

## TOWN OF WINCHENDON – FINAL DRAFT, ZONING BYLAW

*This draft is up-to-date through the May 15, 2023, Annual Town Meeting.  
This red-line version of the Draft is for review purposes only. While it reflects the content of the new Town Code it does not accurately reflect the final formatting of the Code. The PDF version of this Final Draft shows the formatting of the Code as it will appear when published.*

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## **Chapter 300 - ZONING**

**[HISTORY: Adopted by the Town Meeting of the Town of Winchendon 5-22-2006. Amendments noted where applicable.]**

### **ARTICLE I - Introduction**

**[Amended 5-19-2008]**

#### **§ 300-1.1. Findings and intent.**

##### **A. Findings.**

- (1) In the early years of the United States, the perception of the vast spaces of the country allowed landowners in their log cabins remote from civilization to do pretty much as they pleased with their properties, and zoning was not of much interest. However, the desire to have access to the goods, services and functions of civilization (e.g., water, sewage, health care and so forth) overcame the desire for unfettered freedom. As long as individual pursuit of goods, services and functions did not impact their neighbors any more than their neighbors' pursuit, all was relatively copacetic. People cooperated with their neighbors before building or planting for the sake of community.
- (2) Unfortunately, over time, people began to abuse the cooperative spirit for individual gain. Polluting factories were constructed in the middle of dense urban residential areas. Zoning was first enacted to counteract the health implications of these incompatible land uses in 19th century England. Zoning has thus been inclined to regulate land uses rather than the direct cause of the pollution or impact.
- (3) In more recent times, the sophistication of technology has enabled zoning to directly manage the actual impacts and performance of a given landowner or user upon his/her neighbors, recognizing this as more directly what is objectionable to the neighborhood. One could imagine, for instance, a beautiful clock factory building that would not pollute or adversely affect its neighbors and might in fact employ much of the neighborhood within walking distance increasing both land appeal and value, but zoning by land use alone would probably disallow this type of admittedly rare arrangement.

##### **B. Mission.**

- (1) This bylaw is thus enacted to encourage the most appropriate use and performance of land throughout the Town, to eliminate or mitigate the adverse impacts of this use, to conserve the value of land and buildings, to preserve and protect lakes, streams, wetlands, aquifers, watersheds and other environmental resources of the Town, to provide careful recognition of variable soil conditions throughout the Town, to prevent overcrowding of land, to preserve the historical character of the Town and to preserve and increase amenities so that all citizens shall have access to the fruits of living in Winchendon and to a quality of life that they choose without preventing their neighbors from doing the same.
- (2) It is the intention of this bylaw to encourage practices which will make Winchendon a sustainable community. These include practices that will contribute to the reduction of global warming, discourage the generation of greenhouse gases and encourage their absorption, discourage unnecessary energy use, and encourage the use of renewable energy sources.
- (3) This bylaw is enacted with reasonable consideration for the Town's unique physical characteristics and its unique suitability for particular uses with a view toward providing

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direction to the land development policies and proposals of the Planning Board, including making the Town of Winchendon a more viable and more pleasant community in which to live, work and play, consistent with the objectives laid forth in the Master Plan for the Town of Winchendon, including its rural character and easy access to modern amenities.

### **§ 300-1.2. Authority.**

This bylaw is enacted under rights of local self-government granted by the Massachusetts Constitution and by the authority granted under Chapter 40A of the General Laws of Massachusetts and any amendment thereto.

### **§ 300-1.3. Title.**

This bylaw shall be known and may be cited by the title: "Winchendon, Massachusetts Zoning Bylaw."

### **§ 300-1.4. Basic scope and application.**

All buildings and structures hereafter constructed, reconstructed, altered, enlarged or moved, and all uses of land, premises, buildings and structures within the Town of Winchendon shall be in conformance with the provisions of this bylaw.

### **§ 300-1.5. Bylaw outline; appendices; copies of bylaw.**

- A. The structure of the bylaw is as follows: Article I serves as the introduction to the bylaw. Article II contains the definitions of terms used in the bylaw. Articles III and IV concern zoning districts and special zoning districts, respectively. Article V deals with principal land uses. Article VI takes up accessory, nonconforming and other special buildings and uses. Articles VII through X deal with site considerations. Article VII deals with dimensional and density requirements for lot layouts. Article VIII treats parking and traffic considerations. Article IX discusses signage. Article X deals with the removal and handling of natural materials on a given site. Article XI provides a flexible means for residential development while also preserving open space in conformity with the objectives of the Master Plan. Article XII deals with on-site considerations through requirements for site plan approval. Finally, Article XIII deals with the remaining legal and administrative issues.
- B. The Planning Board is authorized, after a public hearing as provided in MGL c. 40A, § 11, to adopt, by simple majority vote, appendices that may be included after this bylaw. These will not be legally binding but will serve as clarifications and guidelines for those interpreting the bylaws. The appendices may originate from material that changes over time, such as the Institute of Transportation Engineers (ITE) tables. Developers should make sure to use the most up-to-date version of the sources referenced.
- C. The Department of Planning and Development shall keep up-to-date copies of this zoning bylaw available to and accessible by all the citizens. Copies shall be available for sale. Every attempt, within reason and within reasonable cost, shall be made so that such copies are identical to the definitive reference in the Town Clerk's office at the Town Hall.

## **ARTICLE II - Definitions**

### **§ 300-2.1. Terms defined.**

This section is intended to provide definitions of terms used in the bylaw that might require clarification or might have unusual or restrictive usage or meaning specific to urban planning, zoning or this bylaw in particular.

**ACCESS** — An unobstructed means of vehicular entry to or exit from a lot.

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**ACCESSORY BUILDING** — A subordinate or secondary building situated on the same lot or parcel with a principal building, the use of which is customarily incidental to that of the main building or land use. (See Figure A.6.3.)

- A. **ACCESSORY APARTMENT** — A dwelling unit constructed within an existing house. It is a unit containing a bathroom (a minimum of a toilet, wash basin, and shower), kitchen and living/bedroom space. An accessory apartment must be subordinate to the principal household and must have an entrance-exit way independent of the principal household.
- B. **ACCESSORY DWELLING UNIT** — A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and bathroom (a minimum of a toilet, wash basin, and shower) which is an attached or detached extension to an existing single-family structure.
- C. **ACCESSORY USE** — A use subordinate to and customarily incidental to the principal use.

**ADDITION** — Any construction which increases the size of a structure or building in terms of site coverage, height, length, width or gross floor area.

**ADULT USE ESTABLISHMENT** — An establishment which features entertainment or materials of or relating to "sexual conduct", "nudity" or other "matter", as these terms are defined in MGL c. 272, § 31; includes adult live entertainment, motion-picture theaters, retail and other adult uses.

- A. **OBSCENE ENTERTAINMENT** -- All entertainment which may be considered "obscene" as this term is defined by MGL c. 272, § 31.

**ANIMAL FEED LOT** — A plot of land on which 10 or more livestock per acre are kept for the purposes of feeding.

**ANTENNA/WIRELESS DEVICE** — See "wireless communications."

**APARTMENT** — See "dwelling."

**APPLICANT** — A person or persons, including a corporation, trust, or other legal entity, who apply for issuance of a permit in accordance with this bylaw.

**AQUIFER** — A geological formation, group of formations or part of a formation which contains sufficient saturated permeable material to yield significant quantities of potable groundwater to public or private wells.

**ASSISTED-LIVING FACILITY** — A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. Such a facility may include a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

**AUCTION** — See "gallery."

**AUTO BODY SHOP** — A facility which provides collision repair services, including body frame straightening, replacement of damaged parts, and painting.

**BED-AND-BREAKFAST** — See "country inn."

**BEDROOM** — A separate room intended for, or customarily used for, sleeping.

**BIG BOX RETAIL** — A retail facility, usually a chain store, with a floor area greater than 15,000 square feet. The facility is normally a single-story box-shaped building with a large parking lot.

**BOARD; PLANNING BOARD** — The Planning Board of the Town of Winchendon.

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**BOARDINGHOUSE** — Any dwelling in which more than three persons not members of the family reside on the premises, either individually or as families, are housed or lodged for hire with or without meals. See "dwelling."

**BUFFER ZONE** — A strip of land, identified in the Zoning Bylaw, established to protect one type of land use from another. An example is a dense, wide screen of vegetation around a commercial or industrial area to insulate the commercial or industrial area from an adjacent but incompatible residential area.

**BUILDING** — Any structure erected for the support, shelter or use of animals, goods, persons or property.

**BUILDING COVERAGE** — A percentage figure referring to that portion of a lot covered only with principal and accessory buildings.

**BUILDING COMMISSIONER** — The building official empowered to enforce the Massachusetts State Building Code and also construed to be the Building Commissioner for Winchendon.

**BURDEN** — The undue externalization of costs from where they are incurred; the raising of costs to the Town or other entities without paying for those costs over time to cover the full and incidental costs incurred, including imputed value loss based on undesirable or inappropriate development and extra maintenance or security costs associated with development.

**BUSINESS CENTER** — The following three locations are deemed to be business centers: corner of Central Street and Grove Street; corner of Main Street and Alger Street; corner of Glenallan Street and Maple Street.

**CAMPGROUND** — An area or place operated commercially and used for a camp, camping or for a camp meeting.

**CARRIER** — See "wireless communications."

**CO-LOCATION** — See "wireless communications."

**CONDOMINIUM** — A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities maintained by a homeowners' association. The homeowners' association is subject to the provisions of applicable state and local laws.

**CONFORMING USE** — The use of buildings, structures or land which fully meets the use, density and dimensional requirements of the zoning district wherein located.

**CONSTRAINTS** — Limitations.

**CONTIGUOUS** — Connected. In the case of required open space, the connection shall be not less than 100 feet wide. Open space will be considered connected if it is separated by a roadway or accessory amenity.

**CONTRACTOR'S YARD** — A facility used for the provision of general contracting services associated with business, which may include office and workshop areas and areas for the storage of equipment, including but not limited to motorized vehicles, machinery, and/or materials used in association with the contractor's business.

**CONVENIENCE STORE** — Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.

**CONVERSION** — Changing the original purpose of a building to a different use.

**COUNTRY INN** — Premises with individual sleeping or dwelling units, with a common kitchen and dining area for all guests.

**COVENANT** — A private legal agreement on the use of land, contained in the deed to the property or otherwise formally recorded (cf. constraints and restrictions).

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**DEDICATION** — The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of an other-than-fee interest, including an easement.

**DENSITY, GROSS** — The quotient of the total number of dwelling units divided by the area of a site.

**DISPOSAL** — The deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

**DRAINAGE** — The removal of surface water or groundwater from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

**DWELLING** — Any building or portion thereof which is designated or used for residential purposes.

- A. **APARTMENT** – A dwelling unit in a building.
- B. **DWELLING, MULTIPLE-FAMILY ATTACHED** – Three or more adjoining dwelling units. (See Figure A.3.1.1.)
- C. **DWELLING, MULTIPLE-FAMILY APARTMENTS** – A building with three or more apartments. See apartment. (See Figure A.3.1.1.)
- D. **DWELLING, SINGLE-FAMILY DETACHED** – A dwelling designed for and occupied by not more than one family and having no roof, wall or floor in common with any other dwelling unit. (See Figure A.3.1.1.)
- E. **DWELLING UNIT** – A single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- F. **EFFICIENCY UNIT** – A single dwelling unit providing living quarters for not more than two persons.

**EASEMENT** — Authorization by a property owner for use by another for a specified purpose of any designated part of his/her property.

**EROSION** — The detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

**EXTENSIVE USE** — Large-scale, expansive, outdoor use of land associated with agriculture, conservation or recreation.

**EXTERIOR STORAGE** — Outdoor storage of fuel, raw materials, products and equipment. In the case of lumberyards, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds and truck trailers stored outdoors.

**FABRICATION** — Manufacturing process in which an item is made (fabricated) from raw or semi-finished materials instead of being assembled from ready-made component parts. The product may be part of or a finished item.

**FAMILY** — One or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal arrangements.

**FILLING** — The depositing on land, whether submerged or not, of sand, gravel, earth or other materials of any composition whatsoever.

**FLOODPLAIN** — Floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous with a lake, pond, stream, river or river bed whose elevation is greater than the

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normal water pool elevation but equal to or lower than the projected one-hundred-year flood elevation. Inland depressional floodplains are floodplains not associated with a stream system but which are low points to which surrounding lands drain.

**FLOOR AREA** — The sum of the gross floor area for each of a building's stories measured from the exterior limits of the faces of the structure, but not including unfinished basements and attics.

**GALLERY (AUCTION)** — Site open to the public for use, display and/or sales of art, furniture, and other goods, sold or auctioned.

**GARAGE, COMMERCIAL** — A deck or building (or part thereof) used or intended to be used for the parking and storage of any number of motor vehicles for a fee.

**GARAGE, PRIVATE** — A building (or part thereof) used or intended to be used for the parking and storage of not more than four motor vehicles.

**GAS STATION** — A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide vehicle servicing, minor repairs, and maintenance, but not reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, or painting of automobiles (cf. convenience store).

**GO-CART** — A four-wheeled, single-occupant vehicle, which is not more than 74 inches long, with tires not larger than 12 inches in external diameter, and powered by an internal combustion engine not greater than 300 cubic centimeters ("300 cc") displacement. So called "all-terrain vehicles" are excluded from this definition.

**GO-CART/OFF-ROAD MOTORCYCLE RACETRACK** — A facility for competition and use of go-carts and off-road motorcycles.

**GROUNDWATER** — All the free flowing water beneath the surface of the ground.

**GVW** — The gross vehicle weight rating established by a manufacturer when applied to a motor vehicle, trailer, semi-trailer or semi-trailer unit, including the gross combination weight rating, if any, when applied to a semi-trailer unit or to a tractor-trailer combination.

**HAZARDOUS MATERIALS** — Any substance or combination of substances that, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water in this Town. Any substance deemed a "hazardous waste" in MGL c. 21C shall also be deemed a hazardous material for the purposes of this bylaw.

**HEIGHT OF STRUCTURE** — The vertical distance measured from the mean ground elevation to the highest point of the structure.

**HOME-BASED BUSINESS** — A business, profession, occupation or trade conducted for gain or support and located entirely within a residential building, or a structure accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such a building.

**HOTEL** — Premises used as individual sleeping or dwelling units without kitchens, with primary access to each unit through enclosed corridors.

**HYDROPOWER** — Power derived from the force of energy of moving water.

**ILLUMINATION, EXTERNAL** — A projecting spotlight onto the sign, rather than illuminated from within.

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**IMPERVIOUS SURFACE** — Any hard-surfaced, man-made area that does not readily absorb or retain water. This includes but is not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

**IMPERVIOUS SURFACE, ON-LOT** — The total amount of impervious surface which is present on a lot.

**INFILL** — Development within an existing urban fabric or within similar existing development.

**INTENSITY** — The density or degree to which access to services and functions is available in a given location; e.g., Main Street has a relatively high intensity, and a large rural farm has a low intensity.

**INTENSIVE USE** — A use consisting of or requiring high access to resources such as delivery trucks, traffic, people and so forth; probably producing significantly more noise, light, traffic and other impacts than residential.

**INTERIOR WIRELESS TELECOMMUNICATION FACILITY** — See "wireless communications."

**JUNK** — Any article or material or collection thereof, which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or recycling. Any article or material which unaltered or unchanged or with only minimal reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD** — The use of any area of any lot, whether inside or outside a building, for the storage, keeping or abandonment of junk or scrap or discarded materials or the dismantling, demolition or abandonment of automobile(s) or other vehicle(s) or machinery or parts thereof.

**KENNEL STRUCTURE** — A structure which consists of a building, other than a dwelling, and/or one or more fenced enclosures where pets (dogs, cats, etc.) are kept. A "kennel" as used in the General Bylaws or in Chapter 140 of the Massachusetts General Laws is not regulated by the Zoning Bylaw and is not the same as a "kennel structure" as used in the Zoning Bylaw.

- A. **KENNEL STRUCTURE, COMMERCIAL** – A structure where pets (dogs, cats, etc.) owned by a nonresident are temporarily boarded for hire.
- B. **KENNEL STRUCTURE, HOBBY** – A kennel structure which is accessory to a dwelling where pets are kept for the personal enjoyment of the occupants of the residence and commercial gain is not the primary objective.
- C. **KENNEL STRUCTURE, NONPROFIT** – A kennel structure where animals (dogs, cats, etc.) are boarded by a nonprofit [501(c)3] animal rescue league or similar organization.

**LAND TRANSPORTATION PASSENGER TERMINAL FACILITY** — A facility at which passengers may board or alight from vehicles such as taxis, buses or limousines. Such facility may provide accessory services, including waiting rooms, ticket sales, baggage handling, handling small amounts of goods carried on vehicles which primarily carry passengers, parking, and other amenities.

**LEACHING WASTES** — Waste materials, including solid wastes, sewage sludge and agricultural wastes, that are capable of releasing water-borne contaminants to the surrounding environment.

**LICENSE GRANTED UNDER MGL c. 140, §§ 59 AND 59A**

- A. Class 1: Refer to MGL c. 140, § 58.
- B. Class 2: Refer to MGL c. 140, § 58.
- C. Class 3: Refer to MGL c. 140, § 58.

**LOT** — A continuous parcel of land undivided by any street or private road. (See Figure A.7.2.1.)

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**LOT AREA** — The area contained within the boundary lines of a lot. (See Figure A.7.2.1.)

**LOT FRONTAGE** — Lot width measured at the street lot line and providing access to the lot. When a lot has more than one street lot line, the full lot width shall be required from at least one such street line. (See Figure A.7.2.1.)

**LOT LINE** — A line bounding a lot, which divides one lot from another or from a street or any other public or private space. (See Figure A.7.2.3.)

**LOT LINE, REAR** — That lot line which is most nearly parallel to and most distant from the front lot line of the lot; in case of an irregular, triangular or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. (See Figure A.7.2.3.)

**LOT LINE, SIDE** — Any lot line other than a front or rear lot line. (See Figure A.7.2.3.)

**MAJOR WIRELESS TELECOMMUNICATION FACILITY** — See "wireless communications."

### **MANUFACTURING, GENERAL**

- A. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, including but not limited to oils, plastics, resins, etc.
- B. Fabrication of raw materials or assembly of parts or materials fabricated off site.

### **MANUFACTURING, LIGHT**

- A. The manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare and vibration resulting from the manufacturing activity are confined entirely within the building.
- B. The processing or fabrication of materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

**MILL CONVERSION PROJECT (MCP)** — The conversion of an existing mill, or portion thereof, to a mixture of residential and nonresidential uses as provided under § 300-4.2.

**MINIATURE GOLF COURSE** — A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

**MINING OF LAND** — The removal or relocation of geological materials such as topsoil, sand and gravel, metallic ores and bedrock.

**MIXED-USE ZONING** — Zoning which permits a combination of usually separated uses within a single development.

**MOBILE HOME** — A structure designed as a dwelling unit for living purposes, capable of being moved on its own wheels by a towing vehicle fixed to a temporary site on wheels, or fixed without wheels to a permanent foundation.

**MOBILE HOME PARK** — Premises which have been planned and improved for the placement of two or more mobile homes for nontransient use.

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**MOTEL** — Premises used as individual sleeping or dwelling units without kitchens, with primary access from each unit directly outdoors. The building or group of buildings may be either detached or in connected units. The term "motel" includes buildings designated as tourist courts, motor lodges, cabins and by similar appellations.

**MOTOR VEHICLE** — All vehicles constructed and designed for propulsion by power other than muscular power, including such vehicles when pulled or towed by another motor vehicle, except railroad and railway cars, vehicles operated by the system known as "trolley motor" or "trackless trolley", and shall not include motorized bicycles.

**MOTOR VEHICLE AND EQUIPMENT SALES** — Salesroom and related facilities, including but not limited to open-air display, for the sale or lease of automobiles, motorcycles, recreational vehicles and similar vehicles, boats, or light industrial or farm equipment.

**MULTIPLE-FAMILY DWELLING/STRUCTURE** — A building containing three or more adjoining dwellings units.

**MUNICIPAL UTILITIES** — Any person, firm, corporation, municipal department, or board duly authorized to furnish, and furnishing under state or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation or water, or the services provided by such entities.

**MUSEUM** — An institution devoted to the procurement, care and display of objects of lasting historical interest or value. In the normal course of its operations, a museum can be expected to host openings, small receptions, collations and similar events with or without charging a fee.

**NONCONFORMITIES** — Existing uses, structures, and/or lots that were legally established prior to the existence or change(s) in the Zoning Bylaw but which do not comply with currently existing Zoning Bylaw standards.

**NUISANCE** — Any adverse uses, infringements or impacts of land use or performance. (Appendix F)

**NURSERY** — An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels, and similar items.

**OBSCENE ENTERTAINMENT** — See "adult use establishment."

**OFF-ROAD MOTORCYCLE** — A two-wheeled vehicle for a single occupant, which has a wheelbase not greater than 54 inches, powered by an internal combustion engine not greater than 500 cubic centimeters ("500 cc") displacement, and not licensed or registered for use on public roads.

**OFFICE BUILDING** — A building used primarily for offices that may include ancillary services for office-related business.

**OFFICE BUILDING, MEDICAL** — A building used primarily by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients are kept on the premises.

**OPEN-AIR SALVAGE YARD** — Open-air storage of materials, merchandise, products or equipment needed in connection with an individual or entity engaged in the business of acquiring or owning salvage automobiles for resale in their entirety or as spare parts.

**ORCHARD** — A cultivated area of fruit trees.

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**OWNER** — The person or persons, including a corporation, trust or other legal entity, which has fee-simple ownership as evidenced by the most current record instrument at the Worcester District Registry of Deeds or Land Court.

**PARTIES IN INTEREST** — The petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Town Planning Board and the Planning Board of every abutting city or town.

**PLANNED DEVELOPMENT** — A form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases and a mix of building types and land uses.

**PRE-DEVELOPMENT LAND USE** — The state of a property prior to the current development, or a state that land, if not damaged, would return to without human impact after a large number of years.

**PREMISES** — A lot together with all buildings, structures and uses thereon.

**PRIVATE CLUB** — A building in which members of a community or association may gather for social, educational, or cultural activities.

**RECHARGE AREA** — Any area of porous, permeable geological deposits, especially, but not exclusively, deposits of stratified sand and gravel, through which water from any source drains into an aquifer, and includes any wetland or body of surface water surrounded by or adjacent to such area, together with the watershed of any wetland or body of surface water adjacent to such area.

**RECREATIONAL VEHICLE** — A portable vehicular structure designed for travel, recreational camping or vacation purposes, either having its own motor power or mounted onto or drawn by another vehicle, including but not limited to travel and camping trailers, truck campers and motor homes.

**RECREATIONAL VEHICLE, MARINE** — A vessel propelled by oars, sails, or an engine designed to float or plane, to work or travel on water, including but not limited to a boat, jet ski, personal watercraft, kayak, and canoe.

**RECREATIONAL VEHICLE, OFF-ROAD (ORV)** — A vehicle designed or modified for use for recreation or pleasure off a public way, including, but not limited to, an all-terrain vehicle (ATV), snowmobile, dirt bike, off-road motorcycle, golf cart, and all-terrain utility vehicle (i.e., Gator).

**RESEARCH LABORATORY** — A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products except those that are incidental to the main purpose of the laboratory.

**RESTAURANT, FAST-FOOD** — A restaurant whose primary business is the sale of food for consumption on or off the premises, which is:

- A. Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;
- B. Available upon a short waiting time; and
- C. Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

**RESTAURANT, STANDARD** — An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

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- A. Customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- B. A cafeteria-type operation in which food and beverages are consumed within the building, but are served at a buffet-type area and taken by the customer to a table for consumption.

### **RESTRICTIONS — Prohibitions.**

**RURAL CHARACTER** — The ability of a place to offer easy access to open space, pristine or agrarian landscapes.

**SALVAGE YARD** — A facility where secondhand motor vehicles are remodeled, taken apart or rebuilt, such as to require a license under MGL c. 140, § 59A; this includes a junkyard (see above) and also includes an automobile graveyard as defined in MGL c. 140B, § 1.

**SERVICES** — An offering or provision that is above normal minimum expectations; e.g., snow removal, water, sewer, etc.

**SIGN** — A placard, banner or other article used to advertise or inform those who can read the information thereon. See Article IX. (See Figure A.9.1.)

- A. **AREA OF** “ The entire display area of a sign. In cases of signs with faces 180° to each other, only one side shall be counted.
- B. **BLINKING** – To light intermittently.
- C. **FLASHING** – Rhythmic light and darkness at predetermined intervals.
- D. **GROUND/POLE** – A sign permanently affixed apart from and not attached to a building. A ground sign is mounted directly on the ground. A pole is a ground sign raised in the air by means of a pole. This bylaw regulates both types as the same category of signs.
- E. **INTERMITTENT LIGHTED** Light alternately ceasing and beginning again sequentially or alternately at predetermined intervals.
- F. **PROJECTING** “ A sign attached perpendicularly to the facade of a building.
- G. **TEMPORARY** “ Any sign not permanently affixed.
- H. **WALL** “ A sign attached directly against and parallel to a building facade.

**SOLAR ENERGY COLLECTION SYSTEM** — A system using photovoltaic, thermal, or other means of collecting solar energy and converting it to electricity or other forms of useful energy. Such a system will include collectors, energy transmission lines, and appurtenant devices such as transformers, inverters, pumps, storage facilities and similar devices. Necessary appurtenant structures are also included.

- A. **GROUND-MOUNTED SOLAR ENERGY COLLECTION SYSTEM** “ A system that is structurally mounted on the ground and is not roof-mounted.

**SOLID WASTE** — Useless, unwanted or discarded solid materials with insufficient liquid content to be free flowing.

**STABLE** — A building or land where horses or ponies are kept.

**STABLE, COMMERCIAL** — A stable for hire, sale, boarding, breeding, riding or show.

**STABLE, PRIVATE** — An accessory structure or land use that is designed, arranged, used or intended to be used as a stable for the exclusive use of the occupants of the premises and not for hire, sale or boarding.

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**STRUCTURE** — A building or other object constructed or erected, the use of which requires a fixed ground location, including mobile homes.

**SUBDIVISION** — The division of land into two or more lots by means of mapping, platting, conveyance, change or rearrangement of boundaries.

**THEATER** — A structure used for dramatic, operatic, motion pictures or other performance, for admission to which entrance money is received and no audience participation or meal service is allowed.

**TOWNHOUSES** — Buildings with two or more units located side by side either attached or only slightly detached. Refers to a style of housing popular in larger urban areas where land is conserved due to expense. (See Figure A.3.1.1.)

**UPLAND** — Land that is not considered a resource area pursuant to the Wetlands Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00 et seq.).

**USE** — The purpose or activity for which land or any building therein is designed, arranged or intended, or for which it is occupied or maintained.

**WALKABLE DISTANCE** — Land or lots within one mile of a business center. The distance shall be measured along the most commonly traveled public ways.

**WAREHOUSE** — Facilities characterized by storage, wholesale and distribution of manufactured goods, supplies and equipment, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

**WATERCOURSE** — Any natural or man-made stream, pond, lake, wetland, coastal wetland, swamp or other body of water and shall include wet meadows, marshes, swamps, bogs and areas where groundwater, flowing or standing surface water or ice provides a significant part of the supporting substrate for a plant community for at least five months of the year.

**WETLAND** — Those areas that are inundated and saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, including all resource areas as defined by the Wetlands Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00 et seq.).

**WIND ENERGY CONVERSION SYSTEMS** — See terms defined in § 300-6. 10C.

**WIRELESS COMMUNICATIONS** — All forms of communications that transmit and receive radiofrequency or microwave signals.

- A. **ANTENNA/WIRELESS DEVICE** — A device used to transmit and/or receive electromagnetic waves conducted through the air.
- B. **ANTENNA SUPPORT STRUCTURE** — Any frame, pole, tower, or other mechanical device to which one or more antennas are attached. Examples of antenna support structures are towers, smoke stacks, roof-mounted poles, or wall brackets.
- C. **CARRIER** — A company that provides wireless services.
- D. **CO-LOCATION** — The use of a single mount on the ground by more than one telecommunication carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- E. **BUILDING-MOUNTED EXTERIOR ANTENNA SUPPORT STRUCTURE** — Any out-of-doors antenna support structure mounted on, erected on, or supported in whole or in part by an existing building or structure occupied and/or used for purposes other than wireless communications.

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- F. FALL ZONE – The area on the ground within a prescribed radius from the base of a wireless service facility. The fall zone is the area within which there is a potential hazard from debris (such as ice) or collapsing material.
- G. FREESTANDING EXTERIOR ANTENNA SUPPORT STRUCTURE – Any out-of-doors antenna support structure consisting of any freestanding nonhabitable structure, including but not limited to monopoles, lattice towers (with or without guy wires), flagpoles, water towers, or smoke stacks.
- H. FUNCTIONALLY EQUIVALENT SERVICES – Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.
- I. INTERIOR WIRELESS TELECOMMUNICATION FACILITY – Wireless communications facilities (WCFs) that are completely inside an existing structure and therefore hidden from view.
- J. MAJOR WIRELESS TELECOMMUNICATION FACILITY – Anything that is not a minor facility. This includes new towers or facilities attached to existing structures in areas not specifically allowed under the minor facility definition.
- K. MINOR WIRELESS TELECOMMUNICATION FACILITY – Those facilities primarily attached to existing structures. Minor WCFs include those that are attached to the side of buildings or facilities on the top of buildings that extend no more than 10 feet above the highest point of a building. It includes new facilities to be collocated on existing towers, facilities to be installed on overhead cable, smokestacks, steeples, water tanks or billboards.
- L. MONOPOLE – The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for one or more arrays of antennas.
- M. MOUNT – The structure or surface upon which antennas are mounted, including the following types of mounts:
  - (1) ROOF-MOUNTED – Mounted on the roof of a building.
  - (2) SIDE-MOUNTED – Mounted on the side of a building.
  - (3) GROUND-MOUNTED – Mounted on the ground.
  - (4) STRUCTURE-MOUNTED – Mounted on a structure other than a building.
- N. WCF ACCESSORY BUILDING – A structure designed to house wireless communications equipment that is associated with one or more wireless communications facilities.
- O. WIRELESS COMMUNICATIONS FACILITY (WCF) – A system of transmission and/or reception equipment operated by an FCC licensee or a communications service installed at one location. The system includes one or more antennas mounted on an antenna support structure, a means to connect the antenna(s) to communications equipment, communications transmitting and/or receiving equipment and related equipment required for the operation of the facility. Such related equipment may be, for example, network interconnection equipment, alternate power sources, or controlling and monitoring systems.

**WORKING DAYS** — Only those days that the Winchendon Town Hall is officially open for customary business.

**ZONING ENFORCEMENT OFFICER** — The official designated by the municipality to enforce the provisions of the Zoning Bylaw. For the Town of Winchendon, the Zoning Enforcement Officer is the Building Commissioner. (See § 300-13.4.)

