~
    - (b) Rainfall data from at least three, triangulating, climatological data sources for the site.
    - (c) Current State of Massachusetts declared drought conditions for the specific area in question.
    - (d) Flowing water. Flowing water at the site in question shall be a strong indicator of perennial status. Lack of flowing water during unusually dry conditions (as determined by the Commission based on available rainfall data and observation of below-normal water level conditions) shall prohibit reclassification of a stream from perennial to intermittent until normal hydrological conditions exist. Proof of a dry streambed must be present for four consecutive days at a minimum of 24 ~~hours~~hours' separation each (i.e., a minimum of 96 consecutive hours). Proof must be documented with field notes and dated, signed photographs. Any information provided must be provided by a credible and competent source (as determined by the Conservation Commission). A credible source is typically classified as a professional in the field with an associated master's degree or a bachelor's degree and three to five years of documented field experience.
    - (e) Impoundments created by beavers or man or evidence of withdrawal of water of any kind upstream from the point in question shall be cause to deny a change from perennial to intermittent unless and until the change has been corrected and normal flow conditions have resumed. In the instance of beaver activity, the applicant should note that beavers typically only build dams in response to running water, thus indicating a stream's perennial nature.
    - (f) Soil type underlying the stream or watercourse channel.

### § 365-4.20. Resource area delineations and verification of replication areas.

Delineations, outside of those included in NOI filings, must use the ANRAD form. Both state and local filing fees apply. For delineations included in an NOI filing, local filing fees may apply. (See § 365-4.17.)



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### § 365-4.21. Reports due.

- A. Failure to submit reports on time required in an order of conditions or other permit shall be cause for the Commission to issue a cease and desist order until all reports and site data ~~has~~have been submitted to the Commission office. Continued failure to submit said reports shall be deemed sufficient cause to revoke the permit issued due to failure on the ~~applicant~~applicant's or ~~landowners~~landowner's part to provide adequate assurance that the construction site is creating no potential or actual adverse impact to the resource area.
- B. All reports submitted by a third-party environmental reviewer shall include:
  - (1) The date a request for compliance is made.
  - (2) The response from the contractor.
  - (3) The date on which the contractor complied with the request.
  - (4) A site plan or locus.

### § 365-4.22. Revocation of permits.

Failure to comply with conditions in any permit issued by the Commission shall be cause to revoke the permit.

## ARTICLE V

### Resource Areas, Values, Presumptions of Significance and General Performance Standards

#### § 365-5.0. General performance standards.

- A. The following general performance standards shall apply for all resource areas:
  - (1) No project shall lead to a violation of Massachusetts Water Quality Standards, on both numeric and narrative criteria.
  - (2) No project may have adverse impacts on habitat for rare or endangered species or on areas of critical environmental concern.
  - (3) No project will be allowed which will have an adverse impact on the interests noted for each resource area.
  - (4) Maximum allowable alterations are at the discretion of the Commission.
  - (5) Values other than those identified in this section may be determined to be significant to a resource area on a case-by-case basis. Should the Commission determine that additional values are significant based on best professional judgment, a written statement with detailed reasons for the determination shall be submitted to the applicant. An applicant has the right to challenge the additional presumed values based on a preponderance of scientific evidence.
  - (6) Failure to contain and control sedimentation and erosion on site and out of resource areas and restricted buffers may result in a cease and desist order at the discretion of the Sturbridge Conservation Commission. All work on site will be stopped until erosion control barriers are corrected and sediments are removed from resource areas, restricted buffer areas or impacted off-site areas.
- B. Additional performance standards may apply and are listed in the specific resource area sections below.

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### § 365-5.1. Banks.

- A. Preamble. Banks are likely to be significant to public or private water supply, to ~~ground water~~groundwater supply, to flood control, to storm damage prevention, to the prevention of pollution, to the protection of fisheries and wildlife habitat. In addition to the interest protected by the Wetlands Protection Act, these bylaw regulations also serve to protect water quality, prevent water pollution, and prevent erosion and sedimentation, protect rare species habitat, and recreational values. Refer to 310 CMR 10.54(1) of the MA Wetlands Protection Act Regulations.
- B. Definition, critical characteristics and boundary. A ~~Bank~~"bank" is the portion of the land surface which normally abuts and confines a water body. It occurs between a water body and a vegetated bordering wetland and adjacent floodplain; or, in the absence of these, it occurs between a water body and an upland. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel or stone. The physical characteristics of a bank, as well as its location, are critical to the protection of the interests identified. The upper boundary of a bank is the first observable break in the slope or the mean annual flood level, whichever is higher. The lower boundary of a bank is the mean annual flow level.
- C. Presumption. Please refer to MA Wetlands Regulations in 310 CMR 10.54, Bank, Subsection (3) MA Wetlands Protection Act, ~~Presumption: Bank~~.
- D. General performance standards.
- (1) Any proposed work on a bank shall not impair the following:
    - (a) The physical stability of the bank;
    - (b) The ~~water~~-carrying capacity of the existing channel within the bank;
    - (c) ~~Ground water~~Groundwater and surface water quality;
    - (d) The capacity of the bank to provide breeding habitat, escape cover and food for fisheries;
    - (e) The capacity of the bank to provide important wildlife habitat functions.
  - (2) Where a proposed activity will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter a bank, the Commission shall presume that such area is significant to the interests identified. This presumption may be overcome upon a clear showing that the bank does not play a role in the protection of said interests. In the event that the presumption is deemed to have been rebutted, the Commission shall make a written determination to this effect, setting forth its grounds.

### § 365-5.2. Vegetated wetlands (wet meadows, marshes, swamps and bogs, both bordering and isolated).

- A. Preamble.
- (1) Vegetated wetlands are likely to be significant to: public or private water supply, ~~ground water~~groundwater supply, flood control, storm damage prevention, pollution prevention, fisheries and wildlife habitat. In addition to the interests protected by the Wetlands Protection Act, these bylaw regulations also serve to protect water quality, prevention of erosion and sedimentation control, rare species habitat and recreational values. Refer to 310 CMR 10.55(1) of the MA Wetlands Protection Act Regulations.
  - (2) The plants and soils of vegetated wetlands remove or retain sediments, nutrients (such as nitrogen and phosphorous) and toxic substances (such as heavy metal compounds) that occur