## ARTICLE III - Establishment of Zoning Districts

### § 300-3.1. Division into districts.

A. Within the Town of Winchendon are hereby established 12 zoning districts, seven of which comprise the total area of the Town and are contiguous, and five of which are superimposed over portions of the other seven districts.

- (1) "R" refers to a district which is principally residential. Preference is given to land use that entails the building of houses similar in character, type and size to those of the surrounding houses and the typical performance thereof. Small-scale businesses and the like can be allowed if they are not nuisances to the neighbors and burden the Town no more than the equivalent residential construction. (See Figures A.3.1.1, A.3.1.2 and Appendix F.)
- (2) "C" refers to a district which is principally commercial and light industrial. Preference is given to land use that entails the building of businesses and shops similar in character, type and size to those of the surrounding businesses and shops and the typical performance thereof. Residences may be allowed, but only if they are agreeable to, not nuisances or burdens to, and promote the commercial interests of the district. (See Figure A.3.1.3 and Appendix F.)
- (3) "I" refers to a district which is principally industrial. Preference is given to land use that entails the building of factories and large-scale commercial facilities similar in character, type and size to those of the surrounding facilities and the typical performance thereof. Since these are the least compatible with other types of development, care is given to make sure this district can hold and accommodate this intense usage and that it is sufficiently buffered and regulated to reduce impacts on neighboring districts. Residences are usually not allowed as their safety, health and freedom from nuisances cannot be guaranteed. (See Appendix F.)
- (4) "PD" refers to a district that caters to both commercial and residential use. Preference is given to facilities that are mixed use with a higher density sharing resources such as on-street parking, parks and so forth. See § 300-4.7. (Also see Figure A.3.1.4 and Appendix F.)
- (5) "OVERLAY DISTRICTS" recognize the special conditions and values prevalent in wetlands, flood-prone areas, groundwater aquifers, historic districts, and other specially designated areas. These districts are superimposed over portions of the seven contiguous, regular zones designated in the Zoning Map. Conditions and requirements of the underlying zones apply in general, with exceptions and special conditions as described in the section on each overlay district in Article IV.

B. Designations are as follows:

<b>Table 3.1. Zoning District Designations</b>	
<b>Designation</b>	<b>Title</b>
R80	Rural Residential
R40	Rural Suburban Residential
R10	Neighborhood Residential
C1	Highway Commercial
C2	Neighborhood Business
PD	Planned Development
I	Industrial
IR	Ice Racing District (overlay)
MCOD	Mill Conversion Overlay District
LMOD	Lake Monomonac Overlay District

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<b>Table 3.1. Zoning District Designations</b>	
<b>Designation</b>	<b>Title</b>
GAOD	Gateway Overlay District
WF	Wetlands and Flood Conservancy (superimposed)
Rt. 140 COD	Route 140 Corridor Overlay District

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

A. The location and boundaries of the 12 zoning districts designated R80, R40, R10, C1, C2, PD, I, IR, MCOD, GAOD and WF are hereby established as shown on a map entitled "Zoning Map of Winchendon, Massachusetts," which accompanies and is hereby declared to be a part of this bylaw and is on file in the office of the Town Clerk. (See Figure A.3.2.) More specific identification and designation of zoning district boundary lines are as follows:

- (1) Boundary lines shown on the Zoning Map as being approximately on the location of property or lot lines, when exact location is not indicated in dimensions, shall be upon the property lot line as shown on the Winchendon Assessors Map January 1, 2005;
- (2) Boundary lines shown on the Zoning Map as following street, road, highway, railroad or utility lines shall be upon the center line of such ways;
- (3) Boundary lines shown on the Zoning Map as being outside of street, road, highway or utility lines, but approximately parallel thereto, shall be deemed as parallel and at such distance therefrom as shown on the Zoning Map or as determined by scale;
- (4) Boundary lines shown following a stream, lake, watercourse or other water body shall be at the center line thereof, or the jurisdictional limits of the Town of Winchendon;
- (5) Boundary lines shown as intersecting a street, road, highway, railroad or utility line, watercourse or other water bodies shall be construed to intersect at right angles to the center line thereof; and
- (6) Any questions or uncertainties as to the precise location of a district boundary line shall be determined by the Zoning Board of Appeals of the Town of Winchendon.

B. Determining zoning district boundaries in general followed the ensuing guidelines (cf. Example A.3.2):

- (1) Public health, safety and utility considerations are the principal driving forces in zoning determination. Zoning districts make an attempt to recognize and preserve the historic development patterns and character of the neighborhood.
- (2) Areas located in mixed-use districts, along key circulation corridors and central to densely populated areas tend to be zoned PD.
- (3) Residential areas served by both Town water and Town sewer and that are walkable were in general zoned as R10. Those that were not walkable and had a development pattern inconsistent with R10 were zoned R40.
- (4) Residential areas that were not considered within a walkable distance of a business center and had a development pattern inconsistent with R10 were generally zoned R40.
- (5) Residential areas not served by Town water or Town sewer tend to be zoned R80.
- (6) Areas targeted for neighborhood-scale commercial development tend to be zoned C2.

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- (7) Areas targeted for high-intensity commercial and light manufacturing development tend to be zoned C1.
- (8) Areas zoned as industrial tend to be located in remote areas and allow for more intense industries to conduct business without being a nuisance to neighbors.

C. Applicants for projects in residential areas in an R40 Zone or an R80 Zone which abut an R10 or R40 Zone may apply to the Zoning Board of Appeals of the Town of Winchendon for a special permit to allow their areas to have the same density and dimensional requirements as if they were in an R10 Zone, provided that their area is served by both Town water and Town sewer.

### **§ 300-3.3. Lots split in separate districts.**

In the case of a lot which is split into separate zoning districts, the Board of Appeals may grant a special permit to allow a use located within the district in which the frontage is situated to extend into the adjacent zoning district. In granting such a permit, the Board of Appeals shall consider the compatibility of existing uses in the abutting lots consistent with the spirit of the bylaw and the Master Plan. The Board of Appeals shall seek input from the Planning Board prior to rendering a decision on the special permit.

### **§ 300-3.4. Location of Wetlands and Floodplain Conservancy Districts.**

- A. Recognizing the special conditions prevalent in wetlands, flood-prone areas and areas characterized by poorly drained soils, the Wetlands and Floodplain Conservancy Districts are considered to be superimposed over portions of the seven regular zones designated on the Zoning Map.
- B. The Floodplain Conservancy District includes all areas of Town identified on the Flood Hazard Boundary Maps of the U.S. Federal Insurance Administration as special flood hazard areas of the Town, as approved by the Town of Winchendon.
- C. Regulations governing permitted and prohibited uses within the Wetlands and Floodplain Conservancy District are as set forth in Article IV.

### **§ 300-3.5. Historic District.**

Nothing in this bylaw is intended to conflict with any provisions of the Winchendon Centre Historic District bylaw adopted under the provisions of the Chapter 40C of the Massachusetts General Laws and amendments thereto.

## **ARTICLE IV - Special Zoning Districts**

### **§ 300-4.1. Ice Racing District.**

- A. The following land shall be included in an overlay district to be known as the "Ice Racing District": the bodies of water known as Whitney Pond and Mill Glen Pond, otherwise known as Carter's Pond, which is located near Old Baldwinville Road and Mill Glen Road. Within this overlay district, ice racing of motor vehicles, including automobiles, and practices therefor shall be permitted subject to the conditions in Subsections B and C. The term "ice racing" shall mean the racing of motor vehicles on frozen water bodies.
- B. A special permit issued by the Zoning Board of Appeals in accordance with MGL c. 40A, § 9 shall be required. Such special permits shall expire on March 15 each year. Permits may be renewed after a new hearing. An applicant for a permit shall demonstrate at the public hearing to the satisfaction of the Zoning Board of Appeals that:
  - (1) The applicant owns or has a legal right to use the body of water involved.
  - (2) The applicant owns or has a legal right to access the body of water from a public way adequate to handle the expected traffic.

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- (3) Issuance of the permit will not create a nuisance to other persons by way of noise, odors, lights, or traffic congestion.
- (4) Adequate parking will be provided.
- (5) Ice racing will be conducted only according to the rules and guidelines of the International Ice Racing Association or other recognized sanctioning body.
- (6) The applicant has secured adequate casualty and liability insurance.
- (7) The applicant has made arrangements for spills of hazardous materials to be immediately cleaned up by a qualified HAZMAT cleanup agency.
- (8) The applicant has made arrangements for adequate sanitary facilities.
- (9) The applicant has made arrangements for police details adequate to control traffic, parking and crowd control.

C. Ice racing or practices by ice racing vehicles shall be conducted only on Saturdays and Sundays between January 2 and March 15 in not more than five periods. This restriction shall apply to each body of water separately. Ice racing and practice sessions shall be conducted only between 10:00 in the morning and sunset. On Sundays the hours shall be 12:00 noon to sunset.

### **§ 300-4.2. Mill Conversion Overlay District (MCOD). [Amended 1-29-2007]**

- A. Purpose. The purpose of this section is to create an overlay district:
  - (1) To allow for conversion of Winchendon's historic mills while preserving the character of nearby residential and commercial neighborhoods;
  - (2) To encourage the preservation, reuse and renovation of historic mill properties; and
  - (3) To promote diversified housing opportunities and uses such as commercial, retail or office use, or a combination of such uses.
- B. Applicability. The applicant must own, or be the beneficial owner of, all the land included in the proposed Mill Conversion Project (MCP), or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the applicant giving them the right to acquire the land to be included in the MCP.
- C. Establishment. The Mill Conversion Overlay District ("MCOD") is hereby established and shall be construed as an overlay district. Within the MCOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide an alternative to such requirements. The MCOD shall consist exclusively of the following properties (as shown on the Assessor's Map dated January 2005):
  - (1) Former Sanborn Mill Property:
    - Parcel 1: Winchendon Assessors Map 6B1, Parcel 1
    - Parcel 2: Winchendon Assessors Map 6B1, Parcel 6
    - Parcel 3: Winchendon Assessors Map 6B1, Parcel 8
    - Parcel 4: Winchendon Assessors Map 6B1, Parcel 35
    - Parcel 5: Winchendon Assessors Map 6B1, Parcel 5
  - (2) Former N.D. White and Company Property:

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Parcel 1: Winchendon Assessors Map 5B3, Parcel 95

Parcel 2: Winchendon Assessors Map 5B3, Parcel 177

Parcel 3: Winchendon Assessors Map 5B3, Parcel 93

Parcel 4: Winchendon Assessors Map 5B3, Parcel 96

Parcel 5: Winchendon Assessors Map 5B3, Parcel 97

Parcel 6: Winchendon Assessors Map 5B3, Parcel 98

Parcel 7: Winchendon Assessors Map 5B3, Parcel 99

(3) Former Goodspeed Machine Company Property:

Parcel 1: Winchendon Assessors Map 5B3, Parcel 100

Parcel 2: Winchendon Assessors Map 5B3, Parcel 102

Parcel 3: Winchendon Assessors Map 5B3, Parcel 153

Parcel 4: Winchendon Assessors Map 5B3, Parcel 157

Parcel 5: Winchendon Assessors Map 5B3, Parcel 158

Parcel 6: Winchendon Assessors Map 5B3, Parcel 159

Parcel 7: Winchendon Assessors Map 5B3, Parcel 160

Parcel 8: Winchendon Assessors Map 5B3, Parcel 161

Parcel 9: Winchendon Assessors Map 5B3, Parcel 162

D. Special permit required. In accordance with this section, the Planning Board may grant a special permit for a Mill Conversion Project ("MCP") within the MCOD. No other use or structures shall be permitted in conjunction with an MCP, except as specifically provided herein.

E. Procedures and administration.

- (1) Rules and regulations. The Planning Board shall adopt rules and regulations consistent with the provisions of this section and shall file a copy of the rules and regulations with the Town Clerk. The rules and regulations shall address the size, form, contents, style and number of copies of plans and other submittals and the procedure for review of special permits.
- (2) Pre-application conference. Applicants are encouraged to request a pre-application conference at a meeting of the Planning Board.
- (3) Site visit. The Planning Board may conduct a site visit as part of its review. At the site visit, the Board and/or its agents shall be accompanied by the applicant and/or its agents.
- (4) Relationship of special permit to other requirements. The submittals and permits of this section shall be in addition to any other permits or requirements of any other law or regulation, including but not limited to the Wetlands Protection Act (MGL c. 131, § 30) and the Subdivision Control Law (MGL c. 41, §§ 81G through 81KK).

F. Application.

- (1) Application requirements. An application for a special permit shall be submitted to the Planning Board and shall include all of the following:

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- (a) Application form. A completed application form.
- (b) Plans. The following plans:
  - [1] Existing site conditions, including topography, water bodies and streams, wetlands, historic features, existing structures, easements and rights-of-way, and means of access;
  - [2] Proposed grading and landscaping;
  - [3] Proposed lighting;
  - [4] Proposed utilities, including but not limited to water, wastewater, electric power, fuel, security and telecommunication systems, and cable television;
  - [5] Proposed stormwater system;
  - [6] Proposed pedestrian and vehicular access, circulation, parking and loading;
  - [7] Structures to be retained, demolished, and new construction;
  - [8] Building elevations and perspectives;
  - [9] Floor plans for all buildings, including proposed use of floor space, number of units, number of bedrooms, and location of affordable units.
- (c) Narrative reports. The following narrative reports or data:
  - [1] A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;
  - [2] A development impact statement prepared by qualified professionals detailing the impact of the development at all phases, including construction and operation, on:
    - [a] The Town's capacity to furnish services, including, but not limited to, roads, police, fire, emergency services, schools, and water; and
    - [b] Vehicular and pedestrian traffic, water and air quality, noise and light pollution and other environmental concerns;
  - [3] Information pertaining to any organization which the applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;
  - [4] Copies of all proposed covenants, easements, and other restrictions which the applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;
  - [5] A concise narrative prepared by a preservation consultant, including any and all historical information to be submitted to the Winchendon Historical Commission and the Planning Board. The narrative will include:

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- [a] Architectural history of all structures on the site, including period, style, method of building construction, and association with any particular architect or builder.
- [b] Any important association with one or more historic persons or events.
- [c] Any cultural, political, economic or social history of the site or any structures that may be significant to the Town, Commonwealth of Massachusetts or the United States of America;
- [6] Evidence that the proposed MCP is consistent with applicable standards of the National Park Service or the Winchendon Historic District Commission; and
- [7] Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the applicant's proposed development plan meets the objectives of this section.

(d) **Fees.** The following fees:

- [1] Technical review fee. The applicant shall pay a technical review fee pursuant to MGL c. 44, § 53G and the rules of the Planning Board.
- [2] Administrative fee. The applicant shall pay an administrative fee pursuant to the rules of the Planning Board.

(2) **Waiver.** The Planning Board may waive the submittal of required technical information or documents when, in the Planning Board's opinion, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section.

G. **Review by other boards.** Upon receipt of a complete application, the Planning Board will distribute copies of the application, accompanying plans, and other documentation to the Board of Health, Conservation Commission, Historic District Commission, Development Director, Zoning Enforcement Officer, Highway Superintendent, Police Chief, Fire Chief, and such other municipal boards and departments as the Planning Board deems appropriate, for their consideration, review, and report. The applicant shall furnish all copies necessary to fulfill this requirement. Other boards and officials shall submit their reports to the Planning Board within 35 days of receipt of the review materials, and failure to submit a report within 35 days shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held 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. The Planning Board's decision shall explain in writing the reason for any departures from the recommendations of the other boards and departments.

H. **Permitted uses.**

- (1) An MCP shall include one or more of the following residential uses: single-family dwelling, duplex dwelling, multifamily dwelling; condominium, apartment, live-and-work unit; age-restricted housing; independent living unit.
- (2) In conjunction with these residential uses, an MCP may include one or more of the following nonresidential uses:
  - (a) Commercial uses: restaurant, retail store, or offices.
  - (b) Institutional uses: museum, educational use, charitable or philanthropic institution, municipal use, club or lodge.

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(c) Appropriate accessory uses.

I. Standards. In order to be eligible for consideration for a special permit pursuant to this section, the proposed development shall meet all of the following standards:

- (1) Buffer. Existing vegetation in the setback areas along the perimeter of the site shall be maintained as a buffer, except for driveways and pedestrian ways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may require suitable landscaping or replacement of vegetation. The Planning Board may waive this buffer requirement where it determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
- (2) Removal and replacement of vegetation. Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to construction of buildings, roads, trails and parking areas. The Planning Board may require suitable landscaping or replacement of vegetation.
- (3) Roadways. The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by the association of unit owners or by the applicant.
- (4) Number of parking spaces. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of § 300-8.3 and § 300-8.4 of this bylaw. The Planning Board may increase the required parking by up to 10% to serve the needs of residents, employees, visitors and service vehicles. The Planning Board may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided.
- (5) Commercial vehicles. Commercial vehicles owned or operated by owners or tenants of the MCP or their agents, servants, licensees, suppliers and invitees shall be parked inside a garage, or suitably screened or designated area, except for delivery or service vehicles in the active service of receiving and delivering goods or services.
- (6) Parking areas. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least 10 feet in width. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas; provided, however, that the Planning Board may waive these provisions for existing parking lots and/or existing buildings. Parking lot layouts shall be planned to permit landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets.
- (7) Sidewalks or paths. The Planning Board may require sidewalks or paths which shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks to adjacent sites.
- (8) Loading. Loading areas may be required by the Planning Board where deemed necessary for the efficient operation of the MCP. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
- (9) Stormwater management. The stormwater management system shall be designed in accordance with the regulations of the Planning Board.

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- (10) Utilities. All electric, gas, telecommunication, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water system.
- (11) Emergency systems. The MCP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Winchendon Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.
- (12) Lighting. There shall be no illuminated signs, parking lot lighting, building floodlighting, or other exterior overspill onto adjacent premises such that it casts observable shadows, and lighting shall be such that it shall not create glare from unshielded light sources.
- (13) Screening. Exposed storage areas, garbage dumpsters, service areas, loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods approved by the Planning Board.
- (14) Minimum residential use. At least 25% of the gross floor area of the MCP shall be used for residential purposes.

J. Number of dwelling units. The maximum number of dwelling units shall be established by the Planning Board after reviewing the following criteria:

- (1) Existing structures;
- (2) Proposed method and efficacy of wastewater disposal;
- (3) Availability of public water;
- (4) Trip generation, traffic safety and internal site traffic;
- (5) Character of the proposed MCP and its relation to the surrounding neighborhood(s);
- (6) Character of the existing buildings and the potential for reuse thereof;
- (7) Number of affordable units, beyond the minimum required, proposed by the applicant;
- (8) Development impact statement;
- (9) Reports of the technical consultants of the Planning Board and all other reviewing boards.

K. Number of bedrooms. The Planning Board may ensure the diversification of dwelling units within an MCP by establishing the number of dwelling units with one, two, or three bedrooms; but not more than 10% shall be three bedrooms.

L. Expansion of existing buildings. Existing buildings within an MCP may be expanded, provided that such expansion:

- (1) Is consistent with the existing buildings' historic character and scale; and
- (2) Does not cause substantial detriment after considering the factors set forth in Subsection O.

M. New buildings. Within the MCP, new buildings may be constructed in accordance with the following requirements:

- (1) The number, type, scale, architectural style, and uses within such new buildings shall be subject to Planning Board approval.

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(2) New buildings shall be permitted only to the extent reasonably necessary to provide for essential services, such as, but not limited to, wastewater treatment facilities.

N. Affordable dwelling units. (Appendix B) As a condition of granting a special permit for a MCP, a minimum of 20% of the total number of dwelling units shall be restricted in perpetuity in the following manner:

- (1) Five percent of the units shall be affordable to persons or families qualifying as low income under the Massachusetts Community Development Block Grant program; 5% of the units shall be affordable to persons or families qualifying as moderate income under the Massachusetts Community Development Block Grant program; and 5% of the units shall be affordable to persons or families qualifying as median income under the Massachusetts Community Development Block Grant program. The remaining 5% of affordable units shall be assigned for low-income, moderate-income or median-income persons or families as will, in the Planning Board's opinion, best serve the Town's current housing needs. Fractional units shall be rounded up to the nearest whole number.
- (2) The restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Winchendon Housing Authority for a period not less than 120 days after notice thereof.
- (3) Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units.
- (4) The applicant shall be encouraged to seek designation of the units referenced in Subsection N(1) as affordable units which qualify as part of the subsidized housing inventory as approved and compiled by the Department of Housing and Community Development (DHCD). The Planning Board may require that the applicant affirmatively take steps to utilize the Winchendon Housing Authority, a public agency, a nonprofit agency, limited-dividend organization, or other appropriate entity, and through a local initiative program petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in said paragraphs as affordable units qualifying as part of the subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

O. Decision.

- (1) Criteria for decision. After considering reports from consultants and other boards and departments, the Planning Board may grant a special permit for a MCP where it makes the following written findings:
  - (a) The application documents and supporting materials comply with all applicable sections of the Zoning Bylaw;
  - (b) The proposed MCP complies with the design standards of this section;
  - (c) The proposed MCP constitutes an appropriate renovation as defined above;
  - (d) The proposed MCP does not cause substantial detriment to the neighborhood after considering the following potential consequences:
    - [1] Noise, during the construction and operational phases;
    - [2] Pedestrian and vehicular traffic;
    - [3] Environmental harm;

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- [4] Visual impact caused by the character and scale of the proposed structure(s); and
- [5] Other consequences as may be set forth in the development impact statement for the MCP;

- (e) The proposed MCP furthers the goals and objectives of the Master Plan.

- (2) Time limit. A special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.
- (3) Conditions. The Planning Board may impose conditions, safeguards and limitations in the grant of a special permit, including, but not limited to:
  - (a) That all construction or infrastructure improvements shall be completed within a specific time period;
  - (b) That all aspects of the MCP, including authorized uses, building occupancy, and intensity of use, shall remain in substantial conformance with the plans and other documents submitted to the Planning Board as part of the special permit proceeding unless modification of the special permit for the MCP is authorized, after a public hearing, by the Planning Board;
  - (c) That a performance guarantee suitable to the Planning Board may be required.

### **§ 300-4.3. Wetlands Conservancy District.**

- A. Purpose. The purpose of the superimposed Wetlands Conservancy District is as follows:
  - (1) To preserve and protect the lakes, streams, watercourses, floodplains and other wetland types and their associated flora and fauna within the Town, together with adjoining land;
  - (2) To protect the health, safety and property of persons against the hazards of contamination;
  - (3) To preserve and maintain the groundwater level;
  - (4) To protect the community against the detrimental use and development of lands and wetlands surrounding bodies of water and adjoining streams and watercourses; and
  - (5) To conserve the watershed and recharge areas of the Town for the health, safety and well-being of its inhabitants.
- B. Permitted uses. Within the wetlands, the following uses shall be lawful, but only by special permit granted by the Board of Appeals:
  - (1) Municipal purposes, including waterworks, pumping stations, essential services, parks and any buildings and structures accessory thereto;
  - (2) Public utility lines, facilities, buildings and accessory structures;
  - (3) Flood control installations, facilities and equipment;
  - (4) Nonprofit, noncommercial social, civic or recreational lodge or club; and
  - (5) Single-family residences constructed and used in such a manner as not to endanger the health or safety of the occupants and in full compliance with the dimensional and density requirements of the underlying district.
- C. Prohibited uses. Within the wetlands, the following buildings, structures, installations and uses shall be prohibited:

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- (1) Septic tanks, cesspools and leaching beds or fields;
- (2) Business, commercial and industrial buildings, structures or uses except provided in Subsection B above;
- (3) Libraries, hospitals, museums, sanitaria, nursing or rest homes, charitable institutions and cemeteries; and
- (4) Residential buildings, structures, dwellings and mobile homes intended for living purposes other than as permitted in Subsection B above.

D. Uses permitted by right: woodland, grassland, wetland and agricultural, horticultural and recreational use of land or water not requiring filling or dredging and any buildings and structures accessory thereto.

### **§ 300-4.4. Floodplain Conservancy Districts.**

- A. Purpose. The purpose of the Floodplain District is to protect the public 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 floodplain and to preserve and maintain the groundwater table and water recharge areas within the floodplain.
- B. District delineation. The general boundaries of the Floodplain District are shown on the Winchendon Flood Insurance Rate Map (FIRM) dated June 15, 1982, as Zones A, A1-30 to indicate the one-hundred-year floodplain. The exact boundaries of the District are defined by the one-hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the Flood Insurance Study, dated December 15, 1981. The floodway boundaries are delineated on the Winchendon Flood Boundary Floodway Map (FBFM) dated December 15, 1981, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps, as well as the accompanying Study, are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner and Selectmen. Within Zone A where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Conservation Commission. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw.
- C. Use regulations. The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in a floodplain.
  - (1) Permitted uses. The following uses of low flood damage potential and unlikely to cause an obstruction 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:
    - (a) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
    - (b) Forestry and nursery uses.
    - (c) Outdoor recreational uses, including fishing, boating, play areas, etc.
    - (d) Conservation of water, plants or wildlife.
    - (e) Wildlife management areas, foot, bicycle and/or horse paths.
    - (f) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.

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(g) Buildings lawfully existing prior to the adoption of these provisions.

(2) Special permits. No structure or building shall be erected, constructed, substantially improved or otherwise created or moved, no earth or other materials dumped, filled, excavated or transferred unless a special permit is granted by the Zoning Board of Appeals. Said Board may issue a special permit thereunder (subject to other applicable provisions of this bylaw) if the application complies with the following provisions:

- (a) The proposed plan shall comply in all respects with the provisions of the underlying district; and
- (b) Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, the Planning Board, the Board of Health and the Building Inspector. Final action shall not be taken until reports have been received from the above boards or until 35 days shall have elapsed; and
- (c) All encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood; and
- (d) 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.

### **§ 300-4.5. Groundwater Protection Overlay District.**

- A. Purpose. The purpose of the Groundwater Protection Overlay District is to protect public health by preventing the contamination of existing and potential public and private water supplies and to protect the general welfare by preserving limited water supplies for present and future use.
- B. District delineation. The general boundaries of the Groundwater Protection Overlay District are those areas identified as potential municipal well sites in the July, 1988 "Exploratory Drilling Program" conducted by the engineering firm of Dufresne and Henry and shown on a "Groundwater Protection Overlay District Map" on file with the Town Clerk. This map, as it may be amended from time to time, is hereby made a part of this bylaw. Where the bounds of the Groundwater Protection Overlay District, as shown on the Groundwater Protection Map, are in doubt or in dispute, the burden of proof shall be upon the owner(s) and/or applicant of/for the property in question to show where the boundaries should properly be located.
- C. Use regulations.
  - (1) Permitted uses. Within the Groundwater Protection Overlay District, the following uses are permitted, subject to the provisions of Subsection C(2), Prohibited uses, provided that all necessary permits, orders and approvals required by local, state and federal law are also obtained:
    - (a) Conservation of soil, water, plants and wildlife;
    - (b) Outdoor recreation not involving the use of motor vehicles or motorboats, including boating, fishing, nature study and hunting where otherwise legally permitted;
    - (c) Foot, bicycle and horse paths and bridges;
    - (d) Maintenance and repair of any existing structure, provided there is no increase in impervious pavement;

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- (e) Normal operations and maintenance of existing water bodies and dams, splash boards and other water control supply and conservation devices;
- (f) Residential development permitted in the underlying zoning district, provided that not more than 10% of a building lot is rendered impervious;
- (g) Farming, gardening, nursery, conservation, forestry, harvesting and grazing uses, provided that fertilizers, herbicides, pesticides and other leachable materials are not stored outdoors and that manure is not stored outdoors uncovered.

(2) Prohibited uses. Within the Groundwater Protection Overlay District, the following uses are prohibited:

- (a) Storage of liquid petroleum products of any kind, except for storage in a freestanding container of fuel within a building for the purpose of heating of that building;
- (b) Disposal of hazardous wastes as defined in Chapter 21C of the Massachusetts General Laws;
- (c) Storage of hazardous wastes, as defined in Chapter 21C of the Massachusetts General Laws, as amended;
- (d) Disposal of solid wastes other than brush;
- (e) Disposal of leachable wastes except for subsurface waste disposal from one-family or two-family residential units, with the approval of the Board of Health;
- (f) Storage of road salt or other de-icing chemicals;
- (g) Disposal of snow that contains de-icing chemicals and that has been brought in from outside the Groundwater Protection Overlay District;
- (h) Industrial uses that discharge process wastewater on-site;
- (i) Outside storage of fertilizers, herbicides and pesticides and outdoor uncovered storage of manure;
- (j) Animal feed lots;
- (k) Dry-cleaning establishments;
- (l) Boat and motor vehicle service, washing and repair establishments;
- (m) Junk and salvage yards;
- (n) The rendering impervious of more than 10% of any lot;
- (o) Mining of land, except as incidental to a permitted use.

(3) Special permit uses. The following uses, unless prohibited by a specific provision of Subsection C(2) of this bylaw, may be permitted by a special permit from the special permit granting authority, which in the case of Winchendon is the Planning Board, under such conditions as the Planning Board may require:

- (a) Commercial and industrial activities permitted in the underlying district and involving the manufacture, storage, transportation or use of any hazardous materials other than hazardous wastes as defined by MGL c. 21C (as amended);

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- (b) The application of fertilizers for uses that are nondomestic and nonagricultural, provided that such application shall be made in a manner as to minimize adverse impacts on surface water and groundwater due to nutrient transport and deposition of sedimentation.
- (4) Special permit review procedure. Any application for a special permit shall be made, reviewed and acted upon in accordance with the following procedures:
  - (a) Each application for a special permit shall be filed in writing with the Planning Board, and shall contain a complete description of the proposed use, together with any supporting information and plan which the Planning Board may require.
  - (b) The Planning Board shall refer copies of the application to the Board of Health, the Conservation Commission, the Town Engineer (if any) and the Department of Public Works, each of which shall review, either jointly or separately, the application and shall submit its recommendations to the Planning Board. Failure to make recommendations within 35 days of the referral of the application shall be deemed lack of opposition.
  - (c) The Planning Board shall hold a public hearing on the application in conformity with the provisions of MGL c. 40A, within 65 days after the filing of the application with the Planning Board.
  - (d) After notice and public hearing, and after due consideration of the reports and recommendations of the local boards and departments, the Planning Board may grant such a special permit, provided that it finds the proposed use:
    - [1] Is in harmony with the purpose and intent of this bylaw and will promote the purposes of the Groundwater Protection Overlay District;
    - [2] Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
    - [3] Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area;
    - [4] Will not adversely affect an existing or potential water supply.

### **§ 300-4.6. Lake Monomonac Overlay District (LMOD).**

[Added 10-28-2019 STM by Art. 18<sup>1</sup>]

- A. Purpose. Recognizing that the parcels in this are of Town do not meet the requirements of the R40 Zone in which they are located, the purpose of the Lake Monomonac Overlay District (LMOD) is to allow owners reasonable use of their properties without detriment to abutters and the general community.
- B. District delineation. The Lake Monomonac Overlay District is hereby established and is identified on the Town of Winchendon Zoning Map. The boundaries of the LMOD are shown on the Winchendon Zoning Map on file with the Town Clerk.
- C. Use regulations. The Lake Monomonac Overlay District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code.

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1. Editor's Note: Original Sec. 4.6, Golf/Residential Overlay District, was repealed 10-28-2019 STM by Art. 17.

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**D. Modifications to the underlying districts.**

- (1) Permissible setbacks from property lines within the Lake Monomonac Overlay District shall match those of the R10 Zoning District.
- (2) No other property regulations, dimensional or otherwise, shall be altered by the Lake Monomonac Overlay District.
- (3) All commercial occupancies within the Lake Monomonac Overlay District shall require full site plan review .

**§ 300-4.7. Planned Development District.**

[Amended 11-8-2007]

**A. A planned development district (PD) is an area characterized by a cluster of commercial, industrial, residential, institutional, and public uses at moderate to high density. Commercial, industrial, and institutional uses in easily walkable proximity will form the essential center that defines a planned development district. Adjacent multifamily housing and mixed uses may extend the planned development district from this center.**

- (1) Planned development districts are directed more towards pedestrian travel than vehicle travel. Distances between buildings will generally be short. Mixed commercial and residential uses are encouraged. It should be accented with vegetated open spaces such as small public parks. Commercial uses will include retail stores, personal and professional service businesses, restaurants, and entertainment uses. Home-based businesses are appropriate. Buildings will generally be close to the street with sidewalks provided. Signage will be directed toward pedestrians on sidewalks rather than motor vehicle users.

**B. Requirements applying to all uses in the Planned Development District.**

- (1) Unless otherwise provided, the required lot dimensions shall be those shown in Table 7.3.
- (2) All new development, redevelopment, or building construction shall be in conformity with the planned development district concept as stated in Subsection A.
- (3) A minimum of 10% of the total land area of a development site which has more than 1.5 acres shall be dedicated as common open space for recreational use. Developers of smaller projects are encouraged to preserve the maximum possible open space on site. Such land may be included in the determination of the site capacity.
- (4) On developments with water frontage, public access must be established or maintained by way of linear walkways and/or parks. The waterfront access for the public may be included as a portion of the required open space.
- (5) A development proposal by a single developer or by related developers that includes work on more than one parcel may be considered as a whole and require only a single application to each of the applicable local boards in lieu of separate applications for each parcel.
- (6) New side lot lines adjacent to the frontage shall be at an angle of more than 75° to the frontage line. A 90° angle is preferable.
- (7) Preferably, parking should be to the side or rear of the main building. Parking shall conform to the parking standards in Article VIII.
- (8) Newly developed or redeveloped lots shall have concrete sidewalks and street trees along the entire lot frontage typical of those on Central Street between Blair Square and Peterson Square.

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If such do not exist or are not in good condition, they shall be installed at the expense of the applicant.

- (9) Public water and sewer lines are required, provided that connections are available. If such are not up to Department of Public Works standards, they shall be installed or replaced at the expense of the applicant.
- (10) Low-impact development principles as provided in the Massachusetts Stormwater Handbook are required, except that conventional drainage structures may be allowed by a Planning Board special permit based on an engineering demonstration (which must include plans and calculations not just a statement) that application of low-impact principles to the site will be unreasonably difficult.
- (11) Except for allowed one- and two-family homes, any new construction project (whether one or more buildings on one or more lots) shall have a lot area to gross floor area ratio of less than 4:1.
- (12) Redevelopment of properties within the planned development district, whether by tear down and rebuild or by an extension of size greater than 20%, shall conform to the standards for the planned development district.

C. (Reserved)

D. Additional provisions for multifamily housing units (more than two units per structure).

- (1) Townhouses having common walls but located on adjacent separately owned lots will be permitted, provided no more than five such townhouses will be contained in a single structure and that the end townhouses have a twenty-foot side setback on the exposed end and there is adequate road or driveway access to the rear of the combined structures.
- (2) The minimum lot width shall be 24 feet and the minimum lot area shall be 3,600 square feet per dwelling unit. Townhouses must be served by public water and sewer.

E. Requirements for all other projects, including mixed-use projects.

- (1) In commercial areas, side setbacks may be waived, as part of site plan review, to allow buildings on adjacent separately owned lots to be directly connected, provided there is adequate road or driveway access to the rear of the combined structures. The combined frontage length of such connected buildings shall not exceed 100 feet.
- (2) For new construction for mixed residential and commercial use, the minimum lot area shall be not less than 1.5 times the nonresidential gross floor area plus 2,000 square feet for each residential unit.

F. Extended planned development district. Developments using planned development district standards in other zones are permitted if such development will have public water and sewer and is within 500 feet of the planned development district boundary, provided special permits therefor are granted concurrently by the Zoning Board of Appeals and the Planning Board.

### **§ 300-4.8. Gateway Overlay District.**

A. Purpose.

- (1) In order to avoid sprawl and dangerous strip development patterns, development nodes have been created along the major highways as an attempt to effect responsible, sustainable development in a commercially advantageous setting. Smart-growth development patterns are hereby encouraged to place high-intensity uses like large-scale retail, cinemas and similar

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commercial occupancies in these nodes, with consideration of safe traffic access, rather than in allowing sprawl-type strip development. Residential development adjacent to these nodes and thereby serviced by the commercial area is encouraged to reduce car traffic. Similarly, walkability and other alternative circulation modes (cf. bike traffic) are also encouraged in the development patterns, again eliminating unnecessary car traffic and enhancing the quality of life in the development area.

(2) A Gateway Overlay District is created that will prevent direct access from the highway to abutting commercial occupancies outside the nodes. Strip commercial development will be seen as sprawl, is unsightly, and is a deterrent to smooth traffic flow. Accordingly, access to commercial occupancies outside of the development nodes will be restricted.

**B. Modifications to the underlying districts.**

- (1) That portion of each lot used for commercial purposes, except an allowed home-based business, that fronts on the highway to a depth of not less than 50 feet from the property line shall be preserved or established as a buffer zone of dense vegetation so as to hide all structures, parking lots, outdoor storage, and other evidences of commercial activity when viewed from the highway.
- (2) Access to properties is encouraged via roads other than access to the high-speed road. If no other access is feasible, the buffer zone vegetation may be broken for access roads or driveways at appropriate points. Such breaks shall not be more than 50 feet wide and shall be spaced not closer than 500 feet apart. The use of a shared driveway or road by two or more commercial occupancies is encouraged.
- (3) All commercial occupancies within the Gateway Overlay District shall require full site plan review.

**§ 300-4.9. Route 140 Corridor Overlay District (Rt. 140 COD).**

**A. Purpose.** The purposes of the Route 140 Overlay District are to:

- (1) Encourage commercial and industrial development on Route 140 to provide local employment and enhance the tax base, while also protecting surrounding neighborhoods from land use conflicts;
- (2) Enhance the appearance, function, and safety of Route 140;
- (3) Facilitate shared access and connections to adjoining properties, thereby reducing the number of curb cuts and improving traffic safety on Route 140; and
- (4) Promote distinctive architecture, efficient site planning, and improved design standards that will achieve high-quality development and preserve the scenic, natural, and cultural resources of the Route 140 Corridor.

**B. Application of overlay district regulations.** This overlay district sets forth design standards and flexible development options that apply in the Route 140 Corridor. The use and dimensional regulations of the underlying district remain in place and other provisions of the Zoning Bylaw apply unless superseded by this overlay district. The location of the district is shown on a map entitled "Route 140 Corridor Overlay District", which is on file in the office of the Town Clerk. The overlay district consists of all parcels within the Highway Commercial (C1) District where the district has frontage on Routes 140 and 12.

**C. Application process.**

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- (1) Site plan review. Applicants shall comply with Article XII of this bylaw, Site Plan Review, for development in the Route 140 Overlay District. Developments that meet the thresholds in § 300-12.2, Projects requiring site plan review, shall require site plan approval by the Planning Board. Developments that are exempt from site plan review by § 300-12.3 of this bylaw are exempt from the application of the overlay district.
- (2) Waivers. The Board may modify or waive any requirement of the overlay district upon finding that due to topography, location, or unusual conditions affecting the property, the requirements of this section would unreasonably restrict development of the property. In modifying or waiving these provisions, the Board may impose conditions it deems necessary to protect the public interest and promote the orderly development of the Corridor.
- (3) Intermunicipal review. The Planning Board shall send a copy of the application to the Gardner Planning Board and the Montachusett Regional Planning Commission, which shall have 35 days to submit comments to the Board. The purpose of this review is to insure that regional implications are considered by the Board, and that significant impacts of the project on Corridor communities can be mitigated.
- (4) Coordination with abutting landowners. Applicants shall submit documentation that they have contacted owners of abutting land within the overlay district regarding their proposed plans. The intent of this notice is to give those landowners the opportunity to coordinate existing uses or future development plans with the project before the Board. Where feasible, the parties should work cooperatively to solve common issues such as improving traffic access, sharing parking, creating frontage roads, allowing connections between properties, buffering incompatible uses, or preserving open space and wetland resources.

### **D. Design standards.**

- (1) General. Buildings and landscape treatments, not parking, should serve as the focal points for development along Route 140. Site design should contribute to a sense of continuity and coherence from Route 140 and distant vantage points.
- (2) View protection. The Route 140 Corridor offers many scenic views of the surrounding countryside. Each development shall preserve the visual quality of its site in relation to the scenic qualities of the immediate area and the Corridor as a whole. The applicant shall submit photographs of the area to the Board and describe the most prominent features of existing visual quality. Through means of sketches or computer simulations, the applicant shall document the impacts of the proposed development on visual quality. This analysis shall present how the project will be viewed from Route 140 in both directions and how views from the site to the surrounding area can be integrated into the development to enhance the project design. Within the development, the applicant shall preserve open vistas of important features such as Wachusett Mountain, lakes, farms, forests, historic sites, etc.
- (3) Access management.
  - (a) Each new development within the Overlay District shall be limited to one entrance and one exit per street. For multiple-building developments, one combined entrance/exit location is preferable at the main entrance to facilitate traffic movement; such an entrance shall be separated by a traffic island with separate in and out movements. If needed, the applicant shall construct separate right and/or left turning lanes to facilitate entry and exit from the site.
  - (b) To reduce turning movements onto Route 140, developers are encouraged to connect internal roadways with adjacent developments. When adjacent lots have contiguous frontage on Route 140, the Board may require such lots to share a single driveway, or

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that the lots be accessed by an internal service road. Where such sharing cannot be achieved in the short run, the means and location for future long-term interparcel connections may be required through right-of-way reservation and/or dedication.

- (c) Where it is proposed to redevelop property, the Board will evaluate existing access to Route 140 and work with the applicant to redesign curb cuts to improve safety and traffic flow. Where appropriate, the Board may require a reconfiguration of the existing access or the removal of unnecessary driveway openings onto Route 140 in favor of fewer access points with a greater level of traffic control.
- (d) Where a property proposed for development abuts the North Central Pathway rail trail, the developer shall consider a proposed connection to the trail and access to the principal uses on the lot to promote alternative modes of commuting and/or public access.

(4) Lighting and utilities.

- (a) All lighting shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.
- (b) Each outdoor luminaire shall be a full cutoff luminaire to prevent light trespass into the night sky. The design of light standards and fixtures shall be consistent with the style and character of architecture existing or proposed on the site.
- (c) All lights and illuminated signs shall be designed to prevent objectionable light and glare from crossing property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward.
- (d) All electric, telephone, television and other communication lines, both main and service connections, shall be provided by underground wiring.

(5) Preservation of sensitive natural features. Development shall preserve the natural features of the site, avoid areas of environmental sensitivity, and minimize alteration of natural features. The following resources shall be identified on the site plan and remain undeveloped unless otherwise approved by the Board:

- (a) Unique or fragile areas, including wetlands, vernal pools, and one-hundred-year floodplains;
- (b) Habitats of rare species listed by the Massachusetts Natural Heritage and Endangered Species Program; and
- (c) Streams and water bodies.

(6) Shared parking. (The provisions of § 300-8.2A shall also apply in the overlay district.)

- (a) The number of parking spaces required shall be determined by using the standards for each use as provided elsewhere in this Zoning Bylaw. The Board may allow a reduction of the required number of spaces by up to 20% if the applicant demonstrates that two or more uses within a development can share parking areas due to different hours of activity. A change in use of one of the businesses shall require the construction of the full amount of parking otherwise required unless the Board grants site plan approval to allow the parking reductions to remain in effect.
- (b) When adjacent property owners agree to share parking and a combined entrance, the Planning Board may allow a reduction in the number of required parking spaces by as much as 20% for each business. In addition, the side yards (including associated landscaping) between the two parcels are not required. The property owner(s) shall file

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a written agreement to guarantee long-term joint use of the shared parking, which shall be recorded at the Worcester District Registry of Deeds. The parties may only revoke this agreement by constructing the full number of spaces required by the Zoning Bylaw and Planning Board approval of a revised plan.

- (7) **Parking lot design.**
  - (a) The provisions of § 300-8.5, Design requirements, shall apply unless superseded by the following standards.
  - (b) Parking lots shall generally be sited to the side or rear of buildings in order to minimize the obtrusiveness of large parking areas on the visual quality of the Corridor. Up to 5% of the parking spaces may be in the front of the building to accommodate short-term parking needs of the proposed uses.
  - (c) Parking lots of 20 or more spaces shall contain interior landscaping covering not less than 5% of the total area of the lot. Landscaping shall also be provided around the perimeter of the lot for a width of 10 feet and planted with trees and shrubs. There shall be two shade trees or three ornamental trees for every 10 spaces. Dead or diseased trees shall be replaced during optimal planting times.
  - (d) Sidewalks and pedestrian paths shall connect the lots to the principal uses they will serve. Such walkways shall be constructed with brick, decorative pavers, or other materials, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Car stops shall be provided to prevent parked cars from damaging trees and shrubs or disrupting pedestrian walkways.
  - (e) The Planning Board may modify the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells.
- (8) **Bicycle accommodation.** Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any building that results in the need for additional vehicular parking facilities. One bicycle space shall be provided for every 10 vehicle parking spaces, up to a maximum of 25 spaces.
  - (a) Parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the user may lock a bicycle.
  - (b) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance or physical barrier, such as curbs, wheel stops, poles or other similar features.
  - (c) Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, the bicycle parking shall be placed within 50 feet of building entrances and in well-lit areas.
- (9) **Landscaping and screening.**
  - (a) Sections 300-4.8B(1) and 300-7.2E shall apply in the overlay district. [Section 300-4.8B(1) requires a vegetated buffer zone along the highway of at least 50 feet to screen views of structures, parking lots, and outdoor storage areas from the highway. Section

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300-7.2E applies where C1, C2, and I Districts abut residential property and requires a buffer zone/yard of 50 feet to screen the residential properties.]

- (b) A registered landscape architect shall prepare a landscape plan drawn to scale, including dimensions and distances. The plan shall delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size and description of all landscaping materials and tree cover.
- (c) The development shall have one central gathering place of unique visual interest. This may include elements such as a fountain, pond, sculpture, gazebo or similar open space or structure. The area shall be provided with benches, stone walls, and similar amenities, and shall be accessible to individuals in wheelchairs.
- (d) Loading areas and service facilities (dumpsters, storage areas, utility boxes, etc.) shall be placed to the rear of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of such areas from adjacent properties or from public ways. Screening shall be achieved through walls, fences, landscaped berms, evergreen plantings, or combinations thereof. Fences made of wood, stone, or brick are preferred; chain link or concrete materials are prohibited.
- (e) HVAC units, telephone boxes, electrical transformers, etc. shall be screened through use of landscaping, berms, or fences and shall be as unobtrusive as possible. HVAC units may be located behind roof ridge lines so they are not visible from the front view of the building.
- (f) When a proposed development abuts a Residential District, whether presently developed or not, landscaped buffers shall be employed to shield the residential property from view of the proposed development, and to minimize lighting and noise impacts. Such a buffer shall contain a screen of plantings not less than three feet in width and six feet in height at the time of planting, and shall thereafter be maintained by the owner or occupant so as to provide a dense screen year-round. At least 50% of the plants shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings may be substituted for such landscaped buffers.

(10) Architectural standards.

- (a) The site plan application shall contain elevations of all proposed buildings, prepared and stamped by a registered professional architect.
- (b) Exterior materials may include clapboard, wood shingles, stone, brick, or materials of comparable appearance. Applicants are encouraged to use green building technologies and materials, wherever possible, to limit environmental impacts.
- (c) Buildings should contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roof and wall lines, towers, cupolas and building ornamentation should be incorporated into building design. The Planning Board may authorize a flat roof that includes green-roof technology with plants suited for the local climate.
- (d) Architecture based upon generic franchise design is prohibited. Rather, architects should rely upon models of regional building types to incorporate elements of historic design into the development.
- (e) Except for industrial, warehousing, and similar uses, windowless buildings with standardized facade treatments are prohibited. No building shall have more than 100 linear feet of unbroken wall area.

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(f) Architectural focal points. In any development with 10,000 square feet or more of retail use, the principal building on a lot shall have clearly defined, highly visible customer entrances featuring at least two of the following: canopies or porticos; overhangs; recesses/projections; raised corniced parapets over the door; peaked roof forms; arches; outdoor patios; display windows; planters or wing walls that incorporate landscaped areas and/or places for sitting,

## **ARTICLE V - Use Regulations**

**[Amended 5-15-2017]**

### **§ 300-5.1. Basic requirements.**

A. In each zoning district, land, buildings and other structures may be used as a principal use but only as set forth in § 300-5.2 and in accordance with the following:

Y (Yes)	Use permitted as a matter of right
SP (Special Permit)	Use may be permitted by special permit of the Board of Appeals as provided in § 300-13.6C(2)
N (No)	Use prohibited

B. All uses permitted as a matter of right or by special permit shall conform to all dimensional requirements and other pertinent rules of this bylaw. Any use not listed shall be construed to be prohibited.

C. Additional requirements. Any proposed use may be subject to the site plan review provision of this bylaw per Article XII.

### **§ 300-5.2. Schedule of Use Regulations.**

[Last amended 5-20-2019 ATM by Art. 19]

A. Residential uses.

		<b>Zoning Districts</b>						
		<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
A.	Single-family detached dwelling	Y	Y	Y	N	Y	N	Y
B.	Two-family detached dwelling	SP	SP	Y	N	Y	N	Y
C.	Conversion of a single-family dwelling existing at the adoption of this bylaw to not more than four-family use (Note 10)	SP	SP	SP	N	Y	N	SP
D.	Buildings or lots containing dwellings in combination with retail stores or other permitted business use (Note 1)	N	N	SP	SP	Y	N	Y
E.	Boardinghouse	SP	SP	SP	N	SP	N	SP
F.	Multifamily dwellings, up to four units per lot	N	N	SP	N	SP	N	SP

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		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
G.	Residential development - detached/attached units (See Article XI.)	Y	Y	Y	Y	Y	N	Y
H.	Accessory dwelling unit (Note 11) (See § 300-6.3, Accessory uses and dwellings.)	SP	SP	SP	N	SP	N	Y
I.	Mobile home park or court; sales of demonstration models allowed (Notes 4 and 5)	SP	SP	SP	N	N	N	N
J.	Home-based business (See § 300-6.5, Home-based businesses.)	See § 300-6.3.						

B. Commercial uses.

		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
A.	Retail store or larger-scale retail services larger than 15,000 square feet, including sales room or market for sale of merchandise to the public	N	N	N	Y	Y	SP	Y
B.	Small-scale retail services that do not exceed 15,000 square feet	SP	SP	SP	Y	Y	SP	Y
C.	Convenience store without gas station	SP	SP	SP	Y	Y	N	Y
D.	Restaurant, tavern, cafe or similar establishment for serving food and/or beverages	N	N	SP	Y	Y	N	Y
E.	Restaurant, take-out, fast-food, drive-through, walk-up window	N	N	N	SP	SP	N	SP

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		Zoning Districts							
		R80	R40	R10	C1	C2	I	PD	
F.	Theater, movie theater, bowling alley or other indoor amusement or entertainment use	N	N	N	Y	Y	SP	SP	
G.	Commercial parking lot or parking garage	N	N	SP	Y	SP	SP	SP	
H.	Kennel structure, commercial or veterinary hospital	SP	SP	SP	SP	SP	SP	SP	
I.	Hotel, motel or similar lodging	N	N	SP	SP	SP	SP	SP	
J.	Bed-and-breakfast or similar lodging	SP	SP	SP	SP	SP	N	Y	
K.	Country inn	SP	SP	SP	SP	SP	N	SP	
L.	Bank or financial institution	N	N	N	Y	Y	SP	Y	
M.	Real estate, insurance or professional office	N	N	N	Y	Y	N	Y	
N.	Professional medical office or clinic	N	N	N	Y	Y	N	Y	
O.	Office building	N	N	N	Y	Y	N	Y	
P.	Self-service storage facility	N	N	N	SP	SP	SP	SP (Note 15)	
Q.	Big-box retail establishment	N	N	N	SP	N	N	N	
R.	Sales and/or service establishment for motor vehicles, Class I, II, recreational vehicles, to include off-road and marine, including storage of motor vehicles and recreational	N	N	N	SP	SP	N	SP	

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		Zoning Districts							
		R80	R40	R10	C1	C2	I	PD	
	vehicles (all types) (Note 12)								
S.	Mobile home sales	N	N	N	SP	N	SP	N	
T.	Gas station and/or motor vehicle repair	N	N	N	SP	SP	SP	SP	
U.	Auto body shop and painting	N	N	N	SP	N	SP	N	
V.	Mixed-use (retail or office with residential above) (Note 8)	N	N	SP	SP	Y	N	Y	
W.	Adult uses	N	N	N	N	N	SP	N	
X.	Retail sales and service facility for boats and marine equipment	N	N	N	Y	SP	SP	N	
Y.	Undertaking or funeral establishment	N	N	SP	N	Y	N	N	
Z.	Retail sales and service of farm equipment	SP	N	N	Y	SP	SP	SP	
AA.	Mall or enclosed shopping plaza	N	N	N	SP	SP	SP	SP	
BB.	Car wash	N	N	N	Y	SP	N	SP	
CC.	Small engine repair for lawn mowers, motorcycles, etc. to be enclosed in a barn or garage and not to include automobiles or auto body repair	SP	SP	SP	SP	SP	N	N	
DD.	Land transportation passenger terminal facility	N	N	N	SP	SP	SP	SP	
EE.	Sales of motor vehicles as an accessory use to motor vehicle repair shop or auto body shop	N	N	N	SP	SP	SP	SP	
FF.	Gallery	N	N	N	SP	SP	SP	SP	

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C. Industrial uses.

		Zoning Districts							
		R80	R40	R10	C1	C2	I	PD	
A.	Warehouse or other building for storage, assembly or marketing wholesale products or equipment	N	N	N	Y	N	Y	SP	
B.	Enclosed heavy manufacturing, processing, fabrication, packaging, assembly and storage	N	N	N	N	N	Y	SP	
C.	Printing or publishing plant	N	N	N	SP	SP	Y	SP	
D.	Research, experimental or testing laboratory	N	N	N	Y	SP	Y	SP	
E.	Building materials or contractor's yard, including exterior storage of materials, products or equipment, but with all such material to be screened by a fence or appropriate landscaping	N	N	N	Y	N	Y	N	
F.	Open-air salvage yard, junkyard (Class III) (Note 6)	N	N	N	N	N	SP	N	
G.	Aboveground storage of heating fuel	N	N	N	SP	N	SP	N	
H.	Enclosed light manufacturing processing, fabrication, packaging, assembly and storage, marketing	N	N	SP (Note 16)	Y	SP	Y	SP	
I.	Expansion, conversion or rehabilitation of existing light industrial uses	N	N	N	Y	Y	Y	Y	

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		Zoning Districts							
		R80	R40	R10	C1	C2	I	PD	
J.	Hydropower generation	SP	SP	SP	SP	SP	SP	SP	
K.	Wind power generation	SP	SP	SP	SP	SP	SP	SP	
L.	Solar energy collection system (See § 300-6.11 for limitations.)	Y/SP	Y/SP	Y/SP	Y/SP	Y/SP	Y/SP	Y/SP	
M.	Mobile car crushing conducted commercially (Note 13)	N	N	N	N	SP	SP	N	

D. Agricultural and forestry uses.

		Zoning Districts							
		R80	R40	R10	C1	C2	I	PD	
A.	Commercial forestry	Y	Y	Y	Y	Y	Y	Y	
B.	Orchard, market garden or other commercial agricultural use	Y	Y	Y	Y	Y	Y	Y	
C.	Commercial nursery, greenhouse or sales of produce:								
	5 acres or less	Y	Y	Y	Y	Y	SP	Y	
	More than 5 acres	Y	Y	Y	Y	Y	Y	Y	
D.	Commercial poultry or livestock farm, including riding stable or commercial stable (Note 2):								
	5 acres or less	SP	SP	N	SP	SP	SP	SP	
	More than 5 acres	Y	Y	Y	Y	Y	Y	Y	
E.	Accessory poultry or livestock for noncommercial use, private stable, or kennel structure, nonprofit (Note 2 and 3):								
	Under 5 acres	Y	Y	SP	SP	SP	SP	SP	
	5 acres and above	Y	Y	Y	Y	Y	Y	Y	
	(See § 300-6.3, Accessory uses and dwellings.)								
F.	Accessory noncommercial agriculture, excluding poultry and livestock (See § 300-6.3, Accessory uses and dwellings.)	Y	Y	Y	Y	Y	Y	Y	

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		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
G.	Commercial earth removal	N	N	N	N	N	SP	N

E. Conservation and recreation.

		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
A.	Conservation and wildlife preserve	Y	Y	Y	Y	Y	Y	Y
B.	Private club, lodge or cultural, civic or other nonprofit social or recreation use	SP	SP	SP	SP	SP	SP	SP
C.	Recreational activity conducted commercially; i.e., campground, ski area or golf course	SP	SP	SP	SP	N	SP	SP
D.	Go-cart/off-road motorcycle racetrack (Note 9)	N	N	N	N	N	SP	N
E.	Ice racing (Note 7)							
F.	Miniature golf, batting cage or driving range	SP	SP	SP	SP	SP	SP	SP
G.	Public recreational boating or swimming area	SP	SP	SP	SP	SP	SP	SP
H.	Commercial recreational boating or swimming area	N	N	N	SP	SP	SP	SP

F. Institutional uses.

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		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
A.	Church or place of worship, including parish house or rectory	Y	Y	Y	Y	Y	Y	Y
B.	Religious, sectarian or denominational, private or public school building or related use	Y	Y	Y	Y	Y	Y	Y
C.	School, hospital, medical institution or government building	Y	Y	Y	Y	Y	Y	Y
D.	Cemetery	SP	SP	SP	N	N	N	N
E.	Day nursery or other similar agency for day care of children or adults	Y	Y	Y	Y	Y	Y	Y
F.	Nursing, rest or convalescent home, assisted-living facility	SP	SP	SP	N	SP	N	SP
G.	Museum	SP	SP	SP	SP	SP	SP	SP

G. Governmental and public service uses.

		Zoning Districts						
		R80	R40	R10	C1	C2	I	PD
A.	Administration building, police or fire station or other government-related use	SP	SP	SP	Y	Y	SP	Y
B.	Uses related to water supply or sewage treatment	SP	SP	SP	SP	SP	SP	SP
C.	(Reserved)							
D.	Public utility installations	SP	SP	SP	SP	SP	SP	SP

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H. Special uses.

		Zoning Districts						
		<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
A.	Nonretail marijuana facilities, subject to the provisions set forth in § 300-6.12	SP (Note 14)	N	N	SP	SP	SP	SP

I. NOTES: [Amended 11-8-2007]

1. Requirements for mixed-use buildings. Residential space is not permitted below commercial or industrial space. The main or ground floor must be commercial or industrial. However, one residential apartment of not less than 350 square feet nor more than 900 square feet and that does not occupy more than 25% of the ground floor area may be allowed by special permit on the main or ground floor. No such apartment may occupy building frontage beyond a doorway.
2. Provided that no structures housing poultry or livestock or kennels are within 100 feet of any street or property line.
3. Raising and keeping of livestock or other farm animals for noncommercial use by owner of record, provided said use is accessory to a single-family residence.
4. Demonstration models must be placed on individual building lots.
5. An owner and occupier of a residence which has been destroyed by fire or other natural holocaust shall be allowed to place a mobile home on the site of such residence for a period of 12 months while the residence is being rebuilt, or such further time as may be approved by a majority of the Zoning Board of Appeals. Any such mobile home shall be subject to approval by the Board of Health and the Building Inspector.
6. Requires a minimum lot size of 15 acres.
7. See § 300-4.1, Ice Racing Overlay District.
8. When dealing with mixed uses, note that "use is limited to those commercial uses allowed within each specific zone".
9. (a) Requires a minimum lot size of 10 acres.  
 (b) Restricted to go-carts and off-road motorcycles only. Racing of all other motor vehicles is prohibited.  
 (c) Hours of activity shall be restricted as follows: Sunday, 12:00 noon to 6:00 p.m.; Monday through Thursday, 11:00 a.m. to dusk; Friday and Saturday, 9:00 a.m. to 10:00 p.m.  
 (d) Sound emissions shall comply with 310 CMR 7.10.  
 (e) A buffer area of 25 feet from the front lot line and 100 feet from all other lot lines shall be maintained in a natural vegetative state and not used for any other purpose. Installation of signage and driveway access is allowed in the buffer.  
 (f) Requires site plan approval by the Planning Board.
10. Provided there is no external structural evidence of occupancy by more than one family other than a second exit for fire purposes from each unit, and further provided that each dwelling resulting from such conversion shall not have less habitable floor space than:
  - Efficiency unit: 450 square feet.
  - One-bedroom unit: 550 square feet.
  - Two-bedroom unit (or more): 750 square feet.

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11. If an accessory dwelling unit is proposed within the footprint of an existing single-family home, no special permit is required.
12. Any motor vehicle or recreational vehicle (all types) not immediately registerable if required or inspectable if required through the Massachusetts Registry of Motor Vehicles shall be screened from view.
13. Requires a minimum lot size of five acres.
14. R80 Zone requires a minimum five-acre lot with double the setback distance as outlined in § 300-7.2.
15. In existing structures only.
16. No outside storage of materials.

## **ARTICLE VI - Nonconforming and Special Buildings and Uses**

**[Amended 5-19-2008]**

### **§ 300-6.1. Applicability.**

The provisions of this Article VI apply to actions in connection with nonconforming, special and accessory uses, structures, and lots as created by the initial enactment of this bylaw or by any subsequent amendment thereto.