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- in run-off and ~~flood waters~~floodwaters. Some nutrients and toxic substances are retained for years in plant root systems or in the soils. Others are held by plants during the growing season and released as the plants decay in the fall and winter. This latter phenomenon delays the impacts of nutrients and toxins until the cold weather period, when such impacts are less likely to reduce water quality.
- B. Definition. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.55~~(2)~~ ~~Definition, Critical Characteristics and Boundary~~, Bordering Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs~~);~~, Subsection (2), Definition, Critical Characteristics and Boundary. In addition to wetlands meeting the definition of vegetated wetlands under the Wetlands Protection Act, these regulations also serve to protect seasonal wetlands and isolated wetlands.
- C. Presumption.
- (1) Where a proposed activity will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter a vegetated wetland, the issuing authority shall presume that such area is significant to the interests identified.
  - (2) This presumption may be overcome upon a clear showing that the vegetated wetland does not play a role in the protection of said interests. In the event that the presumption is deemed to have been overcome, the issuing authority shall make a written determination to this effect, setting forth its grounds.
- D. General performance standards.
- (1) Please refer to ~~310 CMR 10.55(4) of~~ MA Wetlands Protection Act General Performance Standards~~Regulations, 310 CMR 10.55, Bordering~~ Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs~~);~~, Subsection (4), General Performance Standards.
  - (2) In addition to being required to conform to the general performance standards listed in the Wetlands Protection Act, these regulations also require compliance with the following additional general performance standards:
    - (a) Wetland replication is to be considered as an absolute last resort in situations where all potential alternatives have been explored and no other feasible options exist. Recent UMass Amherst studies have shown that replication has only been successful in 35-% to 40% of the cases reviewed over the past 15 years.
    - (b) Work which results in the loss of up to 5,000 square feet of vegetated wetland may be allowed at the discretion of the Commission under extreme conditions on a case-by-case basis when no other alternatives are possible. Such work would require 2:1 wetland replication, and any additional specific conditions the Commission deems necessary to ensure that the replication area will function in a manner similar to the area lost. Wetland replication regulations are detailed in Article VIII of ~~this document~~these regulations.
    - (c) Alterations or loss of wetlands will not be permitted in situations where the owner or applicant has created their own hardship.
    - (d) No project may be permitted which will have any adverse effect on specified habitat sites of rare or state-listed species, as identified by procedures established under 310 CMR 10.59, Estimated Habitat for Rare Wildlife.
    - (e) Any proposed work shall not destroy or otherwise impair any portion of a vegetated wetland that is within an area of critical environmental concern designated by the Secretary of Environmental Affairs.

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### § 365-5.3. Land under water bodies and waterways (under any creek, river, stream, pond or lake).

#### A. Preamble.

- (1) Land under water bodies and waterways is likely to be significant to: public and private water supply, ~~ground water~~groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of fisheries, wildlife habitat. In addition to those interests protected by the Wetlands Protection Act, these bylaw regulations also serve to protect water quality, prevent water pollution, protect rare species habitat, erosion and sedimentation control, and recreational values. Where such land is composed of concrete, asphalt or other artificial impervious material, said land is likely to be significant to flood control and storm damage prevention.
- (2) Please refer to MA Wetlands Protection Act Regulations, 310 CMR 10.56(1) of MA Wetlands Protection Act Preamble; Land Under ~~Waterbodies~~Water Bodies and Waterways (Under any Creek, River, Stream, Pond or Lake~~;~~), Subsection (1), Preamble.

#### B. Definition. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.56(2) of ~~Definition~~; Land Under ~~Waterbodies~~Water Bodies and Waterways (Under any Creek, River, Stream, Pond or Lake~~;~~), Subsection (2), Definition, Critical Characteristics and Boundaries. In addition to ~~Waterbodies~~water bodies (and waterways) meeting the definition of ~~Waterbodies~~water bodies and waterways under the Wetlands Protection Act, these regulations also serve to protect vernal pools and ponds (regardless of size).

#### C. Presumption. Where a project involves removing, filling, dredging or altering of land under water bodies and waterways, the issuing authority shall presume that such area is significant to the interests specified in Subsection A above. The presumption may be overcome upon a clear showing that said land does not play a role in the protection of said interests. In the event that the presumption is deemed to have been overcome, the issuing authority shall make a written determination to this effect, setting forth the grounds for such decision.

#### D. General performance standards.

- (1) Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.56(4) of ~~MA Wetlands Protection Act General Performance Standards~~; Land Under ~~Waterbodies~~Water Bodies and Waterways (Under any Creek, River, Stream, Pond or Lake~~;~~), Subsection (4), General Performance Standards.
- (2) Any proposed work within land under water and waterways shall not impair the following:
  - (a) The ~~water~~-carrying capacity within the defined channel, which is provided by said land in conjunction with the banks;
  - (b) ~~Ground~~- and surface water quality;
  - (c) The capacity of said land to provide breeding habitat, escape cover, and food for fisheries;
  - (d) The capacity of said land to provide important wildlife habitat functions.

### § 365-5.4. Land subject to flooding (bordering and isolated areas).

#### A. Preamble. Bordering land subject to flooding is an area which floods from a rise in a bordering waterway or water body. Such areas are likely to be significant to flood control, storm damage prevention. In addition to the interest protected by the Wetlands Protection Act, these bylaw

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regulations also find such areas are significant to public and private water supply, groundwater supply, water quality protection, water pollution control, prevention of pollution, wildlife habitat, rare species habitat and erosion and sedimentation control, and recreational values.

- (1) Bordering land subject to flooding: Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57, Land Subject to Flooding (Bordering and Isolated Areas), Subsection (1)(a)-of, Preamble: Bordering Land Subject to Flooding.
  - (a) Bordering land subject to flooding is an area which floods from a rise in a bordering waterway or water body. Such areas are likely to be significant to flood control, storm damage prevention, public and private water supply, groundwater supply, water quality protection, water pollution control, prevention of pollution, wildlife habitat, and erosion and sedimentation control.
  - (b) Bordering land subject to flooding provides a temporary storage area for ~~flood water~~floodwater which has overtopped the bank of the main channel of a creek, river or stream or the basin of a pond or lake. During periods of peak run-off, ~~flood waters~~floodwaters are both retained (i.e., slowly released through evaporation and percolation) and detained (slowly released through surface discharge) by bordering land subject to flooding. Over time, incremental filling of these areas causes increases in the extent and level of flooding by eliminating flood storage volume or by restricting flows, thereby causing increases in damage to public and private properties.
  - (c) Certain portions of bordering land subject to flooding are also likely to be significant to the protection of wildlife habitat. These include: ~~(a1)~~ all areas on the ten-year floodplain or within 100 feet of the bank or bordering vegetated wetland (whichever is further from the water body or waterway, so long as such area is contained within the ~~one-hundred~~100-year floodplain), and ~~(b2)~~ all vernal pool habitat on the ~~one-hundred~~100-year floodplain, except for those portions of ~~(a1)~~ and ~~(b2)~~ which have been so extensively altered by human activity that their important wildlife habitat functions have been effectively eliminated ~~{~~[such "altered" areas include paved and graveled areas, golf courses, cemeteries, playgrounds, landfills, fairgrounds, quarries, gravel pits, buildings, lawns, gardens, roadways (including median strips, areas enclosed within highway interchanges, shoulders, and embankments), railroad tracks (including ballast and embankments), and similar areas lawfully existing on November 1, 1987 and maintained as such since that time~~}.]~~.
  - (d) The hydrologic regime, plant community composition and structure, topography, soil composition and proximity to water bodies and bordering vegetated wetlands of these portions of bordering land subject to flooding provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife. Nutrients from ~~flood waters~~floodwaters, as well as the inundation of floodplain soil, create important wildlife habitat characteristics, such as richness and diversity of soil and vegetation. A great many species require or prefer habitat which is as close as possible to water and/or has moist conditions, characteristics generally present on lower floodplains. Similarly, lower floodplains, because of their proximity to water and vegetated wetlands, can provide important shelter for wildlife which needs to migrate between such areas, or between such areas and uplands. The "edge" where floodplain habitat borders vegetated wetlands or water bodies is frequently very high in wildlife richness and diversity. Similar "edges" may be found elsewhere the lower floodplain, where differences in topography and frequency of flooding have created varied soil and plant community composition and structure.