### **§ 300-6.2. Nonconforming uses.**

- A. Continuation of use. Any lawful building or structure or use of a building, structure or land or any part thereof existing at the time of adoption of this bylaw may be continued. A nonconforming building or structure shall not be structurally altered, enlarged or reconstructed except as hereinafter set forth.
- B. Re-establishment of nonconforming uses. Any building, structure or use of land devoted to a nonconforming use, or any building, structure or use of land considered a nonconforming use at the time of adoption of this bylaw may, if damaged or destroyed by fire or other accidental cause, be reconstructed or restored within the same portion of the lot as used before, provided that such reconstruction or restoration is started within 24 months following damage or destruction.
- C. Preexisting nonconforming structures or uses.
  - (1) Any lawful preexisting nonconforming structures or buildings or uses may be reconstructed, extended or altered, provided that such alteration or extension does not create any new nonconformity, and further provided that no such reconstruction, extension or alteration shall be permitted unless the Zoning Board of Appeals determines, by special permit, that such reconstruction, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood. No special permit is needed if the reconstruction, extension or alteration is to be a nonconforming single- or two-family dwelling and said reconstruction, extension or alteration does not increase the nonconforming nature of the dwelling. In addition, no such building shall be added to, enlarged, or reconstructed to an extent greater than 50% of its area at the time of the adoption of this Bylaw or such amendment or except as provided for in [Section 4.7.2M].
  - (2) Upon a determination by the Building Commissioner, the reconstruction, extension or alteration to a nonconforming single- or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right under the following circumstances:
    - (a) Normal repairs or replacement of parts of any nonconforming structure does not constitute an extension of a nonconforming use of such structure;

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- (b) The reconstruction, extension or alteration to a structure located on a lot with insufficient area complies with all current minimum setback requirements;
- (c) The reconstruction, extension or alteration to a structure located on a lot with insufficient frontage complies with all current minimum setback requirements;
- (d) The reconstruction, extension or alteration to a structure which encroaches upon one or more required setback areas complies with all other current minimum setback requirements; or
- (e) The reconstruction, extension or alteration to a structure occurs within the existing footprint of a nonconforming structure.

(3) In the event that the Building Commissioner determines that the nonconforming nature of a single- or two-family residential structure would be increased by the proposed reconstruction, extension or alteration, the Zoning Board of Appeals may, by special permit, allow such reconstruction, extension or alteration where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

D. Non-use. Wherever a nonconforming use, as determined by state statute, has not been in use for a period of more than two years, it shall not be re-established and any future use shall conform with this bylaw, and any amendment thereto.

### **§ 300-6.3. Accessory uses and dwellings.**

- A. Any use of land or subordinate building which is customarily incidental to that of the main building or use of land shall be permitted as a matter of right on the same lot with said principal use, or lot adjacent thereto in the same ownership, provided that such accessory use is not hazardous or detrimental to the property in the vicinity, and subject further to the following provisions. A parcel that is separated from the principal parcel only by a public or private way shall be considered adjacent for the purposes of this section. (See Figure A.6.3.)
- B. Purpose. The purpose of this bylaw is to encourage accessory dwelling units as an alternative housing choice.
- C. Applicability. An accessory dwelling unit shall be permitted by right in zoning districts as delineated in the Schedule of Use Regulations if it is to be added to an existing dwelling unit, as long as it does not add to the footprint of the existing dwelling unit. If the accessory dwelling unit involves new construction that adds to the footprint or will alter the exterior of the structure, the applicant shall submit an application for a special permit to the Zoning Board of Appeals. The number of accessory dwelling units in a residential development created under the provisions of Article XI are limited by the provisions of that article.
- D. Requirements for accessory dwellings in all zoning districts. The following requirements apply in all zoning districts in which an accessory dwelling unit is permitted:
  - (1) The accessory dwelling unit shall clearly be a subordinate part of the single-family dwelling.
  - (2) One private off-street parking space shall be available for use by occupants of each accessory dwelling unit.
  - (3) No new driveway or curb cut shall be created to service the accessory dwelling unit.
  - (4) The accessory dwelling unit must be designed so that the appearance of the building remains unchanged, and there shall be no change to the facade of the house. Unless otherwise required by the Massachusetts Building Code, any new exterior stairs needed to provide primary or

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secondary means of egress for the accessory dwelling unit shall be located on the side or rear of the building.

- (5) The lot where the accessory dwelling unit is located shall conform to the minimum setbacks and frontage requirements in accordance with § 300-7.2, Table of Dimensional and Density Regulations.
- (6) Not more than one accessory dwelling unit shall be permitted in a single-family home.
- (7) The living space in an accessory dwelling unit shall not exceed a maximum of 750 square feet or 33% of the total square footage of the primary dwelling, whichever is smaller, and shall contain no more than two bedrooms. For purposes of this section, the computation of maximum floor area shall be limited to the principal residence and shall exclude the floor area in an attached or detached structure.

E. Contractor's home base of operations. The use of property in connection with his trade by a resident plumber, carpenter, electrician, contractor, painter, etc. is a permitted accessory use, provided that no manufacturing or assembly work requiring substantial continuous employment shall be carried on, and provided that all storage shall be carried on within the principal building or within suitable accessory buildings. Standards from § 300-6.4 apply for parking.

F. Home business office. The use of an area within a dwelling unit for use by a resident for conducting business by phone, mail, fax and which does not generate any traffic and has no employee outside the household is a permitted accessory use. (See § 300-6.5, Home-based business.)

G. Dwellings accessory to commercial or industrial uses. If the particular use of a commercial or industrial property in the Industrial Zone is such that a caretaker or attendant is required to live on that property on a 24 hours a day/seven days a week basis, the Zoning Board of Appeals may grant a special permit to allow one dwelling unit on such commercial or industrial property or immediately adjacent to the property for the use of such caretaker or attendant and his/her family. Such a permit shall be supported by a finding by the Board which states in detail the use which requires such caretaker or attendant and the reasons that necessitate such a dwelling unit. Any such permit shall be limited to a period of not more than five years but may be renewed. Should such use change or be discontinued during such permit period, the dwelling space must be converted to nonresidential use or removed unless a new permit is granted. [Added 5-19-2008]

<b>Schedule of Accessory Use Regulations</b> <b>[Amended 5-19-2008]</b>								
		<b>Zoning Districts</b>						
		<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
A.	Accessory dwelling unit, § 300-6.3A through D	SP	SP	SP	N	SP	N	SP
B.	Accessory poultry or livestock for noncommercial use, private stable or kennel structure, nonprofit (See § 300-5.2D.):							
	Under 5 acres	Y	Y	SP	SP	SP	SP	SP
	5 acres and above	Y	Y	Y	Y	Y	Y	Y
C.	Accessory noncommercial agriculture, excluding poultry and livestock	Y	Y	Y	Y	Y	Y	Y
D.	Home-based business	Y	Y	Y	Y	Y	N	Y

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<b>Schedule of Accessory Use Regulations</b> <b>[Amended 5-19-2008]</b>								
		<b>Zoning Districts</b>						
		<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b>	<b>C2</b>	<b>I</b>	<b>PD</b>
E.	Wireless communications facility (WCF) (See § 300-6.8.):	Y	Y	Y	Y	Y	Y	Y
	Minor WCFs * only allowed if located on a water tank, or as a co-location on an existing wireless facility (building permit required)							
	Interior WCFs (building permit required)	Y	Y	Y	Y	Y	Y	Y
	Major WCFs	SP	SP	SP	SP	SP	SP	SP
F.	Parking of heavy vehicle 26,000 pounds GVW or less (See § 300-6.4.)	Y	SP	SP	Y	Y	Y	SP
G.	Parking of heavy vehicle over 26,000 pounds GVW (See § 300-6.4.)	SP	SP	SP	SP	SP	SP	SP
H.	Parking of noncommercial passenger vehicles	Y	Y	Y	Y	Y	Y	Y
I.	Kennel structure, hobby	Y	Y	SP	SP	SP	SP	SP
J.	Dwelling accessory to commercial or industrial use (See Subsection A table above.)	N	N	N	N	N	Y	N
K.	Solar energy collection system to produce energy to be consumed entirely on the premises (See § 300-6.11.)	Y	Y	Y	Y	Y	Y	Y

**§ 300-6.4. Parking of heavy vehicles.**

Parking of not more than two heavy vehicles, other than noncommercial passenger vehicles, on residential property will be an accessory use and is subject to the conditions imposed by this section.

- A. Vehicles subject to this section include trucks over 10,000 GVW (even if registered as a passenger vehicle), tractor trailer units, buses, school buses, bulldozers, and other heavy off-road vehicles. Large sport utility vehicles and motor homes are noncommercial passenger vehicles.
- B. Weights specified in the accessory use table are gross vehicle weights (GVW) or gross combined weights (GCW) for tractor trailer units and will be determined according to the rules of the Massachusetts Registry of Motor Vehicles.
- C. The principal operator of the vehicle must be a resident of the property.
- D. Vehicles shall be parked so as not to be generally visible from the street. Visibility from abutting property is allowed only when the vehicle operator has obtained the written consent of the abutter. In the event a new person occupies the abutting property, a new consent shall be required.
- E. Such vehicles shall not be operated except to take them to or from the property. A vehicle may be allowed to idle as allowed by law. The use of a vehicle-mounted auxiliary engine for refrigeration or

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other purpose while the vehicle is parked shall require a special permit. Only minor repairs or service to such vehicles is allowed on site. Loading or off-loading of goods in transit is not permitted.

### **§ 300-6.5. Home-based businesses.**

- A. Purpose. The purpose of this section is to allow residents of the Town of Winchendon to operate a home-based business as an accessory use in residence zones subject to the following conditions.
- B. Use regulations. Home-based businesses shall be allowed in Winchendon as an accessory use in residential zoning districts and the PD and C1 and C2 Districts, provided the following use conditions in Subsection C are met. Examples of a home-based business include, but are not limited to: professional offices, tax preparation, tutoring, real estate, insurance, and craft businesses.
- C. Use conditions.
  - (1) No changes to the property may be made that will seriously deter its future use for completely residential purposes.
  - (2) The principal operator of the business shall be a resident of the property.
  - (3) Not more than 25% of the total floor area of the buildings may be used for the business.
  - (4) The business does not create a nuisance to others in the area by reason of noise, odors, vibration, unsightly conditions, significantly increased traffic, improper disposal of wastes, or other reason.
  - (5) Not more than two commercial vehicles whose gross vehicle weight does not exceed 10,000 pounds may be stored or parked out of doors on the property.
- D. Parking standards. Home-based businesses shall not generate nonresidential traffic or vehicle parking above and beyond what is normal for the typical residential occupancy for the area. A residential structure shall have not more than two parking spaces to serve the home business. Parking on the street without causing an inconvenience may be allowed. (See Article VIII.)
- E. Signage. Signs are permitted and shall conform to standards set forth in § 300-9.9C of this bylaw.

### **§ 300-6.6. Swimming pools.**

All swimming pools shall be subject to the State Building Code, as applicable, with the following restrictions:

- A. A fifteen-foot setback from all property lines.
- B. Supporting beams of decks shall be included as part of the setback restriction.

### **§ 300-6.7. Mobile home parks and courts.**

Mobile home parks and courts may be established by special permit in any residential district and shall be subject to site plan approval as per Article XII and to the following additional requirements:

- A. A parcel minimum of 15 acres.
- B. A lot minimum for each mobile home, including parking space and access drive, of 10,000 square feet.
- C. Lot frontage of not less than 75 feet.
- D. Consistent with setbacks in R10 in § 300-7.2 and also 50 feet from any tract boundary.

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- E. Each lot to be serviced with water, electricity and sanitary drainage suitable for permanent connection.
- F. Each mobile home to meet the requirements of Article II of the State Sanitary Code and any applicable regulations of the Winchendon Board of Health.
- G. Site plan to designate lots, roadways, vehicular access, parking facilities, water and sewerage systems, landscaping and streetlighting arrangements, and licensing, maintenance and operation of each mobile home park or court to be in accordance with the provisions of Chapter 140 of the General Laws of Massachusetts.

**§ 300-6.8. Wireless communications facilities.**

- A. Purpose. The purpose of this bylaw is to:
  - (1) Minimize adverse visual and environmental impacts of wireless communications facilities, satellite dishes, antennas, and their support structures to abutting properties and traveled ways;
  - (2) Provide dependable wireless communications service to all areas of the Town;
  - (3) Minimize the overall number and height of such facilities to only those that are essential;
  - (4) Promote the integration of such facilities with existing buildings and the shared use of existing tower facilities;
  - (5) Reduce the need for new individual towers; and
  - (6) Ensure the safety of such facilities.
- B. Permit requirements.
  - (1) Minor wireless communications facilities shall be allowed by right in all zoning districts except residential districts. Minor facilities are allowed by right in a residential zone only if they are located on a water tank, or as a co-location on an existing wireless facility. The Town reserves the right to prohibit facilities on some or all municipal property by not issuing requests for proposals on undesirable sites. Building permits issued by the Building Commissioner shall be required for all minor WCFs prior to installation, and all such installations shall comply with all applicable provisions of these bylaws. Minor WCFs shall be considered accessory structures and uses.
  - (2) Interior wireless communications facilities shall be allowed by right in all zoning districts. Building permits issued by the Building Commissioner shall be required for all such WCFs prior to installation, and all such installations shall comply with all applicable provisions of these bylaws.
  - (3) Major wireless communications facilities are allowed only under a special permit granted by the Zoning Board of Appeals in accordance with the provisions of this bylaw. Major WCFs shall be considered principal uses and shall be subject to the minimum requirements of the zoning district in which they are located relative to lot size, frontage, and access, except as provided under Subsection D of this bylaw.
  - (4) A permit shall not be granted for a tower or facility to be built on speculation.
- C. General standards for all WCFs.
  - (1) An applicant who seeks to install its first WCF in the Town or to install a WCF not in conformity with its build-out plans previously provided shall provide the Town with:

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- (a) A Town-wide map showing the location of other existing WCFs and the WCF proposed by this application in the Town and within one mile of the Town;
- (b) A Town-wide map showing the applicant's projected build-out plans.

(2) Each year, on the anniversary of the issuance of the building permit and/or the special permit, the operator of each WCF shall submit to the Building Commissioner:

- (a) Certification of their compliance with all applicable federal and state requirements;
- (b) Certification of their possession of all necessary licenses to operate such a facility;
- (c) Certification that the WCF is still in use;
- (d) For towers on Town property, a certificate of insurance for liability coverage naming the Town as an additional insured;
- (e) For any tower, proof of a current tower removal guarantee bond as required by Subsection E(19).
- (f) Should any operator fail to produce such certifications, the owner of that facility shall remove the WCF within 60 days or the Town may remove the WCF (and any now unused tower) under the provisions of Subsection E(19).

(3) For all WCFs, the operator shall maintain the WCF, including painted finish, security barrier, and landscaping, in good condition.

(4) Applicants proposing to erect a WCF on municipally owned land or structures shall provide evidence of contractual authorization for such use from the Town department in charge of the property as part of their application.

(5) The visual impacts of each WCF shall be minimized by employing the best available technology for the industry.

D. Special permit applications.

- (1) No WCF or part thereof shall be erected or installed outdoors except in compliance with the provisions of this bylaw. The provisions of this § 300-6.8 shall apply to all WCFs, whether installed or erected as a principal or an accessory use, and to any additions to, or replacement of, existing WCFs.
- (2) Procedurally, the Zoning Board shall act on an application for a special permit for the placement of a WCF pursuant to MGL c. 40A, § 9. In issuing a special permit under this subsection, the Zoning Board may waive or otherwise reduce the effect of any requirements or prohibitions of any zoning bylaw; provided, however, any zoning bylaw limiting the number of permitted uses or structures on a lot shall not apply to a WCF authorized by this section. Any denial shall be in writing and supported by substantial evidence contained in the record.
- (3) The Zoning Board shall review the special permit application for conformance with the special permit review criteria as provided by § 300-13.6 of the Winchendon Zoning Bylaw and for conformance with WCF standards under this § 300-6.8. Where a WCF already exists and is a legally nonconforming structure or use, then any change, extension or alteration of the use or structure shall require a determination by the Zoning Board that the proposed change, extension or alteration is not more substantially detrimental to the neighborhood than the existing use or structure.

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(4) To make an informed review of an applicant's proposal, the Board shall request the following information:

(a) A locus plan at a scale not smaller than one inch equals 200 feet showing all property lines, streets, landscape features, and all buildings within 500 feet of the facility. It shall show the exact location of the proposed facilities, including antennas, mounts, equipment shelters, security barriers, and parking. It shall also show all proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

(5) The Zoning Board may also require existing ("before" condition) photographs and proposed ("after" condition) renditions. The "before" condition photographs shall illustrate what can currently be seen from any public road within 300 feet. The "after" condition renditions shall show the same view with the proposed facility superimposed.

(6) The Zoning Board may require the applicant to pay reasonable fees for professional review of the applicant's proposal by a professional or radiofrequency engineer, attorney, or other qualified professional.

(7) Any WCF located on or within an historic structure shall employ the best available technology for the industry to minimize any alteration to the character-defining features, distinctive construction methods, or original historic materials of the building and to completely conceal from view the proposed WCF. Any alterations made to an historic structure to accommodate the WCF shall require the approval of the appropriate Historical Commission and be fully reversible.

E. General standards for towers. Any application for a WCF that includes a tower shall be subject to the following standards, in addition to those described for all WCFs.

(1) Any application for a WCF that includes a tower shall be considered only after a finding by the Zoning Board that existing or previously approved towers, buildings, or structures cannot accommodate the proposed users. New towers shall be considered only upon a finding by the Zoning Board that:

(a) The applicant has used reasonable efforts to co-locate its proposed WCF on existing or approved facilities; and

(b) The applicant either was unable to negotiate commercially reasonable lease terms with the owner of an existing or approved facility that could accommodate the proposed facilities from both structural and radiofrequency engineering perspectives; or that no structure exists or is proposed.

(2) A tower shall be either a freestanding monopole or be disguised as a naturally occurring object such as a tree or context-sensitive feature.

(3) Any proposed tower shall be the minimum height necessary to accommodate the use. However, any new tower shall be of sufficient height to accommodate the antennas of at least two WCFs. The visual impact of the tower shall be minimized by use of the best available technology for the industry.

(4) To demonstrate the visual impact of a proposed tower, the applicant shall fly a three-foot-diameter balloon or place a crane at the proposed site at the maximum height of the proposed tower on a weekend day between the hours of 12:00 noon and 3:00 p.m. The date and location of the demonstration shall be advertised at least 14 days, but not more than 21 days, before the demonstration in a newspaper of general circulation in the Town. Photographs of the demonstration showing the impact of the proposed tower on abutting streets, adjacent property

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owners and residential neighborhoods shall be submitted. If, during the demonstration, visibility is obscured by poor atmospheric conditions, the demonstration shall be repeated.

- (5) The tower site shall have access from a public road or through an adequate easement.
- (6) Landscaping shall be provided to screen the foundation and the equipment from abutting properties.
- (7) The maximum feasible amount of vegetation shall be preserved.
- (8) The tower site shall be suitably fenced to prevent unauthorized entry.
- (9) Lighting shall be limited to minimal security lighting, emergency lighting, and that required by federal, state or local regulations.
- (10) The applicant shall provide evidence that the tower meets the current structural standards for structural antenna towers and antenna support structures published by the Electrical Association/Telecommunications Industry Association.
- (11) Each tower site shall have at least one parking space, to be used in connection with the maintenance of the facility, and shall not be used for the storage of vehicles or other items.
- (12) WCF shall not generate noise in excess of 50dB measured at the site property line.
- (13) The WCF shall meet setback requirements for the zoning district in which it is located, unless the Zoning Board finds that a greater setback would be more appropriate for the facility and/or the surroundings.
- (14) A suitable "fall-zone" shall be provided at each site to ensure public safety. Suitability shall be determined through fact-finding by the Zoning Board. The fall-zone shall be within the required perimeter fence.
- (15) Towers shall not be sited in or within 500 feet of an historic district or where their location adversely impacts the visual aesthetics of an historic district.
- (16) There shall be a sign identifying the facility, the operator and an emergency telephone number where the operator can be reached at any time. Other permitted signs are "Danger/Warning" and "No Trespassing" signs. Advertising signs are prohibited. All signs must conform to Article IX of the Winchendon Zoning Bylaw.
- (17) For towers located on Town property, the operator shall execute an agreement with the Town whereby the operator indemnifies and holds the Town harmless against any claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the operator.
- (18) For all towers, the operator shall execute an agreement with the Town whereby the operator will allow other carriers to lease space on the tower so long as such use does not interfere with the operator's use of the tower.
- (19) For all towers, the owner of the tower, which owner may be different from the owner of the land, shall execute an agreement with the Town whereby each operator shall, at its own expense, not more than one year after its use of the tower ceases, remove all of its WCFs thereon, and, if the tower is no longer used for WCF, shall remove the tower and restore the premises to its original condition, all at the owner's expense. To protect the Town's interest in the event that the owner or any operator breaches this agreement, the owner shall provide the Town with:

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- (a) A bond in an amount sufficient to pay for this removal and restoration, which shall be kept current and effective; and
- (b) Written authority from the owner of record of the subject property to bind its successors and assigns to allow the Town to enter onto the subject property to perform this work.

**F. Standards for accessory buildings and structures.**

- (1) Accessory structures and buildings shall comply with the setback requirements of the zoning district in which they are located.
- (2) Any additional accessory building(s) added to a site shall abut the original accessory building and shall be compatible in appearance.

**G. Exceptions.** Amateur radio towers used in accordance with the terms of any amateur radio license issued by the Federal Communications Commission shall be exempt from the provisions of this bylaw, provided that the tower is not used or licensed for any commercial purpose.

**§ 300-6.9. Adult entertainment.**

- A. Purpose.** The special regulations itemized in this section are for the purpose of preventing a concentration of adult use establishments in any one area of Town, to prevent the associated secondary effects of such establishments and to promote the health, safety and welfare of the citizens of Winchendon.
- B. Adult use establishments are permitted only in the Industrial (I) Zoning District with a special permit as herein provided.**
- C. Adult use establishments require a special permit from the Zoning Board of Appeals.** An applicant for a special permit to operate an adult use establishment must file an application on a form approved by the Zoning Board of Appeals, with the Zoning Board of Appeals and the Town Clerk. Such form shall require any information required by the Zoning Board of Appeals, but shall include as a minimum:
  - (1) Name and address of the legal owner of the establishment;
  - (2) Name and address of all persons having lawful, equity or security interests in the establishment;
  - (3) Name and address of the manager(s);
  - (4) The number of proposed employees, including performers;
  - (5) Proposed security precautions;
  - (6) Physical layout of the premises in a format established by the Zoning Board of Appeals;
  - (7) The exact use(s) to be made of the premises.
- D. Adult use establishments require site plan approval from the Planning Board.** The applicant for site plan approval for an adult use establishment must file an application on a form approved by the Planning Board, with the Planning Board and the Town Clerk. Such form shall contain any information required by the Planning Board, but shall include as a minimum:
  - (1) Name and address of the legal owner of the establishment;
  - (2) Name and address of all persons having lawful, equity or security interests in the establishment;
  - (3) Name and address of the manager(s);

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- (4) The number of proposed employees, including performers;
- (5) Proposed security precautions;
- (6) Physical layout of the premises in a format established by the Planning Board;
- (7) The exact use(s) to be made of the premises.

E. Adult use establishments may be permitted under this section only on lots not less than three times the lot size required in the Industrial (I) Zone.

F. Location. Adult use establishments may not be located less than 500 feet from the nearest lot line of:

- (1) Other adult use establishments;
- (2) A public or private nursery school or day-care center;
- (3) A public or private kindergarten;
- (4) A public or private school;
- (5) A playground;
- (6) A church or other place of worship;
- (7) An establishment serving alcoholic beverages which are consumed on its premises;
- (8) A hotel, motel, motor court or lodging house;
- (9) A residential zoning district or residence;
- (10) An establishment selling alcoholic beverages.

G. A special permit granted under this section, pursuant to the provisions of the MGL c. 40A, § 9A, shall lapse within six months of issuance, not including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause.

H. The Zoning Board of Appeals shall apply the following criteria in the granting of a special permit under this section:

- (1) It shall determine that the proposed site will meet, or be altered to meet, all provisions of this Zoning Bylaw, including coverage, densities, buffer areas and parking requirements.
- (2) Appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically "adult") uses in Winchendon, and shall not employ unusual color, graphics, lighting or building design which would attract attention to the premises.
- (3) No special permit shall be issued to any person convicted of violating MGL c. 119, § 63, or MGL c. 272, § 28 or convicted of any felony in any jurisdiction.
- (4) Each special permit shall be issued with such conditions as may be required by the Zoning Board of Appeals and shall have at least the conditions specified below:
  - (a) No one under the age of 21 shall be allowed on the premises.
  - (b) "Obscene" merchandise or services shall not be available.

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- (c) No one, including employees and patrons, shall be permitted on the premises while such person is unclothed or in such state of attire as may be considered "nudity" as that term is defined in MGL c. 272, § 31, except an entertainer hired by the owner thereof.
- (d) A uniformed police officer shall be on duty, at the expense of the owner, at any establishment when live entertainment takes place.
- (e) Use of unusual color, graphics, lighting, or building design which would attract attention to the premises is prohibited.
- (f) No hostess or other employees or persons may mingle with the patrons while such hostess or other person is unclothed or in such state of attire as may be considered "nudity" as this term is defined in MGL c. 272, § 31.
- (g) No person may be encouraged or permitted to engage in "sexual conduct", as that term is defined in MGL c. 272, § 31 on the premises of such establishment.
- (h) No person shall be employed or permitted to perform an act or acts, or to simulate an act or acts of "sexual conduct" or engage in any activity which may be considered causing or encouraging a state of "sexual excitement" as defined in MGL c. 272, § 31.
- (i) The permitted uses specifically exclude disseminating or offering to disseminate adult material or matter to minors or suffering minors to view displays of such matter or material.
- (j) Entertainers are required to remain in a designated area such as a stage during performances and are prohibited from mingling with patrons during their performance.
- (k) The sale or dispensing of alcoholic beverages is prohibited on a premises where an adult use establishment exists, except as otherwise permitted by the local licensing authorities following the issuance of an appropriate license therefor.

(5) Noncompliance with any of the conditions of a special permit issued under this section shall be deemed a zoning violation. If more than three zoning violations occur within 30 days, forfeiture of all special permits issued hereunder shall occur, subject to review at a public hearing of the Zoning Board of Appeals and Planning Board, which may be a joint hearing at the request of either Board or the applicant. Repeated abuses (more than two public hearings in one year, 365 days) shall result in the revocation of all permits issued under this section. In the event of such revocation, the applicant may not reapply for five years from the date of such revocation.

I. The Planning Board shall apply the following standards in the issuance of a site plan approval:

- (1) Appropriate landscaping and fencing buffers to protect neighboring properties from light and noise, and to restrict public access to the adjacent properties is required.
- (2) Lighting of the exterior of the building and parking lot to reduce congestion, improve public safety and increase visibility for public safety is required, as specified by the Town Safety Officer.
- (3) No displays or sexually explicit advertising shall be visible from areas used by the general public, including areas in and around the exterior of the establishment.
- (4) Adequate parking, entrances and exits from the public way(s) or other ways to which the public has access to or from the premises, including but not limited to safe and appropriate sight distances for a reasonably safe ingress and egress, shall be reviewed for public safety and to address traffic congestion.

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(5) Noncompliance with any of the conditions shall be subject to the provisions of Subsection H(5) of this section.

### **§ 300-6.10. Wind energy conversion systems (WECS).**

[Added 5-19-2008]

A. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.

B. Applicability. Construction and use of a wind energy conversion system (WECS) or any part thereof shall comply with this bylaw.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

**COMMERCIAL WIND ENERGY SYSTEM (CWES)** — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity greater than 10 kW.

**OVERALL ENGINEER-DESIGNED FALL ZONE** — The area on the ground, determined by a registered professional engineer, within a prescribed radius from the base of a WECS, typically the area within which there is a potential hazard from falling debris or collapsing material.

**RESIDENTIAL WIND ENERGY SYSTEM (RWES)** — A wind energy conversion system consisting of a wind turbine, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW, located on a single lot, intended as an accessory use in a designated residential district or in connection with any residential use in a designated commercial district. The rated capacity of not more than 10 kW can be increased at the discretion of the SPGA.

**WIND ENERGY CONVERSION SYSTEMS (WECS)** — All equipment, machinery, and structures, whether underground, on the surface, or overhead, used to collect, transmit, distribute, store, supply, or sell energy derived from wind, including but not limited to wind turbines (rotors, electrical generators and towers), anemometers (wind measuring equipment), transformers, substations, power lines, control and maintenance facilities, and site access and service roads.

**WIND FARM** — A collection of towers in the same location. See Subsection E(3) for allowance of more than one tower on the same lot or on contiguous lots held in common ownership.

**WIND TURBINE** — A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.

D. Special permit granting authority. The Planning Board is hereby established as the special permit granting authority (SPGA) in connection with construction of wind energy conversion facilities (WECS). WECS are allowed in all districts by special permit. Special scrutiny will be given to WECS to be located in an historic district. The SPGA may grant a special permit only if it finds that the proposal complies with the provisions of this bylaw and is consistent with the applicable criteria for granting special permits.

E. Development requirements. The following requirements apply to all wind energy conversion systems (WECS).

(1) Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

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- (2) WECS serving neighborhoods or multiple residences are encouraged; however, proposals shall be permitted as a CWES allowed in residential districts. If applicable, any necessary easements between property owners must be recorded.
- (3) RWES and CWES shall be limited to one tower per lot, including one tower per lot on contiguous lots held in common ownership. The SPGA may exceed this limit if the applicant can demonstrate that an additional number is necessary to serve the purposes of this bylaw and that the additional towers will not create an adverse impact in comparison to the siting of one tower as outlined in this bylaw with respect to factors including, but not limited to, noise [Subsection E(8)], shadowing/flicker [Subsection E(9)], visual impact [Subsection E(11)], and electromagnetic interference [Subsection E(12)].
- (4) Tower height.
  - (a) CWES. Maximum height 300 feet. The SPGA may allow the height restriction to be exceeded as part of the special permit process if it finds that the applicant has demonstrated that additional height is needed and that increased height does not create a greater adverse impact than a facility built in compliance with this section with respect to factors including, but not limited to, noise [Subsection E(8)], shadowing/flicker [Subsection E(9)], visual impact [Subsection E(11)], and electromagnetic interference [Subsection E(12)].
  - (b) RWES. Maximum height 150 feet. The SPGA may allow the height restriction to be exceeded as part of the special permit process if it finds that the applicant has demonstrated that additional height is needed and that increased height does not create a greater adverse impact than a facility built in compliance with this section with respect to factors including, but not limited to, noise [Subsection E(8)], shadowing/flicker [Subsection E(9)], visual impact [Subsection E(11)], and electromagnetic interference [Subsection E(12)].
- (5) Monopole towers are the preferred type of support.
- (6) Height calculation. Overall height of the wind turbine, including any roof-mounted wind turbine, shall be measured from the ground level (the land in its natural state prior to grading or filling) to the highest point reached by any part of the wind turbine.
- (7) Fall zone setbacks. (See Figure A.)
  - (a) The minimum setback for the WECS shall be maintained equal to the overall engineer-designed fall zone plus 10 feet from all boundaries of the site on which the WECS is located.
    - [1] No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.
    - [2] WECS shall be set back a distance of the overall engineer-designed fall zone plus 10 feet from ways, drives, access easements, trails, ascertainable paths and aboveground utility lines. (See Figure A.)
  - (b) The SPGA may waive the fall zone setbacks in Subsection E(7)(a) if it determines that such a waiver does not derogate from the purpose of this bylaw, and is in the public interest. If any portion of the fall zone setback area referred to in Subsection E(7)(a) includes abutting property, in order for the SPGA to grant such a waiver, the applicant must present evidence that he or she has secured a permanent "fall zone easement" from the abutting property owner(s). The area of the "fall zone easement" shall be shown on

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all applicable plans submitted to the SPGA. The easement shall prohibit the placement of temporary or permanent buildings or structures within the "fall zone" and state that it is for the benefit of the applicant's property and that the easement shall run with the land and forever burden the subject property. The easement shall be recorded no later than 10 days from the grant of said waiver, and a copy of the recorded easement shall be provided to the SPGA promptly. In addition, the SPGA may waive the setback requirement in Subsection E(7)(a) for setbacks from a public way for good cause.