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- (e) Finally, vernal pool habitat is found at various locations throughout the ~~one hundred~~100-year floodplain. The pool itself generally formed by meander scars, or sloughs left after the main water channel has changed course. These pools are essential breeding sites for certain amphibians which require isolated areas that are generally flooded for at least two continuous months in the spring and/or summer and are free from fish predators. Most of these amphibians remain near the breeding pool during the remainder of their lifecycle. Many reptiles, birds and mammals also feed here.
- (2) Isolated land subject to flooding. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57~~(1)(b): Isolated~~, Land Subject to Flooding- (Bordering and Isolated Areas), Subsection (1)(b), Preamble: Isolated Land Subject to Flooding. In addition to the interest protected by the Wetlands Protection Act, these bylaw regulations also serve to protect water quality, rare species habitat and recreational values.
    - (a) Isolated land subject to flooding is an isolated depression or a closed basin which serves as a ponding area for run-off or high ~~ground water~~groundwater which has risen above the ground surface. Such areas are likely to be significant to flood control, storm damage prevention, public and private water supply, groundwater supply, water quality protection, water pollution control, prevention of pollution, wildlife habitat, and erosion and sedimentation control. In addition, where such areas are underlain by pervious material, they are likely to be significant to public or private water supply and to ~~ground water~~groundwater supply. Where such areas are underlain by pervious material covered by a mat of organic peat and muck, they are also likely to be significant to the prevention of pollution. Finally, where such areas are vernal pool habitat, they are significant to the protection of wildlife habitat.
    - (b) Isolated land subject to flooding provides a temporary storage area where run-off and high ~~ground water~~groundwater pond and slowly evaporate or percolate into the substrate. Filling causes lateral displacement of the ponded water onto contiguous properties, which may in turn result in damage to said properties.
    - (c) Isolated land subject to flooding, where it is underlain by pervious material, provides a point of exchange between ground- and surface waters. Contaminants introduced into said area, such as septic system discharges and road salts, find easy access into the ~~ground water~~groundwater and neighboring wells. Where these conditions occur and a mat of organic peat or muck covers the substrate of the area, said mat serves to detain and remove contaminants which might otherwise enter the ~~ground water~~groundwater and neighboring wells.
    - (d) Isolated land subject to flooding, where it is vernal pool habitat, is an essential breeding site for certain amphibians which require isolated areas that are generally flooded for at least two continuous months in the spring and/or summer and are free from fish predators. Most of these amphibians remain near the breeding pool during the remainder of their lifecycle. Many reptiles, birds and mammals also feed here.
- B. Definition, critical characteristics and boundaries.
- (1) Bordering land subject to flooding.
    - (a) Bordering land subject to flooding is an area with low, flat topography adjacent to and inundated by ~~flood waters~~floodwaters rising from creeks, rivers, streams, ponds or lakes. It extends from the banks of these waterways and water bodies.

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- (b) Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57, Land Subject to Flooding (Bordering and Isolated Areas), Subsection (2), Definitions, Critical Characteristics and Boundaries: ~~Bordering Land Subject to Flooding~~.
- (2) Isolated land subject to flooding.
  - (a) Isolated land subject to flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water. Isolated land subject to flooding may be underlain by pervious material, which in turn may be covered by a mat of organic peat or muck.
  - (b) Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57, Land Subject to Flooding (Bordering and Isolated Areas), Subsection (2)(b)-of, Definitions, Critical Characteristics and Boundaries: Isolated Land Subject to Flooding. There is no minimum requirement for volume of isolated land subject to flooding under the Sturbridge ~~Wetland~~ Wetlands Bylaw Regulations.
- C. Presumption.
  - (1) Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57(3)-of, Presumption.
  - (2) Where a project will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter land subject to flooding (both bordering and isolated areas), the Commission shall presume that such an area is significant to the respective interests specified above.
- D. General performance standards.
  - (1) Bordering land subject to flooding. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.57, Land Subject to Flooding (Bordering and Isolated Areas), Subsection (4)(a)-of, General Performance Standards: Bordering Land Subject to Flooding. In addition to the general performance standards listed in the Wetlands Protection Act, these regulations also require compliance with the following additional general performance standards:
    - (a) Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within bordering land subject to flooding, when in the judgment of the Commission said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of ~~flood waters~~ floodwaters during peak flows. "Compensatory storage" shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of ~~flood water~~ floodwater at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek. The minimum storage requirement will be at the discretion of the Conservation Commission, as ~~they~~ it may require compensatory flood storage of greater volume.
    - (b) Work within bordering land subject to flooding, including that work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.
    - (c) Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions, including altering vernal pool habitat.

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- (2) Isolated land subject to flooding:
  - (a) Refer to ~~310 CMR 10.57 (4) (b)~~ of MA Wetlands Protection Act Regulations, 310 CMR 10.57, Land Subject to Flooding (Bordering and Isolated Areas), Subsection (4)(b), General Performance Standards: Isolated Land Subject to Flooding. In addition to the general performance standards listed in the Wetlands Protection Act, these regulations also require compliance with the following additional general performance standards:
    - (b) A proposed project in isolated land subject to flooding shall not result in the following:
      - [1] Flood damage due to filling which causes lateral displacement of water that would otherwise be confined within said area;
      - [2] An adverse effect on public and private water supply or ~~ground water~~groundwater supply, where said area is underlain by pervious material;
      - [3] An adverse effect on the capacity of said area to prevent pollution of the ~~ground water~~groundwater, where the area is underlain by pervious material which in turn is covered by a mat of organic peat and muck;
      - [4] An impairment of its capacity to provide wildlife habitat where said area is vernal pool habitat.

### § 365-5.5. Riverfront area.

#### A. Preamble.

- (1) Riverfront areas are likely to be significant to: public or private water supply, ~~ground water~~groundwater supply, flood control, storm damage prevention, prevention of pollution, the protection of fisheries, protection of wildlife habitat, and protection of land containing shellfish. In addition to the interests protected by the Wetlands Protection Act, these bylaw regulations also serve to protect rare species habitat, water quality control, water pollution control, and erosion and sedimentation control, and recreational values. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.58(1), Riverfront Area.
- (2) Land adjacent to rivers and streams can protect the natural integrity of these water bodies. The presence of natural vegetation within riverfront areas is critical to sustaining rivers as ecosystems and providing these public values.
- (3) The riverfront area can prevent degradation of water quality by filtering sediments, toxic substances (such as heavy metals), and nutrients (such as phosphorus and nitrogen) from stormwater, nonpoint pollution sources, and the river itself. Sediments are trapped by vegetation before reaching the river. Nutrients and toxic substances may be detained in plant root systems or broken down by soil bacteria. Riverfront areas can trap and remove disease-causing bacteria that otherwise would reach rivers and coastal estuaries, where they can contaminate shellfish beds and prohibit safe human consumption. Natural vegetation within the riverfront area also maintains water quality for fish and wildlife.
- (4) Where rivers serve as water supplies or provide induced recharge to wells, the riverfront area can be important to the maintenance of drinking water quality and quantity. Land along rivers in its natural state with a high infiltration capacity increases the yield of a water supply well. When riverfront areas lack the capacity to filter pollutants, contaminants can reach human populations served by wells near rivers or by direct river intakes. The capacity of riverfront areas to filter pollutants is equally critical to surface water supplies, reducing or eliminating the need for additional treatment. In the watershed, mature vegetation within riverfront areas



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- provides shade to moderate water temperatures and ~~slows~~ slows algal growth, which can produce odors and taste problems in drinking water.
- (5) Within riverfront areas, surface water interaction with groundwater significantly influences the stream ecosystem. The dynamic relationship between surface and groundwater within the "hyporheic zone" located below the stream channel, sustains communities of aquatic organisms which regulate the flux of nutrients, biomass and the productivity of organisms, including fish within the stream itself. The hyporheic zone extends to greater distances horizontally from the channel in large, higher order streams with alluvial floodplains, but the interaction within this zone is important in smaller streams as well. By providing recharge and retaining natural flood storage, as well as by slowing surface water runoff, riverfront areas can mitigate flooding and damage from storms. The root systems of riverfront vegetation keep soil porous, increasing infiltration capacity. Vegetation also removes excess water through evaporation and transpiration. This removal of water from the soil allows for more infiltration when flooding occurs. Increases in storage of floodwaters can decrease peak discharges and reduce storm damage. Vegetated riverfronts also dissipate the energy of storm flows, reducing damage to public and private property.
  - (6) Riverfront areas are critical to maintaining thriving fisheries. Maintaining vegetation along rivers promotes fish cover, increases food and oxygen availability, decreases sedimentation, and provides spawning habitat. Maintenance of water temperatures and depths is critical to many important fish species. Where groundwater recharges surface water flows, loss of recharge as a result of impervious surfaces within the riverfront area may aggravate low-flow conditions and increase water temperatures. In some cases, summer stream flows are maintained almost exclusively from groundwater recharge. Small streams are most readily impacted by removal of trees and other vegetation along the shore.
  - (7) Riverfront areas are important wildlife habitat, providing food, shelter, breeding, migratory, and overwintering areas. Even some predominantly upland species use and may be seasonally dependent on riverfront areas. Riverfront areas promote biological diversity by providing habitats for an unusually wide variety of upland and wetland species, including bald eagles, osprey, and kingfishers. Large dead trees provide nesting sites for bird species that typically use the same nest from year to year. Sandy areas along rivers may serve as nesting sites for turtles and water snakes. Riverfront areas provide food for species such as wood turtles which feed and nest in uplands but use rivers as resting and overwintering areas.
- B. Definitions. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.58, Riverfront Area, Subsection (2), Definitions, Critical Characteristics and Boundaries: ~~Riverfront Area~~. For the purposes of this bylaw, perennial and intermittent streams shall be protected rivers. Certain designated intermittent streams within Sturbridge have been identified by the Conservation Commission as needing additional protection based on their contribution to the watershed ecosystem. These waterways are identified on the Enhanced Protection of Intermittent Streams Map that is available for viewing in the Conservation Department.

RIVER — ~~Is~~ Any natural flowing body of water that empties to any lake, pond, or other river.

RIVERFRONT AREA — The area of land between a river's mean annual high water line and a parallel line located 200 feet away, measured horizontally outward from the river's mean annual high water line. The riverfront area may include or overlap other resource areas or their buffer zones. The riverfront area does not have a buffer zone.

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### C. Presumption.

- (1) Where a proposed activity involves work within the riverfront area, the Commission shall presume that the area is significant to the protection of private or public water supply~~;~~<sub>2</sub>, groundwater~~;~~<sub>2</sub>, flood control~~;~~<sub>2</sub>, prevent storm damage~~;~~<sub>2</sub>, prevent pollution~~;~~<sub>2</sub>, land containing shellfish~~;~~<sub>2</sub>, wildlife and/or rare species habitat~~;~~<sub>2</sub>, water quality, water pollution control, erosion and sedimentation~~;~~<sub>7</sub> and fisheries.
- (2) The presumption is rebuttable and may be overcome by a clear showing that the riverfront area does not play a role in the protection of each one of these interests.
- (3) Where the applicant provides information that the riverfront area at the site of the activity does not play a role in the protection of a single interest, the Commission may determine that the presumption for that interest has been rebutted and the presumption of significance is partially overcome. If the Commission concludes that the presumption has been overcome as to the protection of all interests, the Commission shall make a written determination to this effect.
- (4) The applicant must overcome, beyond reasonable doubt, each and every presumption of significance in order to conduct work within the 200-foot riverfront resource area.

### D. General performance ~~standards~~standards. Refer to MA Wetlands Protection Act Regulations, 310 CMR 10.58, Riverfront Area, Subsection (4)-of, General Performance Standard: Riverfront Area, in addition to the following standards:

- (1) No project may be permitted within the riverfront area which will have any adverse effect on specified habitat sites of rare or state- or federally ~~-~~listed species, or which will have any adverse effect on vernal pool habitat, whether certified or identified by the Commission prior to or during the public hearing.
- (2) Practicable alternative. There must be no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified.
- (3) When an applicant proposes restoration on-site~~;~~ of degraded riverfront area, alteration may be allowed at a ratio in square feet of at least 2:1 of restored area to area of alteration not conforming to the performance standards. Restoration shall include:
  - (a) Removal of all debris, but retaining any ~~non-invasive~~noninvasive trees or other mature ~~non-invasive~~noninvasive vegetation;
  - (b) Grading to a topography which reduces runoff and increases infiltration;
  - (c) Coverage by topsoil at a depth consistent with natural conditions at the site; and
  - (d) Seeding and planting with an erosion control seed mixture, followed by plantings of herbaceous and woody species appropriate to the site.
- (4) When an applicant proposes mitigation either on-site or in the riverfront area within the same general area of the river basin, alteration may be allowed at a ratio in square feet of at least 2:1 of mitigation area to area of alteration for previously disturbed sites.
- (5) The following may be allowed in the riverfront area and requires the filing of a notice of intent and prior review and approval of the Commission:
  - (a) Fencing, stonewalls~~;~~ or stacks of cordwood, ~~providing~~provided they will not constitute a barrier to wildlife movement;

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- (b) Vista pruning, ~~providing~~provided the activity is located more than 100 feet from the mean annual high water line within a riverfront area or from bordering vegetated wetland, whichever is farther;
- (c) Plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns;
- (d) The conversion of lawn to uses accessory to existing single-family houses in existence on August 7, 1996, such as decks, sheds, patios, and pools, ~~providing~~provided the activity is located more than 50 feet from the mean annual high-water line within the riverfront area or from bordering vegetated wetland, whichever is farther, and erosion and sedimentation controls are implemented during construction;
- (e) The conversion of impervious to vegetated surfaces, provided erosion and sedimentation controls are implemented during construction;
- (f) The repair or upgrade of existing septic systems in compliance with Sturbridge Board of Health regulations.
- (f) \* Redevelopment and Grandfathered Activities standards not listed (see 310 CMR 10.58(5) and (6)).

### § 365-5.6. Vernal pools, certified, potential and identified.

#### A. Definitions.

- (1) The term "vernal pool" shall include, in addition to that already defined under the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways. Vernal pools hold water for a minimum of two continuous months during the spring and/or summer. An isolated wetland may be determined to be a vernal pool even though it has less than 200 cubic feet of water, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries, Natural Heritage and Endangered Species Program.
- (2) The presumption of essential habitat value may be overcome by the presentation of credible evidence which in the judgment of the Commission demonstrates that the basin or depression does not provide the habitat functions as specified in the bylaw regulations.
- (3) The adjacent upland resource area for vernal pools shall extend 200 feet from the boundary of the vernal pool.

#### B. Presumption of vernal pool habitat.

- (1) Where a proposed activity involves work within 200 feet of any certified vernal pool, the Commission shall presume that the area is significant to protect: groundwater, water quality, wildlife habitat and/or rare species habitat.
- (2) All potential vernal pools as noted by NHESP shall be considered identified vernal pools. Burden of proof to the contrary is the responsibility of the applicant.
- (3) The bylaw/regulation presumes vernal pool habitat exists if a wetland's physical characteristics conform with those defined in Subsection A above.
- (4) This presumptive definition for vernal pools is based on systematic field observations by NHESP, "the Vernal Pool Association," and SCC staff, showing that virtually all basins that

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possess the above characteristics, cited in Subsection A actually host breeding vernal pool species. The presumption of vernal pool habitat may be overcome, however, with the presentation of credible evidence, which in the judgment of the Conservation Commission demonstrates that the wetland does not provide, or cannot provide, vernal pool habitat functions.