(8) Noise. The WECS and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). If deemed necessary by the SPGA, an analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

(a) Manufacturers' specifications may be accepted when, in the opinion of the SPGA, the information provided satisfies the above requirements.

(b) If noise levels are determined to be excessive, the Zoning Enforcement Officer shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence.

(9) Shadowing/Flicker. The WECS shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that a WECS does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

(10) Prevention of access. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access. Climbing access to the tower shall be limited by the following methods: by placing climbing apparatus no lower than 12 feet from the ground and by installation of a six-foot-high fence with locked gate set back no less than 10 feet from the base of the WECS. (See Figure B.)

(11) Visual impact.

(a) The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain nonreflective muted colors without graphics or other decoration.

(b) The WECS shall not unreasonably interfere with any scenic views, paying particular attention to such views from the downtown business area, public parks, natural scenic vistas or historic building or districts. WECS shall, when possible, be sited off ridgelines where their visual impact is least detrimental to scenic views and areas. In determining whether the proposed WECS will have an undue adverse impact on the scenic beauty of a ridge or hillside, the SPGA consider, among other things, the following:

[1] The period of time during which the proposed WECS will be viewed by the traveling public on a public highway, public trail, or public body of water;

[2] The frequency of the view of the proposed WECS by the traveling public;

[3] The degree to which the view of the WECS is screened by existing vegetation, the topography of the land, and existing structures;

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- [4] Background features in the line of sight to the proposed WECS that obscure it or make it more conspicuous;
- [5] The distance of the WECS from the viewing vantage point and the proportion that is visible above the skyline;
- [6] The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point; and
- [7] The sensitivity or unique value of the particular view affected by the proposed WECS.

(c) To assist the SPGA in its review it may require the applicant to fly or raise a three-foot-diameter balloon at the maximum height of the proposed WECS at a location within 50 horizontal feet of the center of the proposed facility. The applicant shall provide photographs of the balloon test taken from at least four vantage points previously designated by the SPGA.

(12) Electromagnetic interference. No WECS installation shall cause electromagnetic interference. The applicant may be asked to bring in consultants at his/her own expense to certify that the system will not cause interference. If neighbors can demonstrate that there is excessive interference, the Building Commissioner shall notify in writing the owner of the WECS to correct the violation. If the interference is not remedied within 30 days, the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

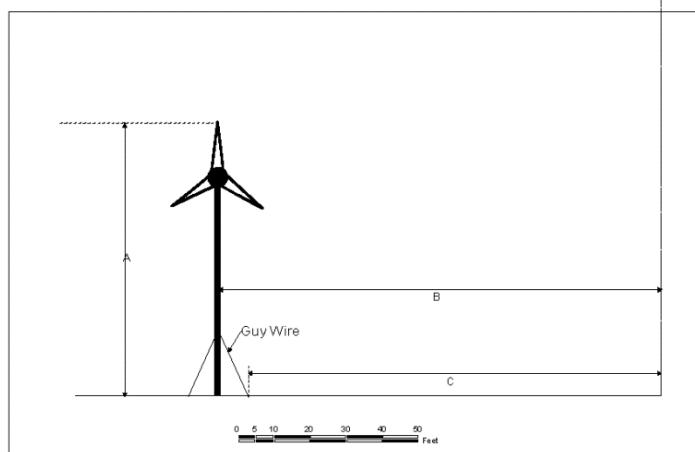
### **F. Procedural requirements:**

- (1) Site plan. A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, aboveground utility lines and any other significant features or appurtenances. Any portion of this section may be waived if, in the opinion of the SPGA, the materials submitted are sufficient for the SPGA to make a decision.
  - (a) Vegetation. Existing vegetation must be shown, including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The SPGA may also consider the height of vegetation at maturity.
  - (b) Lighting. If lighting is proposed (other than required FAA lights), the applicant shall submit a plan indicating the horizontal footcandles at grade, within the property line and 25 feet beyond the property lines. The plan shall also indicate the locations and types of luminaires proposed.
  - (c) The site plan shall be accompanied by any additional documentation necessary to provide a complete description of WECS, including technical, economic, environmental, and other reasons for the proposed location, height and design.
- (2) Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
- (3) Compliance with FAA regulations. WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

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- (4) Utility notification. No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (5) Discontinuance.
  - (a) A WECS shall be considered to be discontinued if it is not operated for a period of two years. Once a WECS is designated as discontinued, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
    - [1] Removal of WECS, any 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 WECS to its natural condition, except that any landscaping and grading shall remain in the "after" condition.
  - (b) If the applicant fails to remove the WECS in accordance with the requirements of this subsection, the Town shall have the authority to enter the property and physically remove the facility at the owner's cost, which may include placing a lien on the property and/or taking other actions.
- (6) Modifications. All modifications (excluding routine repairs and maintenance) to a WECS made after issuance of the special permit shall require approval by the SPGA.
- (7) Professional fees. The SPGA may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.
- (8) Unsafe installation. Should a WECS be deemed unsafe by the appropriate Town authority because of its construction or condition, it shall be repaired or removed at the owner's expense.

**Figure A: Wind Energy Conversion System (Illustrative Example Only)**



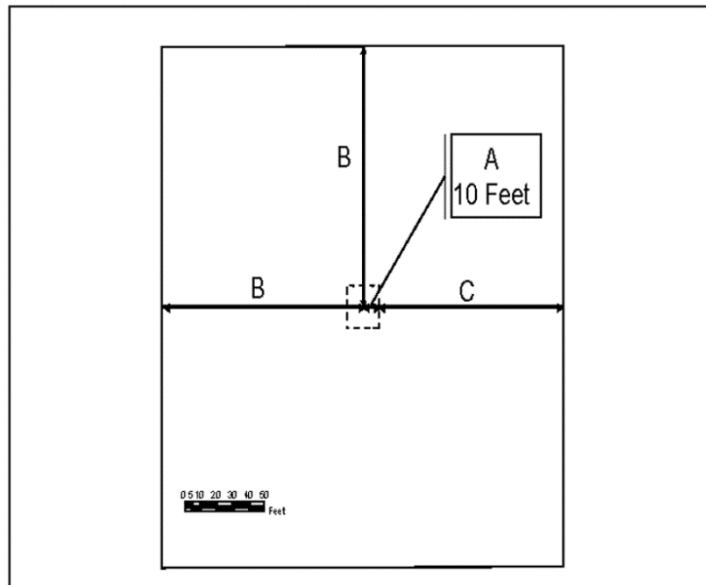
A = Overall Height of WECS. Maximum height of a residential WECS is 150 feet and maximum height for a commercial WECS is 300 Feet. Maximum height may be exceeded as part of the special permit process if there is a demonstrated need.

B = Fall Zone Setback: A minimum of the overall engineer-designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.

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C = Standard Structure Setback.

**Figure B: Wind Energy Conversion System (Illustrative Example Only)**



A = Six-foot-high fence with locked gate set back no less than 10 feet from the base of the WECS.

B = Fall Zone Setback: A minimum of the overall engineer-designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.

C = Standard Structure Setback.

**§ 300-6.11. Solar energy collection systems.**

[Added 5-24-2010]

- A. The purpose of this bylaw is to promote the creation of solar energy collection systems to further the goal of making Winchendon a sustainable community as provided in § 300-1.1B(2) of this bylaw. This section seeks to provide standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.
- B. Solar energy collection systems are permitted as follows:
  - (1) Solar energy collection systems which produce energy to be used exclusively on the premises and systems which generate electricity that is sold to the electric utility, provided the site is/will be a net purchaser of electricity, are permitted by right in all zones as an accessory use. This shall include recharging electric automobile batteries on site.
  - (2) Solar energy collection systems which are mounted on buildings are allowed by right in all zones.
  - (3) Ground-mounted solar energy collection systems are allowed by right in the R40, R80, C1, C2, and I Zones, but shall be subject to the site plan review requirements of Article XII and the requirements of Subsections E through R.

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- (4) Other solar energy collection systems are allowed in all zoning districts by special permit issued by the Planning Board and the site plan review requirements of Article XII and the requirements of Subsections E through R.
- C. The construction or installation of any solar energy collection system shall require a separate building permit.
- D. The construction and operation of all solar energy collection systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall be constructed in accordance with the State Building Code.
  - (1) Lots containing solar energy collection systems shall conform to the lot area and setback requirements for the zone in which it is located.
  - (2) The Planning Board may require the installation of wooded natural buffers to restrict visual impacts on abutting residential properties and roadways. In those cases where a required wooded buffer would shade the collectors, the Planning Board may allow substitution of a fence and a grassed buffer. [Amended 5-20-2019 ATM by Art. 20]
- E. Subsections F through R shall apply only to systems requiring site plan review under Subsection B(3) and (4).
- F. In addition to the other requirements for site plan review, each application shall include:
  - (1) One- or three-line electrical diagram (if electrical generation is proposed) detailing the solar installation, associated components, and electrical interconnection methods, with all National Electrical Code and National Electrical Safety Code compliant disconnects and overcurrent devices;
  - (2) Documentation of the major system components to be used, including the collector panels, mounting system, and appurtenant devices;
  - (3) A statement bearing the seal of a licensed professional engineer stating the measured normal pre-construction noise levels at points (generally 100 feet apart) along the property lines and the expected operational noise levels at the same locations. Particular attention shall be paid to property lines abutting developed sites. A properly calibrated sound level meter meeting ANSI Class 2 standards shall be used for all measurements;
  - (4) Name, address, and contact information for proposed system installer;
  - (5) An operation and maintenance plan (see also Subsection I);
  - (6) Proof of liability insurance; and
  - (7) Description of financial security that satisfies Subsection R.
- G. If the area where the collector panels are installed is so designed that all stormwater will be returned to the soil within the area, the whole area will be considered as pervious area. Otherwise, the actual ground area covered by collector panels will be considered impervious.
- H. A low-impact development permit under Chapter 190 of the General Bylaws will be required for solar energy collection systems.
- I. Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the installation, which shall include measures for maintaining safe access to the

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installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

- J. Utility notification. No installation proposed to generate electricity for use off site shall be approved until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar installation owner's or operator's intent to install an interconnected customer-owned generator.
- K. Appurtenant structures. All appurtenant structures to installations, including, but not limited to, equipment shelters, storage facilities, transformers, substations, pumps, and turbines, shall be included in the required site plan review and shall be evaluated based on the criteria in § 300-12.6. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
- L. Design standards. Solar energy collections systems shall be surrounded by a chain-link or similar fence adequate to prevent entry by unauthorized persons.
  - (1) If the noise level measured at any property line of the system in normal operation is more than 10 db greater than the reported pre-construction noise level at the same location, sound-deadening measures may be required as a condition of allowing further operation of the system.
  - (2) Each installation shall have a sign showing the name and address of the operator thereof and a telephone number where a responsible representative of the operator may be reached at any time.
  - (3) Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- M. Safety and environmental standards.
  - (1) Emergency services. The system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. This contact information and telephone number shall also be provided to the local emergency dispatch center.
  - (2) Solar energy collection system conditions. The installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the installation and any access road(s), unless accepted as a public way.
- N. Modifications.
  - (1) All material modifications to a solar energy collection system installation made after approval of the site plan shall require a modification of the approval.
  - (2) The Planning Board shall review each site plan at intervals of not less than five years and may, after public notice and hearing, modify the approved plan to insure the public safety and compliance with the Town bylaws and regulations.

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- O. Abandonment or decommissioning. Any installation which has reached the end of its useful life or has been abandoned as defined in Subsection Q of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - (1) Physical removal of the solar collectors, appurtenant structures, equipment, security barriers and transmission lines from the site.
  - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- P. Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- Q. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the installation shall be considered abandoned when the system fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- R. Financial surety. Operators of installations shall provide security, either escrow account, bond, or otherwise, to cover the cost of removal of the system in the event the Town must remove it and remediate the landscape. The form and amount of the security shall be determined by the Planning Board. The amount of the security shall reasonably reflect the anticipated cost of such removal and remediation. If the Board and the operator disagree, it shall be determined by a disinterested and qualified independent engineer. Such surety will not be required for municipally or state-owned facilities. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**§ 300-6.12. Medical/Adult use marijuana facilities; Medical/Adult Use Marijuana Retail Overlay District.**

[Added 5-21-2018 ATM by Art. 22]

- A. Purpose. The purpose of this bylaw is:
  - (1) To provide for the limited establishment of medical/adult use marijuana facilities (collectively known hereafter as "marijuana facilities") in appropriate places for such use and under conditions in accordance with Chapter 334 of the Acts of 2016, entitled, "Regulation and Taxation of Marijuana Act", as amended by Chapter 55 of the Acts of 2017, "An Act to Ensure Safe Access to Marijuana", and all regulations which have or may be issued by the Department of Public Health (DPH) and the Cannabis Control Commission (CCC), including, but not limited to, 105 CMR 725.00 et seq. and 935 CMR 500.00 et seq.
  - (2) To minimize the adverse impacts of marijuana facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with marijuana facilities.
  - (3) To regulate the siting, design, placement, safety, monitoring, modification, and removal of marijuana facilities.
  - (4) To limit the overall number of marijuana facilities in the Town of Winchendon to what is essential to serve the public convenience and necessity.

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**B. Applicability; severability.**

- (1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use or adult use is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted as a marijuana facility under this bylaw.
- (2) No marijuana facility shall be established except in compliance with the provisions set forth herein.
- (3) If any provision of this section or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this section, and to this end the provisions of this section are severable.

**C. Administration.**

- (1) The Planning Board shall be the special permit granting authority (SPGA) and shall also conduct site plan review for an applicant for a marijuana facility.
- (2) A special permit is required for all marijuana facilities.

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D. Definitions. Any term not specifically defined herein shall have the meaning as defined in 105 CMR 725.00 and 935 CMR 500.00, as such regulations may from time to time be amended.

**DESIGNATED CONTACT PERSONS** — Any and all persons whose names appear on the special permit and formal site plan approval applications as the applicant's designee.

**INDEPENDENT TESTING LABORATORY** — An entity licensed to test marijuana and marijuana products.

**LOCKED AREA** — An area equipped with locks or other security devices, which is accessible only to consumers 21 years of age or older, employees or owners of a marijuana facility or agents thereof, registered qualifying patients that are 18 years of age or older, or caregivers.

**MARIJUANA** — The same substance defined as "marijuana" or "marijuana" under MGL c. 94C and c. 94G.

**MARIJUANA CULTIVATOR** — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other marijuana facilities, but not to consumers.

**MARIJUANA FOR ADULT USE** — Marijuana that is regulated by 925 CMR 500.00 and cultivated, processed, manufactured, transported or sold for recreational purposes for individuals 21 years of age or older.

**MARIJUANA FACILITY** — A commercial marijuana cultivator, independent testing laboratory, product manufacturer, research facility, transporter, retailer, or any other type of licensed marijuana-related business, including a marijuana treatment center.

**MARIJUANA FOR MEDICAL USE** — Marijuana that is regulated by 105 CMR 725.00 and designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions.

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

**MARIJUANA PRODUCTS** — Products that have been manufactured and contain marijuana or an extract from marijuana, including, but not limited to, 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 RETAILER** — An entity licensed to purchase and transport marijuana and marijuana products from marijuana facilities and to sell or otherwise transfer marijuana and marijuana products to marijuana facilities and to consumers.

**MEDICAL MARIJUANA TREATMENT CENTER** — An entity register under 105 CMR 725.100 that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana for medical use, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

**NONMEDICAL MARIJUANA** — Any marijuana that is not regulated by 105 CMR 725.00 and designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions.

E. Eligible locations for marijuana facilities.

(1) Nonretail marijuana facilities, which shall include a marijuana cultivator, product manufacturer, independent testing laboratory, research facility, transporter of marijuana and

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medical marijuana treatment centers, engaged in any of the above-listed nonretail uses may be permitted in certain zoning districts pursuant to a special permit and site plan approval as set forth in the Zoning Bylaw, § 300-5.2, Schedule of Use Regulations, Subsection H.

(2) Adult Use/Medical Marijuana Facilities Retail Overlay District.

(a) Establishment.

- [1] The Medical/Adult Use Marijuana Facilities Retail Overlay District (the "MFROD") is hereby established and is identified on the Town of Winchendon Zoning Map. The boundaries of the MFROD are shown on the Zoning Map on file with the Town Clerk.
- [2] Within the MFROD, all requirements of the underlying zoning district remain in effect, except where these regulations provide an alternative to such requirements. Land within the MFROD may be used for adult use marijuana retailers and medical marijuana treatment centers engaged only in the dispensing of medical use marijuana for retail sale, in which case the requirements set forth in this section shall apply; or a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MFROD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MFROD conflict with the requirements of the underlying district, the requirements of the MFROD shall control. A medical marijuana treatment center that is proposing to operate all of the uses permitted under its license in a single location will be permitted only on sites located within the MFROD.

F. Application requirements for all marijuana facilities.

(1) All marijuana facilities shall be subject to the application requirements set forth in Rules and Regulations for the Review and Approval of Site Plans and Site Development in Winchendon, Massachusetts for formal site plan review.

(a) In addition to the application requirements set forth in the Regulations for Site Plan Review, a special permit/site plan application for a marijuana facility shall also include the following:

- [1] A statement from the applicant, setting forth the following information:
  - [a] The name and address of each owner of the facility;
  - [b] The source of all marijuana that will be sold or distributed at the marijuana facility, if applicable;
  - [c] The source of all marijuana that will be cultivated, processed, and/or packaged at the marijuana facility, if applicable;
  - [d] The quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the marijuana facility; and
  - [e] Plans must show all proposed security measures for the marijuana facility, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
- [2] If the applicant is a nonprofit organization, a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the applicant is a for-profit corporate entity, a

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copy of its Articles of Incorporation or equivalent documents, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the applicant is a public agency.

- [3] CCC licensing is not required at time of submission of a special permit application; however, issuance of a special permit shall be conditioned on the applicant's receipt of a provisional license from the CCC, and no operations shall commence prior to the CCC's issuance of a final license. [Amended 5-20-2019 ATM by Art. 21]
- [4] A detailed floor plan of the premises of the proposed marijuana facility that identifies the square footage available and describes the functional areas of the facility, along with a deed, lease, purchase and sale agreement or other legally binding document for the site of the proposed marijuana facility.
- [5] The resume(s) of the applicant, including company history, references, and relevant experience, where applicable.

(2) Additional requirements.

- (a) Use requirements.
  - [1] No marijuana shall be smoked, eaten, or otherwise consumed or ingested on the premises of any marijuana facility absent a positive vote by ballot question presented to the voters of the Town at a biennial state election pursuant to MGL c. 94G, § 3(b). 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.
  - [2] Marijuana facilities shall provide the special permit granting authority and all abutters located within 500 feet of the marijuana facility with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.
  - [3] The hours of operation of retail marijuana facilities shall be set by the special permit granting authority.
- (b) Limitation on number of retail marijuana facilities. No more than three adult use marijuana retailers and no more than one medical marijuana treatment center retail dispensary shall be permitted to be located in the Town of Winchendon.
- (c) Locational and physical requirements.
  - [1] All aspects of a marijuana 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 fully enclosed building and shall not be visible from the exterior of the business.
  - [2] No outside storage of marijuana, related supplies, or educational materials is permitted.
  - [3] No retail marijuana facility shall have a gross floor area accessible to patients or customers which is in excess of 2,500 square feet. Space which is dedicated to

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administration or operations and is accessible only to employees of the retail marijuana facility shall not be included in this limitation.

- [4] In the R80 District, all marijuana facilities shall be subject to siting on a parcel of no less than five acres. In addition, all marijuana facilities in the R80 District shall be subject to double the setback distance requirements to those outlined in § 300-7.2 of the Winchendon Zoning Bylaws.
- (d) All marijuana facilities shall provide adequate ventilation such that the 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.
- (e) No use shall be allowed at a marijuana facility 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.
- (f) Buffer. No part of any marijuana facility, excluding areas designated for parking, shall be located within 500 feet of any of the following preexisting uses: [Amended 5-20-2019 ATM by Art. 22]
  - [1] Any public or private school providing education in kindergarten or Grades 1 through 12;
  - [2] Any drug or alcohol rehabilitation facility;
  - [3] Any correctional facility, half-way house, or similar facility; or
  - [4] Any playground or athletic fields, recreational facilities, youth centers such as a YMCA, and parking areas for the bike path, or similar facility in which children commonly congregate.
- (g) The distance specified above shall be measured by a straight line from the point of the front door for which the proposed marijuana facility is to be located to the property line of the facility in question.
- (h) No marijuana facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (i) Signage for marijuana facilities will be subject to Town of Winchendon Zoning Bylaw Article IX and the provisions for marketing set forth in 935 CMR 500.105(4).

### **G. Reporting requirements.**

- (1) All special permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and special permit granting authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.
- (2) The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health and special permit granting authority in writing a minimum of

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30 days prior to any change in ownership or management of a facility regulated under this section.

- (3) All marijuana facilities shall file an annual report with the special permit granting authority, and the owner or operations manager for the marijuana facility shall appear before said authority to present the report no later than January 31 of each year, providing a copy of all current applicable state licenses to demonstrate continued compliance with the conditions of the special permit.
- (4) Within 24 hours of contact by a municipal official concerning the operation of a marijuana facility, the designated contact persons shall be required to respond by phone or email to any such inquiry.

**H. Transfer/Discontinuance of use.**

- (1) A special permit granted under this section is nontransferable and shall have a term limited to the duration of the applicant's ownership or leasing of the premises as a marijuana facility.
- (2) Any marijuana facility permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia upon registration or licensure revocation, expiration, termination, relocation to a new site or any other cessation of operation as regulated by the CCC or DHP in compliance with applicable state regulations.

**I. Outside consultants and review fees.**

- (1) An outside consultant review escrow deposit shall accompany the application for special permit. The escrow for review fees is intended to cover the Planning Board's potential cost of hiring consultants to review the applicant's compliance with the special permit requirements under this bylaw, to include provisions set forth in the Winchendon Planning Board's site plan rules and regulations in Chapter 420, Site Plan Review, § 420-6.2B, and may include legal counsel. The initial escrow deposit amount shall be set by the special permit granting authority on a case-by-case basis, when such consultants or counsel are deemed necessary. Any unexpended monies in the escrow account will be returned to the applicant only after all obligations are satisfied. Failure to fulfill escrow requirements may render an application incomplete and be considered sufficient grounds for its denial.
- (2) The applicant may appeal the selection of a consultant(s) whose fees are to be paid from the escrow deposit to the Board of Selectmen. 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. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Pursuant to MGL c. 44, § 53G, the required time limits for action upon the application by the special permit granting authority shall be extended by the duration of the appeal. If no decision is made by the Board of Selectmen within one month following the filing of the appeal, the special permit granting authority's selection shall stand.
- (3) The escrow deposit shall be deposited in a special account established by the Town Treasurer pursuant to MGL c. 44, § 53G. Funds from the special account shall be administered in accordance with MGL c. 44, § 53G, and may be expended only for the purposes described above.

**J. Findings.** The special permit granting authority shall not issue a special permit for a marijuana facility unless it finds that:

- (1) The facility is designed to minimize any adverse visual impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11;

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- (2) The facility has received a provisional certificate of registration or provisional license from the appropriate licensing authority and is in compliance with all applicable state laws and regulations;
- (3) The applicant has provided a copy of a signed host agreement with the Town of Winchendon, in accordance with MGL c. 94G;
- (4) The applicant has provided adequate security measures to protect the health and safety of the public, and that the storage and/or location of cultivation of marijuana is adequately secured in an enclosed, locked area;
- (5) The applicant has adequately addressed issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility.

K. Waiver. The Planning Board may, in its discretion, waive or modify any of the requirements set forth in this section, if the Board determines that such a waiver does not derogate from the purpose of this bylaw, and is in the public interest.

L. Violations. Any violation of this section shall be grounds for revocation of a special permit issued under this section.

## **ARTICLE VII - Site Considerations; Dimensional and Density Regulations**

### **§ 300-7.1. Purpose.**

[Amended 5-23-2011]

- A. The purpose of this Article VII is to ensure that building lots conform to and are conducive to land usage patterns designed by the Town of Winchendon, that they do not restrict the acceptable land uses of others either through land-locking, limiting access or gerrymandering lots to such an extent that it limits the value of developable land in the Town, except where topography or environmental considerations dictate. Normal polygonal lot shapes with ample width to allow for attractive, neighborhood-consistent buildings well-suited to their purpose that do not impact their neighbors adversely shall be allowed without requiring a burdensome review process (lots).
- B. The purpose of this Article VII is also to ensure that building designs, land development and the public setting retain the charm and appeal of a small rural town with walkable neighborhoods, reasonable privacy and easy access to green spaces (buildings).
- C. The provisions of this article do not apply to new construction built under the provisions of Article XI, Residential Development. For those projects, the provisions of Article XI shall supersede those contained in this article.

### **§ 300-7.2. Basic requirements; Table of Dimensional and Density Regulations.**

[Amended 5-21-2012]

- A. Each lot shall have a street frontage line which conforms to the minimum stated in Table 7.2, side lines and a rear line. Lots, other than a reduced-frontage lot permitted under § 300-7.3 of the bylaw, shall have an area in square feet greater than the square of its perimeter divided by 30 and shall have no nonadjacent side lines closer than 1/2 of the minimum frontage distance at any point between the frontage and the buildable portion of the lot.
  - (1) The area of a lot required to meet the minimum stated in Table 7.2 shall be the area of the lot determined by excluding from the actual area of the lot the areas of any streams, ponds, wetlands, vernal pools and areas with a slope greater than 1:4. The areas of such wetland-

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related areas shall be as determined by Chapter 131 of the General Laws and any state or local regulations adopted thereunder.

- (2) The street frontage of a buildable lot must be on:
  - (a) A public way maintained by the state or Town; or a way which the Town Clerk certifies is maintained and used as a public way; or
  - (b) A private way which has been built and is currently maintained adequately for the uses to which it is to be put as determined in a finding by the Planning Board. Such a finding shall be made only after the Board has sought advice from the Fire Department, the Police Department and the Department of Public Works; or
  - (c) A way shown on a subdivision plan approved and endorsed by the Planning Board, the construction of which is guaranteed under the provisions of MGL c. 41, § 81U.
- B. Buildings and structures erected, reconstructed or enlarged in any zoning district shall conform to the dimensional and density regulations set forth in the Table 7.2. (See Figures A.7.2.3 and A.7.2.5.)
- C. Number of buildings or uses on lot.
  - (1) No more than one principal building or use shall be permitted per lot unless specifically provided for below or in another part of this bylaw, such as the MCOD District described in Article VI.
  - (2) The Planning Board may authorize by special permit more than one principal building and/or more than one use per lot in connection with the approval of a definitive subdivision or site plan if such action will allow more orderly development of the lot. All of the following requirements shall be met:
    - (a) The Board must determine that such action will not be detrimental to area property values, the neighborhood, or the intent of the Master Plan.
    - (b) The Board must determine that the area of the lot is fully sufficient to provide for the existing and proposed buildings as well as for driveways, walkways, parking, and any other proposed or required amenities. For residential uses, the requirements of § 300-11.12B(1) shall also be met.
    - (c) The lot frontage and setbacks conform to those required in Table 7.2 or, in the case of residential development, by § 300-11.12B.
    - (d) Principal buildings are separated by not less than 20 feet.
    - (e) Each principal building has adequate access from the lot frontage.
    - (f) If multiple uses are allowed, all such uses are allowed in the zoning district as provided in Article V.
    - (g) Any change to the lot, either by the construction of additional buildings or changes of use, shall require a modification of the special permit.
- D. Special conditions.
  - (1) Limitations on height of buildings and structures in the dimensional table shall not apply to chimneys, towers, ventilators, spires or ornamental features.

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(2) A previously plotted lot or parcel of land containing less than the area or frontage required by the dimensional table may be developed for single residential use only in accordance with the provisions of Chapter 40A of the General Laws of Massachusetts.

E. Buffer zone/yard. In areas where Highway Commercial (C1), Neighborhood Business (C2), and Industrial (I) Zones abut residential property, a minimum buffer zone of 50 feet in the C1 and C2 Districts and 100 feet in the I District shall be required to screen the residential properties. In the buffer zone, every effort shall be made to preserve the existing trees and ground vegetation. Where suitable vegetation is nonexistent, a dense mixture of native or noninvasive trees shall be planted. The trees planted shall have a minimum height of six feet and shall be of at least two-inch diameter at the height of 42 inches from ground level. (See Figure A.7.2.4.)

**Table of Dimensional and Density Regulations [Amended 11-8-2007]**

These provisions do not apply to projects built under the provisions of Article XI, Residential Development, unless that article so provides.

<b>Zoning District</b>	<b>Minimum Lot Area (square feet)</b>	<b>Frontage (feet) (Note 6)</b>	<b>Setback (feet) (Note 7, 8)</b>			<b>Maximum Structure Height (floors)</b>	<b>Maximum Man-Made Structure Height (feet)</b>	<b>Maximum Impervious Area as % of Lot (Note 1)</b>
			<b>Front</b>	<b>Side</b>	<b>Rear</b>			
R80	80,000	200	40	25	50	2 1/2	35	10%
R40	40,000	150	40	25	50	2 1/2	35	15%
R10	10,000	75	20	10	20	2 1/2	35	25%
C1	75,000	250	75	25	25	3	45	45%
C2	20,000	100	30	15	30	3	45	45%
I	43,560	150	40	25	50	No	50	no
PD, except residential (Note 2)	5,000	75	5			3	45	70%
PD, 1- and 2-family residential	10,000	75	20	20	20	2 1/2	35	25%
PD, other residential	10,000 (Note 3, 9)	75 (Note 9)	20	Combi ned 30 feet (Note 4)	50	3	45	70%
WF (Note 4)								

Notes:

- Includes all buildings, structures, and paved surfaces. (See Figures A.7.2.3-6.)
- Includes mixed-use developments.