- C. Demonstrating that a ponding area is not a vernal pool. For the purposes of overcoming the presumption of vernal pool habitat, the Commission will consider:
- (1) Evidence that the ponding area does not hold water for at least two continuous months in most years. As a rule of thumb, the term "most years" shall mean three out of five consecutive years.
  - (2) Evidence that vernal pool species do not breed or have not bred in the ponding area. The Conservation Commission shall provide explicit guidelines for this evidence.
  - (3) Evidence that the ponding area could not be a viable breeding site for vernal pool species due to incompatible physical, chemical, biological, or other persistent conditions at the site in most years. Such evidence could include, without limitation, several months of pH and dissolved oxygen measurements yielding values incompatible with amphibian or reptile breeding.
- D. Timing of evidence collection.
- (1) Many of the indicators of vernal pool habitat are seasonal. For example, certain salamander egg clusters are only found between late March and late May. Wood frog chorusing only occurs between late March and May, and then only at night. Consequently, failure to find evidence of breeding must be tied explicitly to those periods during which the evidence is most likely to be available.
  - (2) Accordingly, in the case of challenges to the presumption of vernal pool habitat, the Conservation Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission may also require its own site visits as necessary to confirm the evidence.
  - (3) Should the Commission or the NHESP identify or certify a vernal pool (or habitat for rare wildlife) after a public hearing has been closed and an order or other permit issued, the Commission may reopen the public hearing and issue additional conditions to protect said areas. The public hearing may only be reopened after notification has been made to the applicant, the owner, DEP, and all abutters within 200 feet. A legal advertisement must be posted in the local newspaper at least five days prior to the public hearing. Notice must be posted on the Town Clerk's board at least 48 hours in advance of the public hearing.
- E. General performance standards. Any work within the 200-foot buffer zone to a vernal pool shall not cause a significant adverse impact to any function of a vernal pool. It shall not result in a measurable decrease in extant wildlife populations or biological community composition, structure, and species richness of the site or in the vicinity, exclusive of the present or future state of adjacent or nearby property, or impair, damage, or reduce in value for wildlife purposes, identified specific habitat features. The Commission shall take into account indirect effects, including but not limited to effects of nearby human activities, on a case-by-case basis.

### § 365-5.7. Estimated habitats of rare wildlife.

- A. If a project is within estimated habitat, which is indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetlands Wildlife published by the Natural Heritage and Endangered Species Program, a fully completed copy of the notice of intent for such project shall be sent to the Program

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via the U.S. Postal Service by express or priority mail (or otherwise sent in a manner that guarantees delivery within two days). Such copy shall be sent no later than the date of the filing of the notice of intent with the issuing authority. Proof of timely mailing or other delivery to the Program of the copy of such notice of intent shall be included in the notice of intent, which is submitted to the Commission and sent to the DEP's regional office.

- B. If a proposed project is found by the Commission to alter a resource area which is part of the habitat of a state-listed species, such project shall not be permitted to have any short-term or long-term adverse effects on the habitat of the local population of that species. A determination of whether or not a proposed project will have such an adverse effect shall be made by the Commission based on the written opinion of the Program.
- C. General performance standards. Work within areas identified as habitat for rare and endangered species shall not result in a measurable decrease in extant wildlife populations or biological community compositions, structure, and species richness of the site or in the vicinity, exclusive of the present or future state of adjacent or nearby property, or impair, damage, or reduce in value for wildlife purposes, identified specific habitat features. The Commission shall take into account indirect effects, including but not limited to effects of nearby human activities, on a case-by-case basis.

### § 365-5.8. Wildlife habitat evaluations.

- A. An evaluation of whether a proposed project will have an adverse effect on wildlife habitat beyond permissible thresholds shall be performed by an individual with at least a master's degree in wildlife biology or ecological science from an accredited college or university, or other competent professional with at least two years' experience in wildlife habitat evaluation.
- B. Wildlife habitat characteristics of inland resource areas.
  - (1) Banks. The topography, soil structure, and plant community composition and structure of banks can provide the following important wildlife habitat functions:
    - (a) Food, shelter and migratory and breeding areas for wildlife;
    - (b) Overwintering areas for mammals and reptiles.
  - (2) Land under water bodies or waterways. The plant community and soil composition and structure, hydrologic regime, topography and water quality of land under water bodies or waterways can provide the following important wildlife habitat functions:
    - (a) Food, shelter and breeding areas for wildlife;
    - (b) Overwintering areas for mammals, reptiles and amphibians.
  - (3) Vernal pool habitat. The topography, soil structure, plant community composition and structure, and hydrologic regime of vernal pool habitat can provide the following important wildlife habitat functions:
    - (a) Food, shelter, migratory and breeding areas, and overwintering areas for amphibians;
    - (b) Food for other wildlife.
  - (4) Lower floodplains. The hydrologic regime, plant community and soil composition and structure, topography, and proximity to water bodies and waterways of lower floodplains can provide the following important wildlife habitat functions:

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- (a) Food, shelter, migratory and overwintering areas for wildlife;
  - (b) Breeding areas for birds, mammals and reptiles.
- (5) Riverfront area. The topography, soil structure, plant community composition and structure, and hydrologic regime can provide the following important wildlife habitat functions:
- (a) Food, shelter, overwintering and breeding areas for wildlife, including turtle nesting areas, nesting sites for birds which typically reuse specific nesting sites, cavity trees, and isolated depressions that function as vernal pools;
  - (b) Migratory areas along the riparian corridor, including the movement of wildlife unimpeded by barriers within the riverfront area.
- C. The Commission shall give special attention to inclusion of those topographical and ecological features that it deems important for maintaining the wildlife habitat value of the resource. The potential presence of rare or endangered species and their specific sensitivity to adjacent upland resource activity shall be considered in determining adjacent upland resource restrictions. Evidence of the presence of such species or evidence of likely habitat shall be considered by the Conservation Commission. Prior designation of rare or endangered species habitat by the Division of Fisheries and Wildlife Natural Heritage Program is not necessary. The Commission may consult with the Division of Fisheries and Wildlife Natural Heritage Program or other authorities as it deems necessary for guidance and recommendations.
- (1) Wildlife studies have shown that direct impacts from work, filling, grading, vegetation removal, construction of barriers to movement, etc. in resource areas can severely harm wildlife populations. For example, low stonewalls bisecting a resource area can prevent amphibians that live in upland areas from reaching breeding pools, marshes, and streams. ~~Or,~~ or removal of large snags (dead trees) can virtually eliminate nesting by barred owls, pileated woodpeckers, mink, etc. Accordingly, the Commission shall prohibit the placement ~~offences of~~ fences or other barriers to wildlife movement within and between resource areas and the destruction of specific habitat features.
  - (2) Examples of protected habitat features include (but are not limited to):
    - (a) Large cavity trees.
    - (b) Snags (standing dead or dying trees).
    - (c) Turtle nesting areas.
    - (d) Existing nest trees for birds that reuse nests.
    - (e) Beaver dams, dens, and lodges.
    - (f) Mink or otter dens.
    - (g) Vernal pools.
    - (h) Vertical sandy banks.
    - (i) Migration corridors that provide connectivity between wildlife habitats (i.e., continuous vegetated pathways).
    - (j) Sphagnum hummocks and pools suitable to serve as nesting habitat for salamanders

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- (3) Indirect impacts—, the effects of human activities near wildlife habitat—, can have equally harmful effects. Therefore, the Commission shall take into account indirect effects on a project-by-project basis. For example, no work within resource areas shall be permitted within 100 feet of existing beaver, mink or otter dens, or within 200 feet of existing osprey or great blue heron nests.
- (4) The Commission will evaluate the likely cumulative impact of work within resource areas. For wildlife habitat purposes, a "significant cumulative adverse impact" is defined as an impact that would under reasonable assumptions result in a measurable decrease in the extant wildlife populations or biological structure, composition, or richness on the site or in the vicinity, taking into account the projected impacts of future projects that could be proposed in the vicinity with similar, comparable, or other significant impacts and disturbance. For example, any approved fence must have an eight-inch gap between its bottom and the surface upon which it rests.

### ARTICLE VI Additional Regulations

#### § 365-6.1. Projects on slopes 8% or greater.

For projects occurring on slopes of 8% or greater, the wetland buffer zone shall extend to 500 feet from the edge of wetlands to provide needed additional protection. Per the Town of Sturbridge Zoning Bylaw, § 300-4.1E, "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~~Wetlands Protection Act without prior Conservation Commission reviewing and issuing of an order of conditions".

#### § 365-6.2. Tree cutting.

(See also § 365-3.4B regarding letter permits).

- A. Trees and other vegetation provide the following benefits to resource areas and to homeowners: they stabilize banks and soils and help provide erosion control to resource areas; they provide shade and help to absorb sound and heat from buildings and paved areas; they stabilize the thermal properties of nearby water resources; they provide natural buffers along waterways and enhance water quality by trapping and filtering pollutants; they slow runoff, which helps groundwater recharge; ~~filters,~~ filter nonpoint source pollution and reduces flooding, erosion, and stream sedimentation; they protect fish and wildlife habitat; they revitalize threatened and degraded resource areas; they provide habitat for many species of wildlife and provide many other functions. As such, the Commission strongly encourages retaining trees and vegetation in their natural state within the 200-foot buffer to any resource area. Trees should be retained along and around the resource area as much as possible.
- B. Should trees or vegetation need to be altered or removed, the following guidelines shall apply:
  - (1) No disturbance of trees or other vegetation is allowed within the first 25 feet to any resource area. A tree removal permit application may be filed for the removal of a tree if it is hazardous, dead or documentation can be provided that the tree is diseased or in poor health. The Commission may allow the removal of a healthy tree, but requires mitigation in the form of replacement in such situations.
  - (2) For the proposed cutting of trees or more than 10% of the vegetation within the 100-foot buffer zone, a request for determination must be filed. Likewise, the cutting of trees or more than 10% of the vegetation within the 100- to 200-foot buffer will require the filing of a bylaw permit application. Should a permit be issued, the following best management practices shall be required:

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- (a) No stumps shall be removed within the first 50 feet to a resource area. Stumps may be ground below the surface and loamed and seeded.
  - (b) Plans for removal of trees or vegetation on slopes must also contain plans to replace the erosion control values being lost. Tree or vegetation removal will only be allowed if there is not an increased risk of erosion to resource areas.
  - (c) Tree removal within the first 50 feet of any resource area will only be allowed if there is not a significant change to the canopy.
- (3) Tree cutting, or any other work, within areas designated as estimated habitat for rare and endangered species by the Natural Heritage and Endangered Species Program, must be permitted through NHESP as well as through the Commission.

### § 365-6.3. Docks.

Any person placing a float, raft or mooring into any body of water within Sturbridge must apply for and obtain a permit as follows:

- A. Any floats, docks or rafts secured to the bottom of the lake either through piles or other permanent measures must obtain a permit from the Department of Environmental Protection, Worcester, MA. Additional permitting must be obtained from the Army Corps of Engineers, if the project includes any filling or dredging at any level. This includes adding stone or removing bottom soils.
- B. Any temporary or seasonal floats, rafts, docks or moorings must be permitted through the Board of Selectmen as Harbor Master under the Massachusetts Public Waterfront Act, (MGL c. 91, § 10A).
- C. All docks, floats, moorings or rafts which require excavation of any type for installation of footings or other means of securing the structure must be brought before the Commission for permitting using the permit application appropriate to the scope of work involved.

## ARTICLE VII Application Requirements

### § 365-7.1. Application completion.

- A. An application will be considered complete and a public hearing scheduled when the following have been submitted:
  - (1) Two copies of the notice of intent or request for determination or other permit application filed and all plans and supporting documents to the Conservation Commission office.
  - (2) Electronic version of all plans and documents.
  - (3) One copy of the following:
    - (a) Filing fee calculation worksheet.
    - (b) Notice of intent fee transmittal form.
    - (c) Affidavit of service.
    - (d) Finance Department release form.



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- (4) Where applicable, one copy of the check for state share of filing fee, check or money order for Town share of filing fee, and check or money order for Town bylaw filing fee, payable to the Town of Sturbridge.
- B. The Conservation Agent or Administrator will determine the completeness of the application based upon the application checklist available on-line and whether all required documentation has been provided. The public hearing will not be scheduled and the twenty-one-day requirement to open a public hearing will not begin until a complete application has been submitted. The applicant will be notified if the application is incomplete and provided with a list of the additional information that is required in order for the application to be accepted as complete. For minor projects, the Administrator or Agent may schedule a public hearing even if the application is not complete, with the understanding that the additional information will be submitted prior to the start of the public hearing.
- C. PLEASE NOTE: The applicant should keep one complete copy of all plans and documents.

### § 365-7.2. Necessary and supporting information for application.

The following information must be included as part of the application, plans and supporting documents prior to the start of the public hearing:

- A. Completed application forms:
- (1) DEP file number and comments (supplied by the DEP).
  - (2) Site plan, two paper copies plus electronic version.
  - (3) Plans must meet the following requirements: (See also § 365-7.6):
    - (a) Must be to scale, dated, signed and stamped by a certified engineer.
    - (b) Must include original and revision dates, and identifying plan numbers.
    - (c) Must be clearly marked with resource area delineation showing flag or stake numbers.
    - (d) Must show restoration and mitigation areas.
    - (e) Must show both pre-construction and final.
  - (4) Drainage calculations with supporting information, if applicable.
  - (5) Copy of relevant section of the USGS topographic map showing the project site.
  - (6) Title V compliance must be documented, septic system and reserve locations must be shown.
  - (7) Affidavit of service.
  - (8) Proof of notice to appropriate state boards.
  - (9) Proof of notification to abutters at least seven days prior to public hearing.
  - (10) Signed, dated, copy of form used to notify abutters.
  - (11) Town share of application fee, photocopy of state fee check, and filing fee transmittal sheet.
  - (12) Finance Department ~~signoff~~sign-off sheet notifying the Conservation Commission that the property taxes are paid to date.
- B. Upon receipt of complete application, the Conservation Agent or Administrator will provide the applicant with a legal advertisement. It is the responsibility of the applicant to post the legal

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advertisement in the Southbridge News seven business days prior to said hearing. The applicant is responsible for the cost associated with the posting of the legal advertisement.

### § 365-7.3. Notification to abutters.

Notification to abutters must be conducted as follows. The applicant is responsible for the following tasks:

- A. Obtaining a certified abutters list for conservation purposes from the Assessor's office.
- B. Preparing a notification to abutters form and mailing said notification to each abutter on the certified abutters list.
- C. Providing certificates of mailing or certified mail green cards to the Commission at the time the public hearing is opened.