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3. But not less than 3,600 square feet of lot area per dwelling unit. Measured parallel to the frontage, except where attached buildings are allowed in § 300-4.7D and E.
4. As per special use regulations of § 300-4.3 and § 300-4.4, lots partially within the Wetlands and Floodplain Conservancy Districts may be governed by dimensional and density requirements of the underlying district as determined by the Board of Appeals, provided that more than 50% of the lot area and all nonsewered sanitary facilities lie outside the WF District.
5. (Reserved)
6. Lots having frontage on more than one street shall maintain the front setback for all such frontage streets appropriate for the zone in which they lie. Any remaining lot lines shall be considered side lot lines for setback purposes.
7. The distances shown in Table 7.2 for front setback, side setback, and rear setback are the minimum distances from the respective lot lines on which any structure, whether temporary or permanent, other than a fence, a retaining wall, a driveway, a walkway, a lamppost, or an allowed sign may be placed unless allowed by the Planning Board under site plan review. The Planning Board may also waive the maximum height and maximum impervious area requirements as part of site plan review; neither shall there be any regular storage of materials allowed closer to the property line than the setback unless allowed by the Planning Board through site plan review. [Added 5-18-2015]
8. Temporary structures of less than 125 square feet gross floor area may have a side setback of five feet and a rear setback of 10 feet in the R10 Zone only.
9. Except as provided in § 300-4.7D(2).

**§ 300-7.3. Reduced-frontage lots.**

[Amended 1-29-2007]

**A. Purpose.**

- (1) The purpose of this section is to allow for optional limited development of lots with deep back land in order that the efficient use of land will be encouraged, the rural character of Winchendon will be retained and that adequate access to lots is ensured.
- (2) Parcels located in Residential "R" Districts with frontage on an accepted Town road may, with the issuance of a special permit by the Planning Board, be divided into lots, one of which may be a "reduced-frontage lot" for use by a single-family dwelling only, under the alternative lot area and frontage requirements described below. Special permit approval may be granted by the Planning Board if the Board finds that:
  - (a) The standards described in this section have been met.
  - (b) Adequate access to the lot is provided.
  - (c) Public safety, including that of the lot inhabitants, is protected.
  - (d) The existence of the lot will not create a nuisance for neighbors.

**B. Applicability.**

- (1) The provisions of this section may be applied only to lots being created from lots of record in existence for not less than 10 years. A lot from which any portion has been removed and thus has become a new lot during that time will not qualify.
- (2) A lot that meets the requirements of this section and has been in existence for not less than 10 years may be granted a special permit by the Planning Board to create a reduced-frontage lot and the provisions of Subsections C, D, E and F shall apply.

**C. Standards for reduced-frontage lots.** Each such lot shall meet the following standards. All plans for such lots shall indicate how these standards are met. There shall be a minimum building location area on each reduced-frontage lot; where a circle with a diameter equal to the "normal" frontage requirement can be placed. Such area shall contain an area of land which, in the opinion of the Planning Board, provides a suitable dwelling site (See Figure A.7.3.)

- (1) House circle shall be drawn on plan.
- (2) The house shall be located in the house circle.
- (3) House circle shall not contain any wetlands.
- (4) Adequate access to the house circle from the pipestem (i.e., the narrower portion of the lot connecting the building area with the street frontage) shall be designated on the plan.
- (5) Center of the circle shall be flagged on the site.
- (6) Pipestem shall be flagged on the site.
- (7) The minimum street frontage shall be 50 feet on an accepted Town way.
- (8) The minimum lot size shall be twice the required zoning area.
- (9) The reduced-frontage lot and all residual land shall have accessible frontage on an accepted and maintained Town road.

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- (10) No more than two such reduced-frontage lots shall have contiguous frontage.
- (11) Once approved as a reduced-frontage lot, such lot shall not be subsequently subdivided, nor be approved by variance for other than single-family residential use.
- (12) Yard requirements in § 300-7.2 shall also apply to buildings on reduced-frontage lots.
- (13) Only one reduced-frontage lot may be created from applicable lots. In all cases where a reduced-frontage lot is created, the remainder of the original lot shall meet all applicable zoning requirements in that district. The approval of a reduced-frontage lot may not result in the creation of a nonconforming situation. The applicant shall supply proof that no other reduced-frontage lots have been taken from the original parcel. This proof shall be in such form as may be required by the Planning Board.
- (14) Access to a reduced-frontage lot is restricted to along the pipistem of the lot. This access is subject to the review and approval of the Department of Public Works and the Fire and Police Departments.
- (15) An occupancy permit shall not be issued until a driveway has been constructed which complies with all standards required in the Zoning Bylaw and the regulations of the Planning Board as determined by the Superintendent of the Department of Public Works.
- (16) Width of the pipistem along its entire length shall not be less than the width of the frontage required for a reduced-frontage lot in the district in which the lot is located.
- (17) Pipistem length is limited to the length of a cul-de-sac allowed in the Subdivision Rules and Regulations of the Planning Board for the zoning district in which the lot is located.
- (18) To ensure proper drainage and to ensure the lot remains buildable under Title V and other regulations, loam and topsoil shall remain on the property. Gravel removal from the lot shall not exceed 19 cubic yards except as may be waived by the Planning Board.
- (19) The Planning Board may apply other conditions, safeguards and limitations to the plan as it deems necessary.

D. Standards for plan. The special permit application shall comply with the requirements of the subdivision regulations or other regulations duly adopted by the Planning Board. This requirement may include a site visit.

E. "Approval not required" plan. Once a special permit for the creation of a reduced-frontage lot has been granted, a plan showing the lot is entitled to endorsement as an "approval not required" plan as provided in MGL c. 41, § 81P.

F. Lapse of permit. A special permit lapses if not exercised within two years from the date of filing of the permit with the Town Clerk by the Planning Board. "Exercised" shall be deemed to mean construction in accordance with a duly issued building permit, including excavation of a cellar hole or pouring of a foundation, but not including landscaping or driveway construction.

### **§ 300-7.4. Access to lot.**

- A. All residential uses shall be accessed from the way on which the lot has legal frontage for zoning purposes. Driveways shall be constructed over the lot's frontage except as provided below.
- B. The Planning Board may grant a special permit to access a residential use over a lot line other than the frontage if:
  - (1) Access over the lot frontage is not possible or is impractical.

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- (2) The lot can be assigned an address on the way from which the access is obtained that will insure that emergency services can locate the residence.
- (3) Up to three dwelling units may share a common driveway; provided that the shared portion of the driveway shall not be used to meet parking space requirements; and further provided that each dwelling is on a conforming lot; and further provided that suitable easements to guarantee access to each lot are in place.
- (4) The granting of the special permit will not derogate from the intent of the Zoning Bylaw.

## **ARTICLE VIII - Traffic, Parking and Circulation Regulations**

### **§ 300-8.1. General requirements.**

- A. Since our society is heavily based on the use of motor vehicles, parking for these vehicles will be required for all uses of property within the Town. This is for the purpose of lessening roadway congestion and decreasing safety hazards. If such is required for a particular use, facilities and space for the loading and off-loading of vehicles will be required in addition. The provision of parking facilities for bicycles and other conveyances is encouraged. The layout of parking spaces, the number and size of spaces required will vary by use and by zoning district. While all required parking may be provided on-site, other parking options will be considered as provided in this article.
- B. Any variations from or interpretation of the requirements of this article will require site plan review by the Planning Board even if such review is not otherwise required. In this article, the word "Board" shall mean the Planning Board.

### **§ 300-8.2. Parking locations; shared parking.**

- A. The required parking may be located on the same site as the use by right. Parking spaces inside garages or other structures shall be counted.
- B. The use of shared parking, off-site parking, and on-street parking where such parking is available is encouraged so as to reduce the number of required on-site parking spaces and thus the amount of impervious surface. Permission to count such spaces as meeting the parking requirement will be determined by site plan review. (See Figure A.8.2.)
- C. Shared parking. In the R10, C1, C2, I, and PD Districts, the Town encourages shared parking for different structures or uses, or for mixed uses. At the applicant's request, the Board may permit shared parking, subject to the following conditions:
  - (1) A reciprocal agreement shall be executed by all parties concerned that ensures the long-term joint use of such common parking, and that a copy has been submitted, and is acceptable to the Board.
  - (2) The Board may require the applicant to provide a parking study with all information it deems necessary to render a decision. The study shall include:
    - (a) The hours of operation and parking demand for each use;
    - (b) The hours of operation and peak demand for parking;
    - (c) The number of spaces required for each individual use pursuant to § 300-8.4 of this bylaw;
    - (d) A description of the character of the land use and the parking patterns of adjacent uses;
    - (e) An estimate of the anticipated turnover in parking space use over a twenty-four-hour period of time; and

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- (f) A site plan showing the shared use spaces in the lot and the walking distance to the uses sharing the lot.
- (3) Uses sharing the parking facility do not need to be contained within the same lot, but shall be a maximum of 500 feet from the closest parking space.
- (4) The applicant shall demonstrate that vehicles occupying a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week.
- (5) In making its decision on shared parking, the Board shall consider the degree to which the applicants are committed to implementation of transit demand management measures, such as those to promote car and van pooling, bicycling, and public transit.
- (6) In the event that the conditions for shared parking change, or if the shared parking arrangement is discontinued, the applicant shall notify the Board within 10 days. The Board may then require the applicant to meet the applicable parking requirements found in this bylaw without credit for the shared parking.

D. Off-site parking. Off-site off-street parking may be provided on another lot. The spaces may be owned by the user or rented. It shall be within walkable distance of the use for which it is provided. For the purposes of this section, a walkable distance is defined as 500 feet. The Planning Board may reduce or increase this distance because of topographical or street layout conditions. If municipal or other public parking lots are available, consideration will be given to counting some or all of such spaces toward meeting the parking requirement.

E. On-street parking. On-street parking spaces may be counted as part of the required parking for a particular use if the Board so allows. A user will have the first claim to count spaces in front of his/her premises. Counting spaces in front of other uses may require the consent of the other user. In general, 22 feet of available street frontage will count as one space. Time of use differentials will be given consideration.

### **§ 300-8.3. Number of parking spaces required.**

- A. The current guidelines of the Institute of Transportation Engineers (ITE) will be used in determining the number of spaces required. These figures will be considered as a maximum and any proposal to provide more than this number plus 10% will require Board approval. If a proposed use is not listed in the ITE standards, the Board will set the requirements for the use. (See Figure A.8.3.)
- B. In zoning districts R80, R40, C1, C2, and I, each use of property shall be provided with parking spaces in accordance with the ITE guidelines, with an allowed variance of plus or minus 10%. Alternately, two parking spaces may be provided for each dwelling unit of more than 500 square feet floor area and one space for smaller units.
- C. Because of the walkable distances expected in these districts, in zoning districts R10 and PD, each use of property shall be provided with parking spaces at 75% of the ITE guidelines, with an allowed variance of plus or minus 10%. In these districts, the Board may modify or waive minimum parking requirements when, in its judgment, standard parking is not required.

### **§ 300-8.4. Size of spaces; handicapped spaces.**

- A. In general, parking for business or commercial uses must accommodate, as a minimum, the number of the employees on a given shift plus two extra spaces for security purposes. Off-street parking shall meet the ITE standards for sizes and layout of parking spaces. Up to 25% of the total number of parking spaces required may be designed for compact cars. A compact car space shall not be less than eight feet in width and 16 feet in length. Alternately, the applicant may use a layout as shown in the Design Standards for Off-Street Parking included in this bylaw. (See Figure A.8.5.1.)

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B. Parking spaces for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Access Board (ADA or 521 CMR).

### **§ 300-8.5. Design requirements.**

A. All parking areas shall be shown on a plan which shall be filed with the Building Commissioner if site plan review is not required, otherwise with the Board, indicating the layout of the parking area, including access, location of trees and shrubs, and provisions for lighting and drainage, if any. The parking spaces and aisles shall conform to the ITE suggested design requirements. (See Figures A.8.2 and A.8.5.)

B. All proposed curb cuts, access drives and parking areas shall comply with all applicable requirements of the Department of Public Works.

C. Off-street parking and loading areas shall have durable and dustless surfaces and shall be so graded and drained as to dispose of all surface water accumulation. The surface of the parking area shall be delineated so that the parking spaces are apparent.

D. Surface materials shall be asphalt, bituminous concrete, concrete, or other properly bound pavement. As impervious pavement surfaces are included in the maximum allowed impervious surface for a lot, special consideration will be given to pervious paving systems. Provided there is a proper stormwater handling and maintenance system in place:

- (1) Parking areas covered with a pervious paving system shall be considered as being 50% of its actual area when calculating total impervious lot coverage.
- (2) Parking areas covered with managed gravel shall be considered as being 90% of its actual area when calculating total impervious lot coverage.

E. Illumination shall be required for any parking area to be used at night. All parking areas which are proposed to be illuminated shall provide an illumination level of at least one footcandle (10 lumens). All illumination shall be shielded so as not to shine directly onto a public or private way or onto any property in a residential district (not to exceed 20 lumens at lot line unless agreed to in writing by abutters).

F. For all parking lots requiring 10 or more spaces, landscaped areas shall be provided. Such areas shall be at least 5% of the total parking area and shall include trees and shrubs. One tree shall be provided for every 10 spaces or fraction thereof. Such trees shall be located within the lot and shall be at least two inches in trunk diameter. Not less than 40 square feet of soil or other permeable surface area must surround each tree. Planting beds shall be at least four feet wide.

### **§ 300-8.6. Loading and unloading requirements.**

A. Adequate off-street loading facilities and space with unimpeded access shall be provided for all new construction and for all building additions greater than 200 square feet of net floor area for businesses, commercial or public buildings.

B. The necessity for loading and unloading facilities will be determined by the Building Commissioner unless the use is undergoing site plan review, in which case it will be part of the review.

### **§ 300-8.7. Stacking regulations for drive-up and drive-through lines.**

A. Any establishment installing a drive-up window or service must provide for the safe stacking of vehicles and an escape lane from the drive-up lane. (See Figure A.8.7.)

B. An escape lane shall be adjacent to the stacking lane so as to allow a patron to exit from the stacking lane prior to reaching the service area. Multiple service areas may use common escape lanes.

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- C. Both stacking and escape lanes shall be a minimum of 10 feet in width, except that curved sections shall be a minimum of 12 feet wide.
- D. All drive-up and escape lanes must be laid out in a way so as not to block or interfere with the parking lot internal traffic circulation and parking spaces.

**Table 8.7 Stacking and Escape Lane Requirements**

<b>Principal Use</b>		<b>Number of spaces</b>
Fast-food restaurant		
	Stacking per window	10
	Escape lane per window	1
Bank - automated or full-service		
	Stacking per window/machine	5
	Escape lane per window/machine	1
Pharmacy/retail services/offices		
	Stacking per window	5
	Escape lane per window	1
Gas station (Note 1)		
	Stacking per service lane	3
	Escape lane per service lane	1

Note 1: Stacking requirements start at end of service island and do not include the space directly in front of the service area.

**§ 300-8.8. Driveway standards.**

All driveways shall meet the following standards:

- A. All driveway work may be subject to the review of the DPW Director or his designee at any point. The DPW Director may impose other conditions at his discretion that are necessary to ensure safe access to the public way and to prevent any damage or dangerous situation because of drainage, icing, pooling, etc.
- B. All driveways shall be a minimum of 12 feet in width and be kept clear of branches and other obstructions above said width to a height of 12 feet. The internal radius of any curve shall be no less than 32 feet to allow for safety vehicle access.
- C. All driveways shall have an apron from the pavement to the property line. This apron shall be composed of Type I bituminous concrete over two inches of processed gravel over 10 inches of four-inch or smaller gravel.
- D. No nonresidential driveway slope shall be greater than 10% at any point, and the apron shall not exceed 4% positive slope.
- E. No residential driveway slope shall be greater than 20% at any point, and the apron shall not exceed 4% positive slope.

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- F. Dust, debris, excess runoff or other nuisance shall not be allowed to enter the paved way. Any such occurrence shall require prompt remediation by the property owner.
- G. The driveway drainage system design shall be approved by the DPW Director. If the Wetland Protection Act applies to the driveway area, the proposed driveway shall meet all conditions imposed by the Conservation Commission.

### **§ 300-8.9. Traffic generation.**

If development shall occur outside of areas targeted for a given type of development, or a given development is larger than two acres, a traffic impact study may be required and any adverse impacts may require redress or remediation at the expense of the applicant or developer.

### **§ 300-8.10. Other means of access.**

All developments shall be designed so that there will be pedestrian, bicycle and ADA-friendly access to all structures or it may trigger a review by the Board and remediation or redress at the expense of the applicant may be required.

## **ARTICLE IX - Signs**

**[Amended 1-29-2007; 5-15-2023 ATM by Art. 26]**  
**[CMZ]**

### **§ 300-9.1. Purpose.**

The purpose of this article is to provide property owners, residents, and occupants an opportunity for effective identification of goods and services provided on the premises subject to reasonable and appropriate conditions in all zoning districts, and to maintain and enhance the quality of the Town's appearance by:

- A. Controlling the size, location and design of temporary and permanent signs so that the appearance of such signs will reduce sign clutter, be aesthetically harmonious with their surroundings, and will enhance the overall appearance of the built environment;
- B. Ensuring that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment;
- C. Reducing potentially hazardous conflicts between commercial or identification signs and traffic control devices and signs;
- D. Providing a pleasing overall appearance, protect historic context, and enhance community character which is essential to the economic viability of the Town;
- E. Protecting property values and the general public from damage or injury caused by, or partially attributable to the distractions and obstructions which result from improperly designed or situated signs;
- F. Allowing signs appropriate to the planned character of each zoning district within the Town; and
- G. Preserve the character of community while allowing all residents and businesses their constitutional right to freedom of speech
- H. Promoting the public safety, welfare, convenience, and enjoyment of the residents of Winchendon.

**§ 300-9.2. Applicability.**

- A. Nothing contained in this article shall be construed as the content-based regulation of sign messages prohibited by the federal or state constitution, statutes, or court decisions.
- B. Nothing contained in this section shall be construed to conflict with M.G.L. Chapter 85, Section 8 & 9 or M.G.L. Chapter 93, Sections 29 through 33, as amended.
- C. All signs placed on public property or within a public right-of-way are subject to approval by the Town Manager or his/her designee according to provisions set forth in the Town Manager's Policies and Procedures.

**§ 300-9.3. Special permit review.**

- A. Review Criteria. Signs permitted by Special Permit require supplemental review and must meet certain performance standards for the issuance of a sign permit. The Planning Board shall serve as the Special Permit Granting Authority (SPGA) for the purpose of reviewing Special Permit applications for signs under this section. In its discretion to approve or deny a special permit to authorize a sign, the SPGA shall consider the following criteria:
  1. Design of the sign as an effective means of communication.
  2. Compatibility with the visual character of the surrounding area.
  3. Appropriate sizing for the location.
  4. The potential for adverse effects on nearby properties and pedestrian and traffic safety.
- B. Concurrent Applications. Review of Special Permit applications that appear before the Planning Board for projects additionally requiring site plan review may appear concurrently before the board in accordance with the submission and procedure requirements for such applications.

**§ 300-9.4. Sign maintenance, abandonment and removal.**

- A. All signs, including nonconforming signs, together with any supports, braces, anchors, and other supporting hardware, must be maintained in good condition or state of equivalent quality to which was approved or required by the Town. If the Building Inspector is of the opinion that a sign is not secure, safe or in good state of repair, it shall give written notice of this fact to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted, the Building Inspector may revoke the permit to maintain the sign and may remove the sign and keep possession of same until the owner pays the cost of removal.
- B. When an existing sign is removed, replaced, or repaired, all supports, braces, anchors, and other supporting hardware that is no longer required must be removed, and any surfaces baring evidence of attachment must be repaired.
- C. An on-premises sign advertising an activity, business, service, or product must be removed or the sign face replaced with a blank face within 60 days of the activity, business, or service promoted by the sign being discontinued on the premises where the sign is displayed.
- D. If the use is not reestablished or a new use is not established within two (2) years, then the entire sign structure and mounting hardware must be removed, unless the sign is one section of a larger sign structure advertising multiple activities, businesses, services, or products within a multi-unit building or business park.

**§ 300-9.5. Maximum building signage and sign copy area.**

- A. The maximum square footage of all signage for a building in the specified zoning district shall be the combined length of all building primary street frontage multiplied by two. This includes any combination of Permanent Principal Signs in accordance with the standards established in Figure 9.9.2 for individual sign types.
- B. For A-frame, awning/canopy, building mounted, freestanding, and projecting signs, the sign copy area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing that are incidental to the display itself. Only one side of a projecting sign shall be counted in computing the total square feet of signs on a sign frontage.
- C. For a sign painted upon or applied to a building, the sign copy area shall be considered to include all lettering, wording, and accompanying designs or symbols, together with any background of a different color than the natural color of the building.
- D. For a sign consisting of individual letters or symbols attached to or painted on a surface, building, canopy, awning, wall or window, the sign copy area shall be considered that of the smallest rectangle or other geometric shape that encompasses all the letters or symbols.

**§ 300-9.6. Sign illumination.**

Conforming signs may be illuminated according to the following standards:

- A. General. Illuminated signs indicating if a business is open must be turned off except during the hours of operation.
- B. External Illumination.
  - 1. An externally illuminated sign is characterized by the use of artificial light reflected off the surface of a sign.
  - 2. External light sources must be shielded so that they illuminate only the face of the sign and do not shine directly onto a public right-of-way or onto adjacent properties.
  - 3. Light fixtures that project from the facade of a building for externally illuminated signs are exempt from setback requirements but should be simple and unobtrusive in design and not obscure the sign content.
  - 4. Electronic message or display must be a continuous stream of light (non-flashing).
  - 5. Electronic Message Boards: Electronic message or display signs may constitute up to 50 percent of the total square feet of a freestanding sign face incorporated into design of the freestanding signage and may be double faced.
- C. Internal Illumination.
  - 1. An internally illuminated sign is characterized by the use of artificial light projecting through or from behind the surface of a sign.
  - 2. Channel letters may be internally lit or back-lit.
  - 3. Blade signs may be internally lit if the background is opaque or of a darker color than the message of the sign and the lettering is no more than 50% of the surface area of the sign.
  - 4. Exposed neon is only permitted for wall, blade, or windows signs.

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- D. Backlit (i.e., Halo) Signs. Backlit Signs shall light lettering and logo and other related sign elements only, and lighting design shall be such that no excess light spill or glare results from the back lighting fixtures and/or source. The back lit sign shall not increase the measurable vertical light level at a point 20 feet distant from the Sign in any direction.
- E. Neon Signs. Neon signs are permitted by Special Permit as an alternative form of Wall, Blade, or Window sign subject to the review criteria of 9.3.1.

### **§ 300-9.7. Structures and installation.**

- A. Support Elements. Supports and braces shall be designed as an integral part of the sign design and hidden from public view to the maximum extent practical.
- B. Electrical Service.
  - 1. All electrical fixtures requiring new devices, circuits, conduits, raceways, or apparatus used to illuminate, move or project any sign shall be installed and maintained in accordance with the building code and the electrical code.
  - 2. When electrical service is provided to freestanding signs, all such electrical service is required to be underground and concealed.
  - 3. Conduits and other components of a sign illumination system shall be designed as an integral part of the sign design and hidden from public view to the maximum extent practical.
- C. Limitation on Attachments and Secondary Uses. All permitted sign structures and their associated landscape areas shall be kept free of supplemental attachments or secondary uses including, but not limited to, supplemental advertising signs not part of a permitted sign, light fixtures, newspaper racks, or trash containers. The use of sign structures and associated landscape areas as support structures for outdoor product display is prohibited.
- D. Durable Materials. All permanent signs permitted by this section shall be constructed of durable materials capable of withstanding continuous exposure to the elements and the conditions of an urban environment.

### **§ 300-9.8. Sign placement at intersections.**

For parcels located at the corner of two intersecting public or private streets including, but not limited to, driveways and service lanes associated with commercial and/or business sites, a clear view triangle shall be maintained. The triangle shall be the area formed by measuring a distance of 20 feet from the corner of the parcel along the lot lines and connecting the end points so as to establish a triangle on the area of the lot adjacent to the street and/or drive intersections. No sign, nor any part of a sign, other than a supporting pole or brace measuring 18 inches or less in width or diameter, shall be located between 3 feet and 10 feet above the grade within this sight triangle.

### **§ 300-9.9. Permitted accessory and principal signs.**

#### **§ 300-9.9.1. Permanent accessory signs standards.**

Permanent Accessory Signs shall meet the standards set forth in Figure 9.9.1 and Figure 9.9.3.A through D :

FIGURE 9.9.1 - PERMANENT ACCESSORY SIGNS							
Sign Types	R80	R40	R10	C1	C2	I	PD

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A. A-Frame/Sidewalk Signs	SP	SP	SP	SP	SP	SP	P
B. Display Case	N	N	SP	P	P	P	P
C. Directory Signs and Nameplates	P	P	P	P	P	P	P
D. Other Accessory Signs	SP						
P - Permitted by Right with Specifications under this Article							
SP- Permitted by Special Permit from the Planning Board.							
N – Not Permitted in the Zoning District							

**§ 300-9.9.2. Permanent principal signs standards.**

Permanent Principal Signs shall meet the standards set forth in Figure 9.9.2 and Figure 9.9.4.A through K below:

FIGURE 9.9.2 - PERMANENT PRINCIPAL SIGNS <sup>1</sup>							
Sign Types	R80	R40	R10	C1	C2	I	PD
A. Awning and Canopy Signs	SP	SP	SP	P	P	P	P
B. Bracket Signs	SP	SP	SP	P	P	P	P
C. Blade and Projecting Signs	SP	SP	SP	P	P	P	P
D. Freestanding and Yard Signs	SP	SP	SP	P	P	P	P
E. Vertical Blade/Banner Signs	SP	SP	SP	P	P	P	P
F. Marquee Signs	N	N	N	P	P	P	P
G. Suspended Signs	SP	SP	SP	P	P	P	P
H. Wall Mural	SP	SP	SP	SP	SP	SP	SP
I. Window Signs	SP	SP	SP	P	P	P	P
J. Monument Sign	P	P	P	P	P	P	SP
K. Wall Signs	SP	SP	SP	P	P	P	P
L. Other Principal Signs (including electronic signs)	SP	SP	SP	SP	SP	SP	SP
P - Permitted by Right with Specifications under this Article							
SP- Permitted by Special Permit from the Planning Board.							
N – Not Permitted in the Zoning District							
1. All signs internally illuminated and/or including a static or dynamic message board shall require a special permit.							

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### § 300-9.9.3. Figure 9.9.3: Permanent accessory sign standards.

#### A. A-FRAME AND SIDEWALK SIGNS



#### DEFINITION

**N**

A freestanding portable sign, not secured or attached to the ground or any building or structure, composed of a sign panel and supporting structure or one or more panels which form both the structure and sign face, and which is intended to be placed in a sidewalk or pedestrian way.

#### ZONING DISTRICTS ALLOWED

See Figure 9.9.1

#### SIGN SPECIFICATIONS

Number of Signs:	1 per business unit maximum
Placement:	8 feet from principal entrance maximum
Sign Height:	4 feet maximum
Sign Width:	2 feet maximum
Sign Area:	8 square feet maximum per side.
Illumination:	Prohibited

#### OTHER FUNCTIONAL STANDARDS

One (1) Sidewalk sign is permitted per ground story tenant.

Sidewalk signs may be placed outdoors on site or on a public sidewalk during business hours and must be removed when the business is closed.

Sidewalks signs displayed on a public sidewalk are prohibited from interfering with pedestrian travel and shall leave clear an accessible walkway area of 4 feet minimum.

A sidewalk sign must be vertically oriented, with a height greater than its width and made of wood, metal, or slate (chalkboard).

A sidewalk sign is not permitted to be illuminated or contain any electronic components.

A sidewalk sign may not be placed outdoors when high winds, heavy rain, or heavy snow conditions are present. The Department Public Works may remove a sidewalk sign during snow removal operations and is not liable for damage to a sidewalk sign caused by snow removal operations.

Design/Construction: Constructed of a minimum  $\frac{3}{4}$ " high density exterior grade compressed wood or molded plastic of weight and durability to withstand wind gusts and maintained in a professional manner free from chipping paint, cracks, loss of letters, and other damages.

## **B. DISPLAY CASE**



### **DEFINITION**

A wall mounted, lockable, framed cabinet with a transparent window to display a changeable menu or list of event show times. Display cases are intended to be viewed at close range by pedestrians.

### **ZONING DISTRICTS ALLOWED**

See Table Figure 9.9.1

### **SIGN SPECIFICATIONS**

Number of Signs: 1 per business unit.

Placement: Shall be attached to the building wall on the primary or secondary frontage.

Sign Height: Top of sign case shall not exceed 7 feet from grade.

Sign Width: 4 feet maximum.

Sign Area: 6 square feet maximum.

Illumination: Non-illuminated or illuminated from inside the display case.

### **OTHER FUNCTIONAL STANDARDS**

Outdoor display cases for theaters may be larger but shall not exceed 12 square feet.

## **C. DIRECTIONAL SIGNS**



### **DEFINITION**

A traffic, direction or informational on-premises sign located on private property at the curb cuts of an establishment giving direction or information as to entrance, exit and/or the like. Such signs may contain a logo or other information identifying the use of the premises so long as such information is for direction and point of reference and not for advertising purposes. Directional Signs may include information and directions necessary or convenient for persons accessing the property including signs marking entrances and exits, parking areas, one-way drives, rest rooms, pickup and delivery areas, loading zones and the like.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.1

### **SIGN SPECIFICATIONS**

Number of Signs: Unlimited, except that directional signs placed near driveway openings shall be limited to a max of one (1) at each location or access point per direction of travel. (e.g., One way ingress driveways are allowed one (1) sign, two-way driveways are permitted two (2) signs).

Placement: Building-mounted directional signs must be affixed flat against the building wall, no higher than the 1st floor.

Sign Height: Building Mounted: Max. 8 feet from grade

Freestanding: Max.3 feet from grade

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Sign Area: 3 square feet per sign face maximum

### D. DIRECTORY AND NAMEPLATE SIGNS

Illumination: External illumination or non-illuminated only

#### OTHER FUNCTIONAL STANDARDS

None



#### DEFINITION:

A single sign comprised of uniform individual signs placed or displayed in sequence and which may provide information in a list, roster, or directory format; generally, a sign listing the names and/or use, or location of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

#### ZONING DISTRICTS ALLOWED

See Figure 9.9.1

#### SIGN SPECIFICATIONS

Number of Signs: 1 per address unless the street frontage of said institution exceeds one hundred (100) feet, then one (1) sign for each hundred (100) feet is allowed but in no event more than three (3) such signs per address.

Placement: May be building mounted or mounted on a low-profile freestanding sign.

Sign Height: Maximum 6 feet above grade.

Sign Area: Maximum 16 square feet.

Illumination: Non-illuminated, internally illuminated or indirectly illuminated

#### OTHER FUNCTIONAL STANDARDS

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Directory signs may be placed at points nearest pedestrian entry to businesses within a multi-tenant building or development.

A nameplate shall only provide the name, address or logo of an owner, tenant, and/or the building to which it is affixed.

Nameplates shall consist of either a panel or individual characters applied to building walls within 4 feet of an entrance to the building.

### § 300-9.9.4. Figure 9.9.4: Permanent principal sign standards.

#### A. AWNING AND CANOPY SIGNS



#### DEFINITION

A sign suspended from, attached to, supported from or forms part of a roof-like cover made of canvas or similar material which projects from the wall of a building for the purpose of shielding a doorway or window from the elements, not including a marquee. (An awning or canopy may or may not have signage.)

#### ZONING DISTRICTS ALLOWED

See Figure 9.9.2

#### SIGN SPECIFICATIONS

Number of Signs:	1 per business unit.
Placement:	Top of awning may not extend above the bottom of the second story window of building.
Sign Height:	Minimum 8 feet clearance above sidewalk.
Sign Area:	The lesser of 1 square foot of sign area per linear foot of awning width; or 75% of valance or face; or 25% of the sloping plane.
Sign Lettering:	5 inches minimum; 10" maximum on awning valance. 18 inches maximum on sloping plane.

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Illumination: Canopies may be non-illuminated, internally illuminated or indirectly illuminated.

### OTHER FUNCTIONAL STANDARDS

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### B. BRACKET SIGNS



### DEFINITION

A freestanding sign attached to the ground by one or more support structures that is not higher than 5 feet and hangs from a bracket or support.

### ZONING DISTRICTS ALLOWED

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See Figure 9.9.2

### SIGN SPECIFICATIONS

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Number of Signs: 1 per street frontage

Placement: In front of the building and setback a minimum of 3 feet from a public sidewalk.

Sign Area: 9 Square Feet Maximum (Per Face).

Sign Structure Height: 6 Feet Maximum.

Sign Area Height: 3 Feet Maximum.

Sign Area Width: 3 Feet Maximum.

Sign Structure Area Depth: 6 Inches Maximum.

Illumination: Externally illuminated (on structure or ground).

### OTHER FUNCTIONAL STANDARDS

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A bracket sign must be located at least 25 feet from another bracket sign.

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The hanging bracket must be an integral part of the sign design.

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A bracket sign can only be externally illuminated.

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Neon is not permitted

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Bracket side may be double sided

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### C. BLADE AND PROJECTING SIGNS



#### DEFINITION

A building mounted sign attached to, and extending from, a building or support beam in whole or in part which extends beyond said building.

#### ZONING DISTRICTS ALLOWED

See Figure 9.9.2

#### SIGN SPECIFICATIONS

Number of Signs:	1 per business unit.
Placement:	Projecting signs may encroach into the public right-of-way but shall not be located within 4 feet to the closest curb line.  Sign shall be mounted a minimum of 6 inches away from the building.
Sign Height:	Minimum 8 feet from street grade to the bottom of the sign; 14 feet maximum measured from the street grade to the top of the light standard or supporting standards, whichever is greater.
Sign Area:	Max. 20 square feet for each business unit.  Blade signs are counted toward total signage area limit for the building.
	5 feet maximum sign width and height
	8 inches minimum letter height

#### Illumination:

Non-illuminated or externally illuminated. Down-directed, fully shielded fixtures only.

Accent lighting may consist of special lighting strips (non-scrolling or non-flashing LED or neon) to highlight logos or individual letters and shall not be considered internal illumination for the purposes of this section.

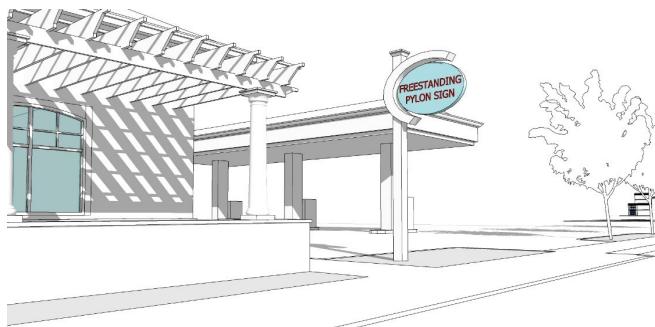
#### OTHER FUNCTIONAL STANDARDS

Blade signs may be double-sided

Blade signs shall be permitted only for uses that have a principal entrance on the first floor.

All signs overhanging a public way must be covered by an insurance policy naming the Town of Winchendon as coinsured for an amount to be established by the Town, evidence of which must be provided upon application for a sign permit from the Building Inspector.

## D. FREESTANDING SIGNS



### **DEFINITION**

A sign that is erected or mounted on its own self-supporting permanent structure or base detached from any supporting elements of a building.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.2

### **SIGN SPECIFICATIONS**

Number of Signs: 1 for each street frontage lot maximum

Placement: When more than 1 freestanding sign is proposed on a site with multiple street frontages, a minimum of 60 linear feet shall separate each sign.

No portion of the sign may project into, over or otherwise encroach on a public right of way.

Freestanding signs shall be setback a minimum of 10 feet from any interior side lot line; 20 feet from the Street ROW Line; and 50 feet from any residential zoning district.

Sign Height: Max. 12 feet above grade

Sign Area: Max. of 40 square feet in the C1 and I districts; Max. of 20 square feet in the C2 by right and 40 square feet by special permit; Max. of 20 square feet in the PD; Max. of 12 square feet in Residential districts.

When only 1 sign is proposed where 2 are permitted, the maximum sign area may be increased by Special Permit and a release of rights to additional freestanding signs for the duration of use of the single larger sign, evidenced by a recordable form of acceptance signed by the property owner.

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**Illumination:** Non-illuminated or externally illuminated. Down-directed, fully shielded fixtures only.

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**Landscaping:** Required landscaped area around base of the sign shall be a minimum of 12 square feet consisting of shrubs and/or perennial ground cover plants on permeable ground cover or raised bed with sod and plantings.

## D. FREESTANDING SIGNS, Continued

### OTHER FUNCTIONAL STANDARDS:

#### General:

Freestanding signs may be double-sided.

Freestanding signs may not be located in the public R.O.W.

Freestanding signs may be externally illuminated, up-lit, or back-lit.

#### Electronic Display:

Electronic message or display signs may constitute up 50 percent of the total square feet of a freestanding sign face, incorporated into design of the freestanding signage, and may be double-faced.

Electronic message or display boards must be a continuous stream of light (non-flashing) except that the message may change no more than once per 10 minutes between the hours of 5 AM to 11 PM.

#### Gas/Service Stations:

Electronic display signs showing gas prices may be incorporated into freestanding signage and may be double-faced.

Gas Pump/Service Island: Canopy sign maximum of 50 square feet for each side of the service island canopy.

Signs shall extend horizontally a max. of 80% of the width of the service island canopy on which it is displayed.

Freestanding and Gas Pump/Service Island signs may be non-illuminated, internally illuminated, or indirectly illuminated.

## E. VERTICAL BLADE/BANNER SIGNS



### DEFINITION

A tall, narrow, two-sided sign that is attached to and projecting perpendicularly from the I of a building that identifies a commercial establishment. Vertical blade/ banner signs are intended to be viewed by pedestrians and motorists from a distance.

### ZONING DISTRICTS ALLOWED

See Figure 9.9.2

### SIGN SPECIFICATIONS

Number of Signs:	1 sign per 15 feet of façade width; 4 signs max.
Placement:	Signs shall be placed above the first story.  Signs may encroach into the public right-of-way but shall not project more than 3 feet from the building.
Sign Height:	Signs shall be mounted a minimum of 6 inches away from the building.
Sign Width:	10 feet maximum.
Sign Area:	4 feet maximum.
Sign Lettering:	Max. 20 square feet for each business unit.  Vertical Banner Signs shall be counted toward total Wall signage area limit for the building.
	75% of sign width maximum.

## **TOWN OF WINCHENDON – RED-LINE FINAL DRAFT, ZONING BYLAW**

Illumination: Non-illuminated or externally illuminated. Down-directed, fully shielded fixtures only.

### **OTHER FUNCTIONAL STANDARDS**

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Vertical Blade/Banner signs may be double-sided.

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Vertical Blade/Banner signs shall be permitted only for uses on site.

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No portion of the sign may project above the roofline of the building to which it is attached.

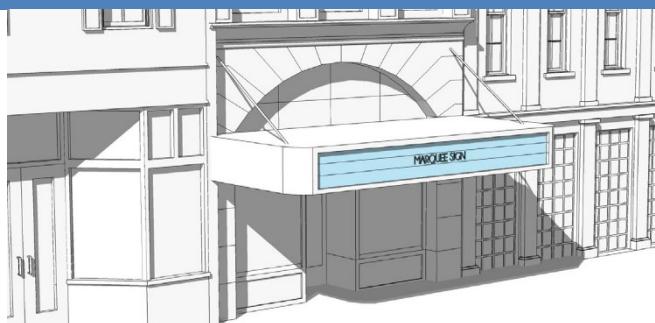
---

Information type is limited to business name, logo, and related graphics. Additional information is prohibited.

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## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT, ZONING BYLAW

### F. MARQUEE SIGNS



Marquee signs shall be located above the principal entrance of the building.

Marquee signs shall be cantilevered or supported from above. Columns or posts are prohibited.

Changeable message boards with removal physical lettering are permitted by right; Electronic message displays may be permitted by Special Permit.

#### DEFINITION

A sign painted on, attached to, or supported by a marquee—a permanent roof-like shelter, either open or covered, extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

#### ZONING DISTRICTS ALLOWED

See Figure 9.9.2

#### SIGN SPECIFICATIONS

Number of Signs: Maximum 1 marquee per building.

Placement: Primary facades only.

Sign Height: Min. 10 feet from grade to bottom of the sign.

Sign Area: Max. 75% of marquee structure's width and height.

Marquees signs shall count toward total signage area limit for the building.

Projection: 6 feet minimum/10 feet maximum

#### OTHER FUNCTIONAL STANDARDS

Maximum width of the Marquee shall be the lesser of the width of the building frontage or 40 feet.

Maximum height of the sign is the lesser of 6 feet or 50% of the first story height.

Minimum distance from the curb is 4 feet.

New marquee signs shall be allowed only for theaters, performing arts venues, and sports arenas.

considered internal illumination for the purposes of this section.

## **G. SUSPENDED SIGNS**



### **DEFINITION**

A small, two-sided sign mounted to the underside of an awning, canopy, or roof of a porch that identifies a commercial establishment. Suspended signs are intended to be viewed by pedestrians at close range on the same side of the street.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.2

### **SIGN SPECIFICATIONS**

Number of Signs:

1 per business unit.

Placement: A suspended sign may not extend beyond the edge of the awning or canopy it is mounted below.

Clear height over the sidewalk shall be 8 feet minimum.

Information on the sign must relate to the business.

Sign Height: 3 feet maximum.

Sign Width: 3 feet maximum.

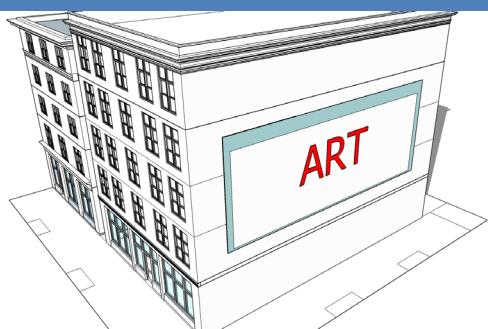
Sign Area: 4 square feet per side maximum.

Illumination: Non-illuminated or externally illuminated. Down-directed, fully shielded fixtures only.

Accent lighting may consist of special lighting strips (non-scrolling or non-flashing LED or neon) to highlight logos or individual letters but does not dominate sign and shall not be

Wall Murals requires Special Permit from Planning Board.

## **H. WALL MURALS**



### **DEFINITION**

A sign that is directly painted on or permanently affixed to the exterior wall of a building or screen printed, sewn, or adhered onto a canvas-like material that is mounted flush with the wall of a building that identifies a commercial establishment. Wall murals are intended to be viewed by pedestrians and motor vehicles from a distance.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.2

### **SIGN SPECIFICATIONS**

Number of Signs: 1 per building maximum.

Placement: On the building façade in a space generally visible to the public.

Sign Area: 1,000 square feet maximum.

Sign Height: 50 feet maximum.

Sign Width: 50 feet maximum.

Height above the Ground: From ground level to a maximum of the lesser of 2 stories or 30 feet.

Illumination: Only external illumination is permitted.

### **OTHER FUNCTIONAL STANDARDS**

Lettering or logos must be limited to no more than 20% of the surface area of the wall mural.

## I. WINDOW SIGNS



### DEFINITION

Any non-illuminated or electronic/electrical static sign (with the exception of neon which shall be permitted as a window sign) which is (a) painted on, applied to, attached to or projected upon the glass area of a building, including doors, whose identification, message, symbol, insignia, visual representation, logo type, or any other form which communicates information is intended to be read from off-premises, contiguous property or a public right-of-way and/or (b) affixed to or within twelve (12) inches of windows of a building, whether temporary or permanent, which may be viewed from the exterior of the building.

### ZONING DISTRICTS ALLOWED

See Figure 9.9.2

### SIGN SPECIFICATIONS

Number of Signs: 1 per window and/or 1 per door maximum.

Placement: 3 feet minimum height from sidewalk to bottom of the sign.

See definition above.

Sign Area: 25% of the window area maximum.

Window signs shall not count toward the total signage area limit for the building.

Sign Lettering: 18 inches maximum lettering height.

Illumination: Window signs shall not be illuminated however the use of neon is otherwise permitted

### OTHER FUNCTIONAL STANDARDS

Characters and logos shall be placed directly on the window or hang no more than 12 inches from the glass.

Items placed more than 12 inches from the glass shall not be considered a sign.

Information type is limited to business name, logo, hours of operations, and product types.

Window signs shall not interfere with the primary function of the window, which is to enable pedestrians and public safety personnel to see through windows into the premises and view product display.

## **J. MONUMENT SIGNS**



### **DEFINITION**

A freestanding sign having a low profile with no open space between the ground and the sign. The foundational structure shall be constructed of masonry materials. A sign board may be integrated into the foundational structure or on top of the foundation.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.2

#### **SIGN SPECIFICATIONS**

Number of Signs: 1 per stand-alone building site, commercial development, or residential development.

Placement: The front edge of a monument signs may be located five (5) feet from the front and side property line.

Sign Area: 50 Square Feet Maximum (Per Face).

Sign Foundation Height: 3 Feet Maximum.

Sign Area Height: 5 Feet Maximum.

Sign Area Width: 10 Feet Maximum.

Illumination: Externally illuminated (on structure or ground)

#### **OTHER FUNCTIONAL STANDARDS**

Landscaping: Required landscaped area around base of the sign shall be a minimum of 12 square feet consisting of shrubs and/or perennial ground cover plants on permeable ground cover or raised bed with sod and plantings. A bracket sign must be located at least 25 feet from another bracket sign.

Foundation Materials: Monument sign shall have the appearance of a solid base of landscape construction materials such as brick, stonework, textured wood, tile or textured concrete materials compatible with the materials of the primary structure on the subject property.

## **K. WALL SIGNS**



### **DEFINITION**

A sign attached to, painted on, or erected against a wall, parapet, fascia, or a building or structure with the exposed face of the sign in a plane parallel to the vertical face of the building or structure.

### **ZONING DISTRICTS ALLOWED**

See Figure 9.9.2

#### **SIGN SPECIFICATIONS**

Number of Signs:

One (1) wall sign permitted per business frontage on a Primary or Secondary Street.

Placement:

Wall sign shall project a maximum of 15 inches from building wall.

Shall extend horizontally a maximum of 80% of the width of the building wall on which it is displayed.

## **TOWN OF WINCHENDON – RED-LINE FINAL DRAFT, ZONING BYLAW**

### **Sign Area:**

Maximum of 1 square feet for each linear foot of primary business façade of each business unit.

If business has frontage on two or more streets, the primary façade contains the primary entrance. Maximum  $\frac{1}{2}$  square feet for each linear foot of façade on side with secondary entrances.

## **OTHER FUNCTIONAL STANDARDS**

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**Overall Dimensions:** Each wall sign shall not exceed 50 feet in length, 4 feet in width, and 80 square feet in area.

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Sign length maximum of 40 feet and sign width maximum of 3 feet in the PD Zoning District.

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**Height Above Ground:** The top of the sign shall be no more than the lesser of the floor level of the second floor or 25 feet in the PD and DC Zoning District.

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Wall signs shall be externally illuminated or backlit in the PD Zoning District.

---

Neon wall signs are permitted in the C and PD Zoning District by Special Permit from the Planning Board.

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## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

### § 300-9.10. Temporary and exempt signs.

#### A. Terminology.

TEMPORARY SIGN -- Portable signs or any signs not permanently embedded in the ground, or not permanently affixed to a building or sign structure, which is embedded in the ground or affixed to a building or sign structure, are considered temporary signs.

#### B. Permitted Temporary Signs by Zoning District.

FIGURE 9.10.1 – PERMITTED TEMPORARY SIGNS							
Sign Types	R80	R40	R10	C1	C2	I	PD
Temporary Window Signs	A	A	A	A	A	A	A
Real Estate and Construction Signs	A	A	A	A	A	A	A
Special Event Signs	B	B	B	C	C	C	C
Street Banners	N	N	N	C	C	C	C
Projecting Light Signs	N	N	N	C	C	C	C
Portable Message Board Signs	C	C	C	C	C	C	C
Other Temporary Signs	C	C	C	C	C	C	C

A - Permitted by Right with Specifications under this Article

B - Permitted only for approved home occupations, churches, schools, and related institutions intended for public access

C - Permitted by Special Permit. See Special Permit Criteria under Section 9.3.1

N – Not Permitted

#### C. Permitted Temporary Sign Standards.

Unless otherwise specified, temporary signs are permitted for a maximum of ninety (90) total days, shall not be illuminated, and do not require a sign permit, but are subject to the following standards:

1. Temporary Window Signs. Temporary signs not meeting the requirements for permanent signs may advertise sales, special events, or changes in the nature of an operation and are restricted to devices made of paper, posterboard, cardboard, cloth, canvas, fabric, cardboard, or other light material placed behind display windows, or markings of removable paint or marker inscribed directly on glass, if such devices and markings cover not more than 30% of window area, are not permanently mounted, and are illuminated by building illumination only, but shall not otherwise be used to advertise a continuing or recurrent activity, and shall be removed within seven (7) days after the information they display is out of date or no longer relevant.
2. Real Estate and Construction Signs. A temporary sign may be erected during sale, lease, rental, or construction of a building or subdivision. Such sign shall not exceed (40) forty square feet in area for premises in the designated zoning district, and in other cases shall not exceed six (6) square feet in area in residential districts and ten (10) square feet in area in other nonresidential districts. Construction signs shall not be erected prior to the issuance of a building permit, or prior to commencement of work if said work does not require a building permit.

## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

3. **Special Event Signs.** Temporary signs which indicate garage or yard sales, bazaars, dinners, or other nonprofit events and similar occasional uses shall comply with the Winchendon General Ordinances, and any conditions imposed in granting of licenses for such events by the Selectboard.
4. **Street Banners.** A temporary banner or similar sign, if permitted by the Selectboard under its authority to control use of Town ways under General Bylaws may be placed above or across a public or private street or way upon such terms and conditions as the Selectboard shall determine. When a business newly opens, the Building Inspector may as a condition of site plan approval allow the placement of a banner on the premises for a period not to exceed two weeks.
5. **Portable Message Board Sign.** A portable sign not attached permanently to the ground or building designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign.
6. **Projected Image Signs.** A temporary sign where images are projected on the side of a building or other surface for the purpose of artistic expression, wayfinding, advertiser, or community events notification.
7. **Other Temporary Signs.** To be determined by the Zoning Enforcement Officer.

**FIGURE 9.10.1 – ILLUSTRATIVE EXAMPLES OF TEMPORARY SIGNS**

	
<b>Street Banners</b>	<b>Temporary Window Signs</b>
	
<b>Special Event Signs</b>	<b>Real Estate and Construction Signs</b>

## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

	
<b>Projected-Image Signs</b>	<b>Portable Message Sign</b>

### **D. Exempt Sign.**

1. Governmental Signs. Signs, including movable signs, erected, and maintained by the Town of Winchendon, any other municipal corporation, the Commonwealth of Massachusetts, or the Federal Government on any land, building or structure in use by such governmental entity. Any other signs erected by such governmental entity at any location required for public or environmental health, safety, or notification purposes, or announcing the date, time and place of elections or town meetings.

### **§ 300-9.11. Prohibited temporary signs.**

Prohibited signs include Balloon Signs & Air-Activated Graphics, Feather Signs (or Teardrop Flag), Advertising Murals, Vehicle Signs, and Billboards.

**FIGURE 9.11.1 – ILLUSTRATIVE EXAMPLES OF PROHIBITED SIGNS**

	
<b>Balloon Signs &amp; Air-Activated Graphics</b>	
	
<b>Vehicle Sign</b>	<b>Advertising Murals</b>

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 A large billboard for Central US Auto Mile. It features a red pickup truck and a red SUV. The text on the billboard reads "WE MAKE IT FUN AT CENTRAL US JEEP RAM Route 1 Auto Mile". Below the main image are logos for Jeep, Buick, Dodge, Ram, Chrysler, and GMC. A small sign at the bottom left says "VACANCY AVAILABLE".	 A red feather sign or teardrop flag on a pole. The text on the sign reads "SAUCON CHEESE".
<b>Billboard</b>	<b>Feather Signs/Teardrop Flag</b>

### **§ 300-9.12. Planning Board waiver.**

The Planning Board, in its discretion, may waive or modify any of the requirements set forth in this section, if the Board determines that such a waiver does not derogate from the purpose of this bylaw, and is in the public interest.

## **ARTICLE X - Soil, Vegetation, Rock and Gravel Removal**

### **§ 300-10.1. Purpose; scope.**

The purpose of this Article X is to prevent the degradation of the Town's natural resources, including its soil, surface water and groundwater and naturally occurring vegetation due to the improper or uncontrolled removal or redisposition of soils, vegetation and earth materials. Unless otherwise provided for in this bylaw, this Article X shall not apply to the removal of 19 cubic yards or less of material from a lot for noncommercial purposes for maintenance or improvement of the lot or the removal or alteration of existing vegetation upon a lot for noncommercial purposes related to the routine maintenance or improvement of the lot.

### **§ 300-10.2. General removal provisions.**

- A. Excavation, removal, stripping, or mining of any earth material, soil and vegetation, except as hereinafter permitted on any parcel of land, public or private, in Winchendon is prohibited.
- B. The Building Commissioner shall have the authority to enforce all conditions of any permit issued under this section of the Zoning Bylaw.
- C. All earth removal operations in existence in Winchendon on the effective date of this article shall be subject to the requirements stated herein. However, all earth removal permits issued prior to the effective date of this article shall remain in effect until their expiration date. At such time, said operation shall be subject to the provisions of this article, unless otherwise allowed by the Board of Appeals for a period not to exceed six months.
- D. An annual fee shall be required for an earth removal permit, as established by the Board of Appeals.
- E. Any earth removal over 19 yards for the sole purpose of commercial processing and/or sale may only be done in an Industrial Zone.

### **§ 300-10.3. Application for soil, vegetation, rock and gravel removal; materials for submission.**

An applicant for a soil, vegetation, rock and gravel removal permit must, at a minimum, submit to the Board of Appeals such number of copies as that Board may require of the following materials:

## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

- A. A plan or plans to scale (one inch equals 40 feet) prepared and stamped by a registered engineer and a registered land surveyor, showing the property lines of the parcel of land under consideration along with all abutters to the property. The parcel shall be subdivided into five-acre sections. For each section, the existing and final contours in two-foot elevation increments, existing and proposed final drainage of the site, including all culverts, streams, ponds, swamps, and siltation basins, and all wetlands pursuant to MGL c. 131, § 40, the means of entrance to and egress from the property, a locus map, and any other pertinent data deemed necessary by the Board of Appeals shall be shown.
- B. A plan, study, or report showing the proposed ultimate use of the land, which must conform with the existing Zoning Bylaw. Proper planning for future land use shall be a primary consideration in determining whether to issue a soil, vegetation, rock and gravel removal permit.
- C. A complete list of the names and addresses of current abutters of the property where such removal is proposed. Such list shall be certified by the Board of Assessors.
- D. An operation schedule showing the active area (not to exceed five acres) where the removal will begin and also how the total parcel will be developed in progressive five-acre increments.
- E. A log of soil borings taken to the depth of the proposed excavation, with a minimum of five borings per five-acre section. Additional borings may be requested by the Board of Appeals if necessary.
- F. A plan showing all refuse and debris burial sites on or off the property (may be shown on plan as required in Subsection A above).
- G. The full legal name and address of the owner of record, the operator of the removal operation and of the applicant.

### **§ 300-10.4. Plan distribution.**

Within 10 days of receipt of the application and plan, the Board of Appeals shall furnish the Planning Board and the Conservation Commission with a copy of said plan. Each board may investigate the case and make a written report of its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on an application until it has received reports thereon from the boards or until 35 days have elapsed since those boards received the plan without the submission of a report.

### **§ 300-10.5. Permit for soil, vegetation, rock and gravel removal.**

- A. General.
  - (1) The Board of Appeals may issue soil, vegetation, rock and gravel removal permits in accordance with provisions of this section of the bylaw, complete with conditions imposed, for areas not to exceed 20 acres. All permits shall conform to the minimum restoration and operating standards contained herein and such other conditions as the Board of Appeals may deem necessary. Said permit shall allow the working of only five acres at any one time. Upon completion of the earth removal operation on a five-acre parcel, or a part thereof, and substantial restoration of said parcel as determined by the Board of Appeals, according to the restoration standards and the permit conditions, application may then be made to the Board of Appeals for a permit renewal. Such permit renewal may allow the removal of earth on another five-acre section, as shown by the operating schedule submitted with the permit application.
  - (2) This procedure shall be followed until the operation is completed. No soil being removed under special permit may take place within 300 feet of a street or way, nor within 100 feet of the high water mark of any natural watercourse, nor within 100 feet of a lot line. Soil may be disturbed within these established boundaries if it is considered part of the site restoration work and has received prior approval by the Board of Appeals.

## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

- (3) No removal of material shall take place below a level that is considered by the Board to be an undesirable grade for the future development of the area, or to a level less than six feet above the springtime high water table unless such elevation has been approved by the Board of Appeals as being a desirable improvement that will enhance the future development of the area. A monitoring well shall be installed by the property owner to verify groundwater elevations.
- (4) The Board of Appeals may require an engineering review of the application and plan. The registered professional engineer shall be specified by the Board of Appeals and fees shall be borne by the applicant.

B. Conditions of the permit. The permit shall be considered a nontransferable revocable permit to remove earth materials. If it is found that incorrect information was submitted in the application, or that conditions of the permit are being violated, or that the governing regulations are not being followed, the permit may be suspended until all the requirements have been met and promises made to conform. Failure of the permit holder to comply within the time specified by the Board of Appeals for correction of violations shall be cause for the permit to be revoked, and may permit forfeiture of the security to the Town, and the imposition of all allowable fines.

C. Compliance review. The Board of Appeals shall discuss and review the permit periodically, and, at a minimum, annually. Written progress reports showing conformance with regulations and permit conditions shall be submitted to the Board of Appeals by the Building Commissioner or his designated agent every three months at a minimum, or when otherwise deemed appropriate by the Board of Appeals. The Building Commissioner may employ a registered professional engineer to act as his agent in the inspection of the work to insure compliance with this section of the Zoning Bylaw and to report to the Building Commissioner his recommendations as to the approval or disapproval of the work. In the event that the Board of Appeals employs an engineer under Subsection A of this section for plan review, then the Building Commissioner will, if possible, employ the same engineer for site inspection. Inspection fees shall be at the permittee's expense.

D. Effective date. A soil, vegetation, rock and gravel removal permit shall not be in effect until the applicant has filed the proper security as required in § 300-10.9, paid the required fees as required by § 300-10.2D, recorded the special permit at the Registry of Deeds, and paid for an engineering review under § 300-10.5A.

### **§ 300-10.6. Removal incidental to development, construction or improvement.**

- A. The Planning Board, as part of a definitive subdivision approval or site plan review, may allow the redistribution on or removal of earth materials from that site. Such permission may allow only such minimal alteration of the site as may be necessary for the permitted development and may not allow mining of earth materials.
- B. Conformance with the standards provided in § 300-10.7 below shall be required insofar as they are applicable. A permit from the Board of Selectmen under Chapter 134, Earth Removal, of the Town Code shall not be required. Suitable security from the applicant shall be required to ensure that the project is carried out as permitted. This requirement shall be in addition to any performance guarantee that may otherwise be required.
- C. Where material is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Building Commissioner. Removal will be allowed only from the area for the building, driveways, parking areas, and from areas where removal is specifically required by the Board of Health in connection with disposal systems. Mechanical crushing, screening and/or processing is not allowed on site.

## TOWN OF WINCHENDON – RED-LINE FINAL DRAFT

### **§ 300-10.7. Operating standards for removal and restoration.**

All soil, vegetation, rock and gravel removal activities controlled by this article shall be subject to the following standards:

- A. Time of operation.
  - (1) Excavation and site maintenance may be carried on from 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding state and national holidays.
  - (2) Trucking from the site may be carried on from 9:00 a.m. through 5:00 p.m., Monday through Friday only, excluding state and national holidays.
- B. Site preparation.
  - (1) Only the active area described in the permit application may be made ready for earth removal.
  - (2) No standing trees are to be bulldozed over, or slashed and bulldozed into piles. All trees must be cut down. All wood and brush must be piled for removal or chipping. Wood chips may remain on the site. No trees are to be buried on the site.
  - (3) Stumps shall be buried in predesignated areas as shown on application plans.
  - (4) Any change in stump burial must be submitted to the Zoning Board of Appeals for approval.
  - (5) All topsoil removed from the active removal area shall be piled and adequately protected from erosion for future site restoration.
  - (6) Prior to any excavation or earth removal, adequate siltation basins shall be constructed to prevent the runoff of silted water from the site.
  - (7) All excavation shall be done so as to create contours to channel runoff waters into the siltation basins.
  - (8) No siltation basin shall exceed seven feet in depth.
  - (9) Siltation basins must be cleaned when sediment deposits are within 18 inches of the outfall invert.
- C. Site maintenance.
  - (1) No open-face excavation shall exceed 25 feet in height.
  - (2) No excavation shall be closer than 100 feet to a property line.
  - (3) No slope shall exceed a three foot horizontal to a one foot vertical (3:1) grade.
  - (4) No earth removal operation shall create excessive amounts of dust or allow roads leading into or from a site to become excessively dust producing.
  - (5) Proper dust control methods shall be employed and approved by the Board of Appeals.
- D. Screening and access.
  - (1) An immediate program of site screening shall start when site preparation begins.
  - (2) All visual access to the site shall be screened with natural vegetation, evergreens, or other suitable natural methods, so as to prevent a direct view into the earth removal area at any time.

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- (3) All areas within a 100 feet of a traveled way or abutting property lines shall be reforested immediately upon completion of the earth removal operation of that area. Said reforestation shall be done in accordance with the standard as stated in § 300-10.8F of this article.
- (4) A minimum of 150 trees per acre shall be used for this reforestation.
- (5) All access roads shall be level with intersecting streets for a distance of 60 feet.
- (6) A STOP sign shall be installed so as to warn any vehicle entering onto a Town street.
- (7) All access roads shall be equipped with a suitable locking gate to prevent unauthorized entry.
- (8) The Board of Appeals may prescribe routes for transporting material in and out of the site within the Town boundaries.
- (9) If no route is deemed adequate by the Board of Appeals, it may require the improvement of a transport route at the expense of the permittee.
- (10) The permittee shall be responsible for the cleaning, repair and/or resurfacing of streets used in removal activity which have been adversely affected by such activities.