### § 365-7.4. Filing with DEP Wetlands Division.

- A. A copy of the notice of intent, plans, and supporting documents must be sent to the DEP Wetlands Division:

MassDEP - CERO  
Wetlands and Waterways  
8 New Bond Street  
Worcester, MA 01606

- B. Copies of the checks payable to the Town of Sturbridge and the Commonwealth of Massachusetts shall be provided in the project application.

### § 365-7.5. Filing with DEP - Lock Box.

The following shall be filed with the DEP - Lock Box (P.O. Box 4062, Boston, MA 02211):

- A. One copy of the notice of intent fee transmittal form
- B. A check made payable to the Commonwealth of Massachusetts.

### § 365-7.6. Minimum requirements for submitted plans and drawings.

Plans and drawings submitted to the Conservation Committee shall meet the following minimum requirements:

- A. The drawings shall be of a size and scale suitable to show in readable detail all the elements of the project and all resource areas within 200 feet of said project. In no event shall a drawing be less than 8 1/2 inches by 11 inches.
- B. Scale shall be one inch equals 20 feet or as appropriate for the project as determined by the Agent.
- C. The following items shall be clearly shown on the drawings:
  - (1) The boundary of all wetland resource areas;
  - (2) The twenty-five-foot, fifty-foot, 100-foot and ~~the~~ 200-foot buffer zones around wetland resource areas;

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- (3) All proposed or ongoing work activities within the wetland area or buffer zone. Both the project location and the limits of work shall be clearly defined;
  - (4) Natural conditions, including but not limited to vegetation, soils, slopes and other natural resources on site, such as stone walls, within 200 feet of the limits of disturbance, whether on the lot or not;
  - (5) Topography;
  - (6) Existing conditions, including, but not limited to, buildings, tree line, stormwater system;
  - (7) Proposed conditions, including, but not limited to, buildings, site drainage and building drainage;
  - (8) Location of water supply and wells, as well as distance to nearest septic system;
  - (9) All utilities labeled on the plan; this shall include utility poles;
  - (10) All structures within 200 feet of the associated resource area(s);
  - (11) Planting plans.
- D. All pertinent distances shall be dimensioned. The Commission will not rely on scaling. If any distances are omitted or unclear, the applicant will be required to provide the dimensions and amend the drawings.
- E. All distances shall be exact. The following tolerances will be assumed unless noted otherwise on the drawings:
- (1) Foot dimensions - plus or minus three inches.
  - (2) Inch dimensions - plus or minus one quarter of an inch.
  - (3) For compound distances, the smallest tolerance applies.
  - (4) Approximate distances - plus or minus two feet.
  - (4) For example, a dimension marked "(50)" will be assumed to be 50 feet +/- 3 inches. A dimension marked "(50' 6")" will be assumed to be 50 feet six inches +/- 1/4 inch. A dimension marked "(50' +/-)" shall be assumed to be within 48 feet to 52 feet. The most stringent dimension shall be used for Commission purposes.
- F. All drawings shall be signed and dated by a certified engineer, who shall be responsible for the accuracy of the drawing.
- G. The Commission reserves the right to require revised drawings if significant changes are required either as a result of error or of changes in the scope of the project.
- H. In the event of questions or conflicts between verbal information and the drawing, the drawing shall govern.

If you have any questions you may call the Conservation Department Office at 508-347-2506, or email the Commission at [conservation@Town.sturbridge.ma.us](mailto:conservation@Town.sturbridge.ma.us).

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### ARTICLE VIII Replication Requirements

#### § 365-8.0. Findings and general requirements.

From 310 CMR 10.00 and the Massachusetts Audubon Guide to Understanding and Administering the Massachusetts Wetlands Protection Act, adapted for the Town of Sturbridge ~~Wetland~~Wetlands Bylaw Regulations.

- A. The Executive Office of Environmental Affairs has declared a "No Net Loss of Wetlands Policy" as part of the decision-making strategy for the State of Massachusetts. The Sturbridge Conservation Commission and DEP have determined that, based on the low rate of success in replicating wetlands and to conform to the "No Net Loss of Wetlands" ~~policy,~~ Policy, resource area alteration will only be allowed under the following circumstances:
- (1) When overwhelming evidence indicates there are no other practicable alternatives.
  - (2) When alteration of a resource area serves overriding public interests.
  - (3) When unavoidable impacts are minimized to the greatest extent possible.
  - (4) When compensation is provided at a minimum ratio of 2:1.
  - (5) When there will be no alteration to estimated wildlife habitat or vernal pools, whether certified or identified.
- B. It should be understood by all applicants that a third-party consultant will be required to verify both the proposed replication plan prior to approval and the success of the final replication area prior to issuance of a certificate of compliance.
- C. All replication and mitigation areas will be monitored for a minimum of five years or until such time that the Agent or other qualified party certifies that the replication area is properly functioning as a wetland. As a general rule, certificates of compliance will not be issued for any part of any project which required replication or mitigation until after the five-year monitoring has been completed.

#### § 365-8.1. General performance standards.

- A. Proposed replication plans, including associated construction work plans, shall be approved by the Sturbridge Conservation Commission.
- B. All replication work shall be supervised or conducted by a professional wetlands scientist with experience in wetland replication. Said specialist shall be retained to monitor the project until the replication area conditions are confirmed successful by the Commission. Success is defined as a planting where at least 80% of the vegetation has successfully taken.
- C. A certificate of compliance will only be issued after monitoring shows that the replication area has succeeded for a minimum period of five years.
- D. The proposed replication project must meet or exceed the following standards:
- (1) The surface of the replacement area to be created shall be, at the absolute minimum, twice that of the area that will be impacted;
  - (2) The ~~ground-water~~groundwater and surface elevation of the replacement area shall be approximately equal to that of the impacted area, and documented in the replication plan;

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- (3) The overall horizontal configuration and location of the replacement area with respect to the bank shall be similar to that of the impacted area;
  - (4) The replacement area shall have an unrestricted hydraulic connection to the same water body or waterway associated with the impacted area;
  - (5) The replacement area shall be located within the same general area of the water body or reach of the waterway as the impacted area;
  - (6) The replacement area shall be established with indigenous wetland plant species within five growing seasons, and, prior to vegetative reestablishment, any exposed soil in the replacement area shall be temporarily stabilized to prevent erosion in accordance with currently accepted standard methods;
  - (7) The replication area should be required to be created (whenever possible) prior to the destruction of the wetland being altered, or, if soils and wetlands plants are being transferred, the wetland replication should take place prior to the start of the remaining work on the site (i.e., if a driveway to a private home is being installed, and a wetland will be filled for this purpose, the wetland should be replicated prior to the construction of the driveway access, etc.);
  - (8) The replacement area shall be provided in a manner which is consistent with all other general performance standards for each resource area in Part III of 310 CMR 10.00;
  - (9) The seasonal elevation of groundwater must be verified in wetland replication areas once the proposed replication areas have been excavated to base grade;
  - (10) No filling of any wetland area may begin until preparation of its compensatory resource area has been completed, is ready to receive soils from the altered area and all wetlands soils have been removed from the fill area;
  - (11) Monitoring reports are due to the Commission on at least June 1 and November 1 of each year of monitoring. Such reports shall include a wetlands scientist's assessment of progress and recommendations for enhancement, if any;
  - (12) Replication areas which have not shown signs that they will likely succeed within three years shall be required to be re-engineered and re-constructed.
- E. A bond of an amount deemed by the SCC to be sufficient to cover the cost of re-design and construction may be required by the CC. This money shall be held by the Town Treasurer until such time that the CC determines the replication is successful, at which time the CC shall release the funds. In the event that replication continues to be unsuccessful, the CC may use these funds towards further replication efforts.

### § 365-8.2. Riverfront resource area restoration and mitigation.

- A. In addition to the guidelines for resource area restoration and mitigation outlined in Article V of these regulations, the Commission may allow/require on-site restoration of riverfront areas in exchange for approving additional development within already disturbed areas. Redevelopment of disturbed areas must occur further from the river than existing disturbance. Mitigation, such as preservation of additional riverfront land or improvement of an existing adverse impact on-site or within the watershed, may also be approved by the Commission.

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- B. Within the riverfront resource area, the following conditions shall always be a part of any permit:
- (1) 2:1 mitigation must be given and must not be within existing undisturbed riverfront resource area; no further disturbance of riverfront resource area will be allowed on the parcel in consideration.
  - (2) The parcel in consideration shall be considered to include any ~~sub-divided~~subdivided lots, or any parcel out of which the lots were created, including any adjacent parcels with common ownership, or any land which can reasonably be obtained.

### ARTICLE IX Forestry

#### § 365-9.1. Forest cutting plans.

- A. The Conservation Commission shall review all forest cutting plans (FCP) for timber harvests within the Town. Plans shall be reviewed for locations of wetland and stream crossings, log landing zones, haul routes, and any other aspect of the FCP that may have an impact on wetland resource areas, Sturbridge buffer zones, natural resources, wildlife habitat, and biodiversity of our community. Forest cutting plans shall be submitted to the Conservation Commission and the Board of Selectmen as required in Chapter 132 of the Massachusetts General Laws, the Forest Cutting Practices Act and the Regulations. The Conservation Agent or a designated member of the Conservation Commission shall review the plan within 10 days of receipt of the FCP (or when a site visit is possible), and advise the Conservation Commission of any concerns, and after a review by the Commission, communicate those concerns to the applicant and State Service Forester. After reviewing the response from the Service Forester, the Conservation Commission will then issue a recommendation for approval or denial to the BOS.
- B. As part of the approval process, the Conservation Commission shall protect and preserve stone walls, cellar holes, unique trees, unusually large tree specimens, wildlife habitat trees, and vernal pool habitat. Vernal pools, potential vernal pools, and areas exhibiting characteristics that would indicate they may serve as vernal pool habitat shall be protected with 100-foot reduced harvest buffer zone.
- C. The Sturbridge Conservation Commission strongly recommends the landowner seek the professional assistance of a state-licensed forester. A licensed forester has the expertise to evaluate a woodlot and prepare a plan that will meet both the goals of the landowner and manage standing timber for a sustainable harvest and a healthy forest. A forester can help you with selecting a licensed logger, and ensure that you get a competitive price for your timber. A forester can also help you with strategies to preserve your land and take advantage of certain tax benefits available to reduce your taxes on forested land. You may also want to consult the State Service Forester and your Conservation Commission.

#### § 365-9.2. Performance standards.

- A. All timber harvests over 10 acres must have a state-approved forest cutting plan (FCP). The Town of Sturbridge also requires notification for selective harvesting of timber harvest of four acres or more, or for clear-cutting of more than two acres. Refer to ~~Sturbridge General Bylaw~~ Chapter 161, Forest Harvesting, of the Town bylaws.
- B. Any timber harvest conducted without an approved FCP must conform to the Massachusetts Wetlands Protection Act, the Town of Sturbridge ~~Wetland~~Wetlands Bylaw, and their respective regulations. The landowner must file a notice of intent or a request for determination of applicability with the Conservation Commission. Note: Exemptions for work in wetland resource areas and buffer

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zones allowed under the Forest Cutting Practices Act and a valid FCP are not allowed under the ~~Wetland~~Wetlands Protection Act.

- C. Timber harvests shall conform to all required best management practices (BMP) found in the newest version of the DCR Best Management Practices Manual. The harvest shall also conform to guidelines found in the BMP Manual as appropriate for the particular situation.
- D. Harvesting shall only be done when the ground is dry, frozen, or otherwise stable.
- E. A FCP may not be used when a change of use of the land is planned. For instance, a FCP cannot be used to clear a lot for a single-family home.
- F. All bridges and temporary wetland crossings shall be removed at the completion of the timber harvest. Any permanent bridge structures will require a valid order of conditions issued under the local wetland bylaw and WPA regulations. Corduroy may remain in place where appropriate.
- G. Landings and roads shall be left in a stable condition at the completion of the timber harvest. All ruts shall be repaired, filled, smoothed and flattened, whether in wetlands, buffer zones, or upland areas of the harvest. Seeding as appropriate to stabilize soils.
- H. If invasive plants are found during the logging operation, the logger may be required to take corrective action to control or eradicate the invasive plants.
- I. Slash and snags may be left in the harvest area to serve as habitat and to allow return of nutrients to the forest ecosystem.

### ARTICLE X

#### Post-Hearing Requirements

##### § 365-10.0. Appeal period.

- A. After a permit is issued by the Commission:
  - (1) There is a ten-day appeal period when the applicant or abutters can appeal the decision of the Commission to the State DEP in cases where hearings relate to the ~~Wetland~~Wetlands Protection Act or other state regulations.
  - (2) There is a sixty-day appeal period when an applicant or abutters can appeal a decision of the Commission under the Sturbridge Wetlands Bylaws to Superior Court, in cases of hearings where hearings relate to the Town of Sturbridge Wetlands Bylaw. In most cases, both sets of regulations will apply.
- B. For more information on ~~Wetland~~Wetlands Protection Act appeals, please see 310 CMR 10.05(7), "~~Requests for Actions by the Department (Appeals)~~".

##### § 365-10.1. Post-hearing start-up requirements.

- A. Sedimentation and erosion control.
  - (1) Sedimentation and erosion controls shall be installed in such a manner that no sediment or erosion enters any resource area or leaves the property in any way. During heavy rainstorms, uncontrolled erosion and sedimentation often travel off properties and down roadways into catch basins and nearby wetlands unchecked, creating impacts to Town infrastructure and pollution of nearby resource areas. As such, erosion control will be required for all areas where the potential for ~~downgradient~~down-gradient impact exists.

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- (2) Failure to contain and control sedimentation and erosion on-site and out of resource areas and restricted buffers will result in a cease and desist order. All work on-site will be stopped until erosion control barriers are corrected and sediments removed from resource areas, restricted buffer areas or impacted off-site areas.
- B. Requirements to be met prior to start of work. Requirements which must be met prior to the start of work shall include but not be limited to the following:
- (1) Record the order of conditions at the Worcester County Registry of Deeds and furnish the Conservation Department with proof of recording.
  - (2) Post the DEP file number on a sign in a location clearly visible from the road, showing DEP File #300-XXX. Per DEP regulations, this sign must be no smaller than 24 inches by 24 inches, and no larger than 36 inches by 36 inches. For a letter permit issued through the SCC, this sign would read "SCC ## - ##".
  - (3) Install the erosion controls as indicated on the plan.
  - (4) Contact the Conservation Department for a pre-construction meeting to:
    - (a) Review order of conditions.
    - (b) Verify erosion controls are installed properly.
    - (c) Ensure all pre-start conditions have been met or addressed.
    - (d) Confirm all contractors understand the order of conditions.
    - (e) Obtain contact information for all responsible parties.