E. Temporary buildings.

- (1) All temporary structures shall be specified in the special permit application and shown on the plan.
- (2) Any structure erected on the premises for use by personnel or storage of equipment shall be located at least 40 feet from any existing roadway and at least 30 feet from any lot line.
- (3) Any temporary structure will be removed no later than 90 days after the expiration date of the permit.

F. Mechanical crushing and screening.

- (1) The crushing and screening of material on a removal site shall require a separate special permit from the Board of Appeals.
- (2) All crushing and screening permits shall be granted for a period not to exceed six months.
- (3) Washing of processed materials will not be allowed.
- (4) Operation of crushing or screening equipment shall be from 8:00 a.m. until 4:30 p.m. Monday through Friday, excluding state and national holidays.
- (5) All crushing and screening equipment shall be equipped with suitable dust and noise control devices.
- (6) Under no conditions shall the crushing and screening cause a nuisance beyond the property line.
- (7) Crushing and screening operations are only allowed in an Industrial Zone.

**§ 300-10.8. Restoration standards.**

- A. All restoration, if such is being required, must be completed within 60 days after the termination of a soil, vegetation, rock and gravel removal permit or by the first of June if the permit terminates between December 1 through March 31.
- B. No slope shall be left with a grade steeper than a three-foot horizontal to a one-foot vertical.

## **TOWN OF WINCHENDON – RED-LINE FINAL DRAFT**

- C. All siltation basins shall be filled with earth, and a natural drainage pattern must be reestablished. No area upon the site which will collect water shall remain unless approval is granted by the Board of Appeals or unless the area was shown on the original application plans.
- D. All topsoil which was on the site prior to earth removal operations shall be replaced to a minimum depth of six inches on all disturbed areas. Sites that had less than six inches of topsoil shall be restored with a minimum of four inches over the entire area.
- E. Seeding. The entire area shall be seeded with grass or legume which contains at least 60% perennials. The planted area shall be protected from erosion during the establishment period using good conservation practices. Areas which wash out shall be repaired immediately.
- F. Reforestation.
  - (1) Except as hereafter provided, all areas which are disturbed in the earth removal operation shall be reforested with 50% coniferous and 50% deciduous trees planted at the rate of a minimum of 150 trees per acre. All trees used are to be a minimum of two-year transplants.
  - (2) Areas which are to be used for agricultural or other purposes after earth removal operations are completed may be reforested in the following manner:
    - (a) Trees shall be planted 50 feet deep from a public road or property line.
    - (b) The remaining area shall immediately be planted with grass or other suitable agricultural planting material.
- G. Within 90 days of completion of operations, all equipment, accessory buildings, structures, and unsightly evidence of operation shall be removed from the premises.

### **§ 300-10.9. Security requirements.**

There shall be filed with the Town Treasurer a continuous security in the form of a bond or deposit of money as has been approved by the Board of Appeals, the Board of Selectmen, and Town Counsel in the minimum amount determined in order to return the entire property to its original condition. Not less than one year after the completion of the total project, the Board of Appeals and the Board of Selectmen may issue a final release of the security, at the applicant's written request, if, in the opinion of the Board of Appeals and the Board of Selectmen, no damage or deterioration to the finished project has developed. If, during the year following the completion of the project, slumping, gullying, erosion, or any other unsatisfactory condition appears, the applicant shall be responsible for and shall make any necessary repairs before final release of security is granted. The bonding agent shall be required to give the Board of Appeals, the Board of Selectmen, and Town Counsel, by registered or certified mail, a sixty-day notice prior to any termination or cancellation of the bond.

## **ARTICLE XI - Residential Development**

**[Added 5-23-2011]**

### **§ 300-11.1. Purpose.**

- A. The purposes of this article are:
  - (1) To ensure that the housing needs of the people are met in a manner that preserves a maximum amount of open space and helps to retain the rural character of the Town;
  - (2) To encourage the permanent preservation of open space, undeveloped land, agricultural land, forest land, wildlife habitat, and other natural resources, including aquifers, bodies of water,

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wetlands, and historical and archeological resources in a manner that is consistent with the Town of Winchendon's Master Plan and Open Space and Recreation Plan;

- (3) To allow for greater flexibility and creativity in the design of residential developments;
- (4) 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 conventional or grid subdivision;
- (5) To minimize the total disturbance on the site;
- (6) To enhance the quality and cohesiveness of our neighborhoods and reduce the cost of serving the homes created under the provisions of this article.

B. References within Article XI. Unless it is otherwise stated, all references to "the Board" in this article shall refer to the Planning Board. The Planning Board shall be the special permit granting authority for all special permits mentioned in this article unless otherwise stated.

### **§ 300-11.2. Applicability.**

- A. The provisions of this article will apply to all new residential development within the Town except as specifically exempted in § 300-11.3.
- B. Compliance with Subdivision Regulations required. All residential projects subject to this article shall be built in conformity to the current Subdivision Regulations as promulgated by the Winchendon Planning Board. If the development will not constitute a subdivision, compliance with the site plan regulations of the Winchendon Planning Board will be required. The Planning Board may grant waivers from its regulations as provided therein when such action serves to further the purposes of this article.

### **§ 300-11.3. Exceptions.**

- A. Existing lots. The application of this article to a lot or two adjacent lots for single- and two-family residential use which, at the time of recording or endorsement, whichever occurred earlier, was/were not held in common ownership with any adjoining land, conformed to zoning requirements in effect when the lot(s) was/were created, and contain not more than 160,000 square feet per lot, excluding from the actual area of the lot(s) the areas of any streams, ponds, wetlands, stream buffers, wetland buffers, vernal pools and areas with a slope greater than 1:4 shall be optional with the property owner. The areas of such wetland-related areas shall be as determined by Chapter 275, Wetlands, of the Town Code or by Chapter 131 of the General Laws and any state or local regulations adopted thereunder. Common ownership shall include lots held by separate legal entities, persons, or trusts under common control or having common beneficial interests.
- B. Existing buildings. Except as provided in § 300-11.10F and G, this article shall not apply to the conversion of residential buildings in existence prior to the adoption of this article to provide more dwelling units therein.

### **§ 300-11.4. Open space requirements.**

Open space required. All residential development subject to this article shall require the preservation in perpetuity of open space in conjunction with the development project.

- A. Open space in larger tracts will be preferred, as will open space contiguous with other already preserved open space. Except land reserved as public parkland or playgrounds in the PD and R10 Zones, no parcel smaller than two acres that is not contiguous with such other open space may be counted as part of the required open space in projects larger than 10 acres.

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- B. The open space should protect valuable natural and cultural elements, including water bodies, streams, wetland buffers, unfragmented forest, wildlife habitat, open fields, scenic views, trails, stone walls, archeological sites, and avoid development in hazardous areas such as floodplains and on steep slopes. In areas where public sewage disposal is not available, consideration shall be given to the suitability of soils for on-site disposal systems both within and outside the protected open space. Particular consideration for protection will be given to land that expands land that is already protected or which is recommended for protection under the Town Master Plan or Open Space and Recreation Plan, or will tend to expand or complete wildlife or recreational corridors between such parcels.
- C. R80 and C2 Zones. Of that portion of a residential development project that is located in the R80 and C2 Zones, not less than 50% of the area (without any deduction for streams, ponds, wetlands, stream buffers, wetland buffers, vernal pools and areas with a slope greater than 1:4) shall be preserved as dedicated open space. If the total wetlands-related areas (streams, ponds, wetlands as defined by law, and vernal pools) within the dedicated open space will exceed 33% of the total area of the development site, only that 33% may be counted in making up the required 50%.
- D. R40 Zone. Of that portion of a residential development project that is located in the R40 Zone, not less than 33% of the area (without any deduction for streams, ponds, wetlands, stream buffers, wetland buffers, vernal pools and areas with a slope greater than 1:4) shall be preserved as dedicated open space. If the total wetlands-related areas (streams, ponds, wetlands as defined by law, and vernal pools) within the dedicated open space will exceed 25% of the total area of the development site, only that 25% may be counted in making up the required 33%.
- E. R10 and PD Zones. Of that portion of a residential development project that is located in the R10 and PD Zones, not less than 25% of the area (without any deduction for streams, ponds, wetlands, stream buffers, wetland buffers, vernal pools and areas with a slope greater than 1:4) shall be preserved as dedicated open space. If the total wetlands-related areas (streams, ponds, wetlands as defined by law, and vernal pools) within the dedicated open space will exceed 15% of the total area of the development site, only that 15% may be counted in making up the required 25%.
- F. C1 Highway Commercial and I Industrial Zone. Residential development is not allowed in these zones.

### **§ 300-11.5. Use of dedicated open space.**

- A. Agriculture. Dedicated open space may be used for agriculture. This includes the growing of crops and the keeping of livestock or poultry. Open space dedicated to agriculture may be combined with other land that is within 1,000 feet used for agricultural purposes by the same farmer when calculating the five-acre minimum for zoning as commercial agriculture under § 300-5.2D.
- B. Conservation. Dedicated open space may be used for conservation purposes. Such uses may include protection of flora and fauna, trails for hiking, hunting, fishing, camping, swimming, and boating.
- C. Commercial forestry. Dedicated open space may be used for commercial forestry. Such land shall be managed using best management practices for long-term sustained forest yield under a management plan approved by the State Forester. Best management practices shall be used in cut areas to insure immediate regrowth.
- D. Stormwater management systems. Subject to the approval of the Board, stormwater management systems may be located within the required open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- E. Recreation. Dedicated open space may be used for recreational purposes on tracts of more than 10 acres by Planning Board special permit. This may include structured uses such as a campground.

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However, the restrictions contained in § 300-11.8 shall apply and no special permit may be granted under that section for such uses. This shall not prohibit the use of unprotected land in the same ownership for purposes prohibited on the protected land.

### **§ 300-11.6. Restrictions on use of dedicated open space.**

Except as are allowed by special permit under § 300-11.8, the following are prohibited in the dedicated open space:

- A. Any structure for residential, commercial or industrial use.
- B. Any building having a floor or ground area in excess of 600 square feet.
- C. The total of all buildings shall not exceed 1/4 of 1% of the total area of the open space.
- D. The total man-made impervious area shall not exceed 1% of the total area of the open space.
- E. Paved roads or driveways.
- F. Mining, excavating, dredging or removing from the premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.
- G. Placing, filling, storing or dumping on the premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks.
- H. The subdivision of the premises;
- I. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation;
- J. Any other use of the Premises or activity which would materially impair significant conservation interests.

### **§ 300-11.7. Specific uses allowed in dedicated open space.**

The following uses are allowed in dedicated open space:

- A. Fences as necessary to enclose pastures, protect livestock from natural hazards, or to protect crops from animals. Specific approval by the Winchendon Agricultural Commission may be required.
- B. Underground sewage disposal systems for dwellings in the development.
- C. Underground sewer lines which must necessarily run through the area to meet grade requirements.
- D. Necessary access roads, including fire roads that are unpaved and minimally improved. Bridges and culverts to properly handle stormwater are permitted when necessary.

### **§ 300-11.8. Improvements allowed by special permit.**

The following improvements may be allowed by special permit:

- A. Road or driveway paving on slopes so steep that washouts would otherwise be likely. Steps on steep trails.
- B. Parking areas to serve the permitted open space uses, provided the surfaces shall be pervious to stormwater.
- C. Impervious area greater than that allowed by § 300-11.6D.

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D. Buildings having a floor or ground area greater than 600 square feet.

### **§ 300-11.9. Legal protection requirements.**

All land dedicated as open space under this article shall be protected in a manner that will afford it full protection under the law.

A. The dedicated open space shall be protected from development by one of the following means:

- (1) Such open space shall either be conveyed to the Town and accepted by it for park or open space use, or be conveyed to a nonprofit organization the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state except as required in this bylaw. The named agency and the terms and conditions of such transfer must be acceptable to the Board. Such open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.
- (2) Property that is owned by any other entity but is protected by a suitable conservation easement that will protect the land from development or uses, except as provided in this article, in perpetuity. All the conditions of such easement must be acceptable to the Board.

B. A single parcel may include both protected open space and other uses, provided proper easements are in place to secure the protection of the required open space.

C. The title or easement holder, other than a governmental unit, of each parcel accepted as protected open space under this bylaw shall, and governmental units should, within six months after its dedication as open space, complete an assessment of the property detailing its location, boundaries, the condition of the vegetation, streams, wetlands, walls, roads, improvements and other features; and any restrictions or requirements for its future use or development. Thereafter, not less than annually, the title or easement holder shall physically view the property and prepare a detailed statement as to the present condition of the property, with particular reference to the features recorded in the initial assessment. Copies of each such report shall be filed with the Board. Any failure to file such reports shall be a violation of the Zoning Bylaw and shall be subject to the penalties therefor.

### **§ 300-11.10. Maximum number of dwelling units.**

- A. The maximum number of dwelling units for land in the R80 and C2 Zones shall be equal to the number of acres of such land divided by two.
- B. The maximum number of dwelling units for land in the R40 Zone shall equal to the number of acres of such land.
- C. The maximum number of dwelling units for land in the R10 and PD Zones shall be equal to six times the number of acres of such land.
- D. If the land is located in more than one zone, the allowed dwellings shall be calculated for the land in each zone and then combined.
- E. In those cases where the total of allowable dwelling units as determined in Subsection D results in a fraction, the number shall be rounded down to the lower whole number.
- F. If a residential development project includes existing residential buildings, the dwelling units in those buildings shall be considered as part of the maximum number of units. The number of units in such

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building(s) may be increased or decreased, provided the lot can accommodate the dwellings under § 300-5.2A and § 300-11.12B.

- G. Unless a greater number is allowed under § 300-11.12A(5), principal residential buildings in the R80, C2 and R40 Zones shall be limited to three dwelling units per building. One additional accessory dwelling may be allowed in those zones by special permit, provided the maximum for the project is not exceeded and the lot area is adequate under § 300-11.12B.
- H. The Board may, by special permit, allow any number of units per building or more than one residential building per lot on lots in the R10 and PD Zones, provided the maximum number of dwelling units is not exceeded.

### **§ 300-11.11. Development procedures.**

Residential development other than on sites exempt from this article under § 300-11.3, and those that may be allowed by a special permit, shall be undertaken only in accordance with the following procedure.

- A. Before any work, including, but not limited to, brush removal, tree cutting, and grading, is done on a development site, the developer shall submit a sketch plan to the Board. Cutting of vegetation necessary for surveys and soil testing is permitted. The sketch plan shall be drawn to scale and shall show the total tract that includes the land on which development is proposed. It shall also show the surrounding area, wetlands, contours, vegetation and other features as the Board may require by its regulations. It need not have been prepared by a professional engineer or land surveyor.
- B. Following submission of the plan, the Board or its designee(s) shall undertake a site visit so the Board will fully understand the site and its features.
- C. The Board will then meet with the developer at a regular or special meeting and discuss which land is most appropriately preserved as open space, which are the locations most suitable for houses and other factors that may enter into the choice of open space. However, no plan showing house lots or new roads may be presented or considered at this time. An agreement between the Board and the developer on the land to be preserved is required as a condition of moving forward.
- D. After the open space has been agreed upon, the developer may locate the houses on the property.
- E. The developer may now locate any road or roads needed to properly access the houses and other amenities. Open space shall not be landlocked. Access over other land in common ownership is acceptable. Otherwise, adequate provision shall be made for access to each tract of preserved open space from a road.
- F. Then and only then may the developer or an engineer or surveyor on his behalf lay out proposed property lines for the various house lots. Neither shall any preliminary or definitive subdivision plan be prepared prior to this time.
  - (1) Following the layout of property lines, the developer shall submit a definitive subdivision plan or an application for site plan review, as the case may be, in accordance with the Board's regulations. Such plan shall include, without limitation:
    - (a) Existing site conditions, including topography, water bodies and streams, wetlands, historic features, existing structures, easements and rights-of-way, and means of access;
    - (b) Proposed grading and landscaping;
    - (c) Proposed utilities, including but not limited to water, wastewater, electric power, fuel, security and telecommunication systems, and cable television;

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- (d) Proposed stormwater system;
- (e) Proposed pedestrian and vehicular access, circulation, parking and loading;
- (f) Structures to be retained, demolished, and new construction.

(2) Copies of the application shall be circulated to the Board of Health, the Conservation Commission, the Department of Public Works, the Police Department, the Fire Department, and such other Town agencies as the Board deems appropriate, with a request for their comments and suggestions. Failure of any such agency to respond within 35 days shall be deemed lack of opposition to the proposal.

### **§ 300-11.12. Design standards.**

#### **A. General requirements.**

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Individual building sites shall be oriented so as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage shall be treated as fixed determinants of road and lot configuration rather than as elements to be altered 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 on or off the parcel(s).
- (3) Development shall be related harmoniously to the terrain and the use, scale and architecture of existing buildings in the vicinity. Proposed buildings shall be related to their surroundings.
- (4) The removal or disruption of historic, archeological, or cultural uses, structures, or sites shall be minimized.
- (5) A project serviced by municipal water and sewer services may consist of any combination of single-family, two-family and multiple-family residential structures. A multiple-family structure shall not contain more than five dwellings except by special permit. The architecture of all multiple-family buildings shall be residential in character, particularly providing gabled roofs, an articulated footprint and varied facades. Residential structures shall be oriented toward the street serving the lot and not toward a required parking area.
- (6) Sidewalks and trails. In place of sidewalks, a system of internal trails that provide connections to other existing or proposed sidewalks and trails, public parks or recreation areas or protected lands may be substituted.
- (7) In the R10 and PD Zones, each dwelling unit shall be served by two off-street parking spaces. Parking spaces in front of garages may count in this computation.
- (8) In the R80, R40, and C2 Zones, each dwelling unit shall be served by at least three off-street parking spaces.
- (9) Common shared driveways. Up to three residential buildings may share a common driveway, provided that the shared portion of the driveway shall not be used to meet parking space requirements of this section. Maintenance of shared driveways shall be clearly provided for.
- (10) There shall be no more than one curb cut per lot which includes five or fewer dwelling units. Lots with more than five dwelling units may have curb cuts as the Board determines.

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- B. Requirements for individual lots.
  - (1) In the R80, R40, and C2 Zones, each individual lot shall contain not less than 7,500 square feet for the first dwelling unit and 1,500 square feet for each additional unit. In the R10 and PD Zones, each individual lot shall contain not less than 3,750 square feet for the first dwelling unit and 1,500 square feet for each additional unit. If a lot lies in more than one zoning district, the minimum for the more restricted zone shall apply.
  - (2) The Board may, however, allow lesser minimum lot area per dwelling unit for the development of dwelling units in existing buildings.
- C. Except as provided above, there shall be no minimum area per lot. The minimum required setback (front, sides or rear) shall be five feet. Lot shapes should, as nearly as possible, conform to the standard of § 300-7.2A. Except for lots served by an approved common driveway, lots shall have not less than 50 feet of street frontage. Lots which provide street access for a common driveway shall have not less than 75 feet of street frontage. Maximum structure heights and maximum impervious area shall meet the requirements of Table 7.2. If separate sewage disposal systems are required, the requirements of the Board of Health shall be met. This may be accomplished by providing an easement for sewage disposal works in the open space.
- D. Each lot served by a common driveway shall have an address on the way from which access is obtained that will insure that emergency services can locate the residences.

### **§ 300-11.13. Approval of plan.**

- A. Approval by right. Upon findings by the Board (adopted by a majority of the members voting) that the proposed development meets the minimum requirements of this article for preservation of open space and the location thereof, contains no more than the maximum number of dwelling units, meets the requirements of its subdivision regulations for a definitive residential subdivision (or of its site plan regulations if it is not a subdivision), a low-impact development plan for the site has been approved (if such plan is required), the required open space has been fully protected by conveyance or easement, an Order of Conditions has been issued by the Conservation Commission (if required), the Board of Health has approved the septic systems (if required), the subdivision plan (or site plan) shall thereby be approved, and the project may then be built according to that plan by right.
  - (1) Conditions. The Board may impose conditions, safeguards and limitations in its plan approval as necessary to ensure compliance with the purposes of this article.
  - (2) No residential lot created under this article shall be further subdivided or any alteration of lot lines or layout of ways be allowed except by a special permit, which special permit shall be in compliance with the requirements of this article and the subdivision (or site plan) rules and regulations.
  - (3) Upon the approval and filing in the Registry of Deeds of a definitive subdivision plan for the development and further provided that all roads, utilities, and other improvements required by the plan were installed within two years, not including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, the lots shown thereon shall become conforming lots. Should such work not be accomplished within two years, the plan approval shall lapse. Any structures shown on the approved plan and actually built within two years, not including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, shall be considered conforming structures. The Board may extend any of the required times for cause.

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- (4) Should a subdivision plan not be required, site plan review shall be required. All roads, utilities, and other improvements required by the plan must be installed within two years, not including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, or the plan approval shall lapse. Any structures shown on the approved plan and actually built within two years, not including the time required to pursue or await the determination of an appeal as allowed under MGL c. 40A, § 17, shall be considered conforming structures. The Board may extend any of the required times for cause.
- (5) No work, including, but not limited to, brush removal, tree cutting, and grading, shall be done on a development site and no building permits shall issue for buildings on the site prior to the end of any required appeal period following approval of the required plan.
- (6) Any change to open space dedicated under this article and owned by the Town will require a two-thirds vote of the Town Meeting. Where the open space is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept as open space under the provisions of this bylaw unless the Town Meeting agrees to a modification by a two-thirds vote. No such vote shall be taken until after the Planning Board has held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Notice of the time and place of such public hearing and the subject matter thereof shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of said hearing. No Town Meeting vote thereon shall be taken until a report with recommendations by the Planning Board has been submitted to the Town Meeting or 21 days after said hearing has elapsed without submission of such report.
- (7) Any changes to the house locations, house lots, streets, or other provisions of the approved subdivision shall require the modification of the subdivision plan or site plan by the Board.

B. Special permit development. Any plan for residential development that does not meet the requirements of this article may be built only according to a special permit upon a finding that development on the parcel according to the requirements of this article is not feasible.

## ARTICLE XII - Site Plan Review

**[Amended 1-29-2007]**

### **§ 300-12.1. Purpose.**

- A. Development of land is the means by which a community grows. How and where this development or redevelopment occurs, how it affects the environment, the neighborhood, and the entire community are matters of concern to everyone. Zoning districts, use tables and dimensional tables address these matters on the lot level. These matters are generally considered zoning issues and dealt with by the Zoning Board of Appeals or its agents.
- B. What happens in the way a particular site is developed is of equal concern. This is the role of site plan review. Since any development will have impacts on the total environment and particularly on the neighborhood and the community, site plan review seeks to prevent or to minimize adverse impacts that may occur as an owner seeks to develop his or her property. The process intends to conform to the spirit of this bylaw. (See Article I and Appendices C, D and E.)

### **§ 300-12.2. Projects requiring site plan review.**

- A. The following types of activities and uses require site plan review by the Planning Board:

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- (1) Construction, exterior alteration or exterior expansion or change of use of a municipal, institutional, commercial, industrial, or multiple-family structure.
- (2) Three or more dwelling units started within one year by entities controlled by one person on land that at any time within the 10 years preceding was a single parcel or were abutting parcels. No building permits may be issued for additional work that will make such projects subject to this section until site plan approval has been granted for all units involved. A single site plan application may cover contiguous lots. For the purposes of this section, the term "person" shall include an individual, joint owners, or any other entity commonly recognized by law as a person.
- (3) Any use or change in use of any structure or group of structures in common ownership that requires 10 or more parking spaces under this Zoning Bylaw, or the construction, reconstruction, alteration or expansion of a standalone parking area that has 10 or more parking spaces.
- (4) Grading, clearing, or other land development activity which will require disturbance of more than 10,000 square feet of land area or 35% of the area of the lot, whichever is less, with the exception of agricultural activity, or work in conjunction with an approved subdivision plan or earth removal permit.
- (5) Any use requiring a special permit in accordance with § 300-5.2, Schedule of Use Regulations, if required by the Board of Appeals and which does not qualify for an exemption under § 300-12.3 of this Zoning Bylaw.
- (6) A property owner or occupant may apply for site plan review for a project even if such review is not required. Such an application may not be withdrawn except with the consent of the Planning Board.

B. At the request of the applicant, the Planning Board may waive any or all requirements of site plan review for exterior enlargements of less than 25% of the existing floor area, and for building or site alterations where the Board determines that the standards set forth in this bylaw are not relevant to the alterations.

### **§ 300-12.3. Exemptions from site plan review.**

Except as provided in § 300-12.2A(2), site plan review shall not be required for:

- A. The construction or enlargement of any single-family or two-family dwelling or building accessory to such dwelling unless the accessory building contains more than 500 square feet of floor area;
- B. Any building used exclusively for agriculture, horticulture or floriculture;
- C. Projects not involving:
  - (1) Additional coverage of the lot, either in the form of construction of or addition to a structure, whether permanent or temporary;
  - (2) Grading changes; or
  - (3) Additional paving, asphalting or other equivalent method of lot coverage;
- D. Projects involving only the construction, reconstruction or alteration of any feature which the Building Commissioner or other duly authorized Town inspector certifies in writing, that are required by public safety in order to correct an unsafe or dangerous condition.

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### **§ 300-12.4. Required submittals.**

- A. Applicants are encouraged to meet with the Planning Agent or Board prior to making a formal submission of plans to discuss site plan requirements and possible waivers. The agent or board may provide a set of guidelines to assist applicants in meeting site plan, architectural, and landscaping objectives. (Appendices C, D, E, and F)
- B. Each request for site plan evaluation shall include:
  - (1) A completed application with the applicant's original signature;
  - (2) A plan set prepared in accordance with Planning Board rules and regulations;
  - (3) A fee determined by the current fee schedule adopted by the Planning Board;
  - (4) Any additional applicable information, including but not limited to drainage reports, traffic studies, historical data, National Heritage data, hydrogeological data, and soil testing logs.

### **§ 300-12.5. Procedure.**

- A. The applicant shall submit a complete application, as detailed above, to the Department of Planning and Development.
- B. Upon determining the application is complete, the Planning Agent shall transmit copies of the application and reduced-size plans to the Building Commissioner, the Police Chief, the Fire Chief, the Conservation Commission, the Board of Health, the Zoning Board of Appeals and the Board of Selectmen for their advisory review and comments. Each board shall be requested to provide its comments to the Planning Board within 35 days of such submittal. A failure to respond shall be considered as lack of objection to the project as submitted.
- C. The Planning Board reserves the right to hire a review engineer or other services as necessary at the applicant's expense under the provisions of MGL c. 44, § 53G.
- D. The Planning Board shall hold a public hearing to consider the application in accordance with the requirements of MGL c. 40A, § 11. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. Failure of the Board to take final action on an application within 90 days after the completed application was filed plus any extensions that have been mutually agreed upon shall constitute constructive approval. All decisions of the Board shall be subject to judicial appeal as is provided in MGL c. 40A, § 17.

### **§ 300-12.6. Site plan evaluation.**

Particular effects of development must be considered in the process of site plan review. These include, but are not limited to, the following:

- A. Adequacy of traffic access. Curb cuts should be so arranged and limited in number as to reduce congestion and improve traffic safety. Proper sight triangles and sufficient turnarounds for vehicles should be provided to reduce the potential for accidents at points of egress.
- B. Adequacy of traffic circulation and parking. Plans should maximize pedestrian and vehicular convenience and safety both within the site and in relation to adjacent ways. Internal and external traffic circulation, and pedestrian and bicycle access should be adequately provided. Potential traffic impacts, both on and off the site, should be mitigated as may be prescribed by the Board, including, but not limited to, measures designed to reduce automobile trip generation, especially on roadways with demonstrated deficiencies in capacity. There should be sufficient parking as required in Article VIII, laid out in a manner to provide ease in maneuvering of vehicles and so as not to be detrimental

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to the surrounding properties or to create an undesirable visual effect from the street. Sufficient area for loading and unloading may be required if the need for such loading zone is found to be necessary.

- C. Provide efficient and effective circulation. With respect to vehicular and pedestrian circulation, special attention shall be given to the location and number of access points to public streets and sidewalks, to the separation of vehicles and pedestrians, to the arrangement of parking areas and to service and loading areas, and to the location of accessible routes and ramps for the disabled.
- D. Adequacy of landscaping and screening. There shall be a sufficient amount of landscaping and screening, as may be reasonably determined by the Board, to insure protection of and to enhance the quality of the project in question and the adjacent properties. Plans should minimize the visibility of parking, storage or other outdoor service areas as viewed from public ways or premises residentially used or zoned.
- E. Exterior and parking lot lighting should be adequate to provide for security and public safety.
- F. Plans should minimize light pollution and lighting intrusion onto other properties and public ways with proper arrangement and shielding, and minimize glare from headlights through plantings or other screening.
- G. Adequacy of protecting the use of renewable energy resources. Where appropriate and feasible, the site plan shall be so designed as to not unreasonably deter the actual or potential use by the subject property or adjacent properties of energy available for collection or conversion from direct sunlight, wind, running water, or organically derived fuels.
- H. Relate development to its environment. The proposed development shall relate appropriately to its context. It shall relate harmoniously to the terrain and to the use, scale and architecture of existing buildings in the vicinity that have a functional or visual relationship to the proposed structure(s). Proposals that deviate substantially from established neighborhood patterns are discouraged.
- I. Preserve the landscape. The landscape, existing terrain, and any significant trees and vegetation shall be preserved in its natural state insofar as practicable. Tree and soil removal shall be minimized and any grade changes shall be in keeping with the general appearance of neighboring developed areas. If natural features and existing landscaping are proposed to be removed, special attention shall be accorded to plans to replace such features and landscaping.
- J. Provide open space. All open space shall be designed to be visually and physically accessible to the extent feasible. Open space shall add to the visual amenities of the vicinity by maximizing its visibility for persons passing or overlooking the site from neighboring properties. If open space is intended for active use, it shall be so designed as to maximize its accessibility for all individuals, including the disabled, encourage social interaction, and facilitate ease of maintenance.
- K. Provide for nature's events. Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. Plans should allow no net increase in the rate of flow of stormwater runoff (calculated using a one-hundred-year storm event) from the project site, consistent with the Massachusetts Stormwater Handbook. Attention shall also be accorded to design features which address the effects of rain, snow and ice at building entrances and to provisions for snow and ice removal from circulation areas.
- L. Make advertising features understandable. The size, location, design, texture, lighting, and materials of all exterior signs and advertising features shall not detract from the use and enjoyment of proposed buildings or surrounding properties. Signs and similar features shall be appropriately sized and located in a manner that does not detract from nor disrupt the immediate visual environment.

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- M. Integrate special features with the design. Exposed storage areas, machinery and equipment installation, service areas, truck loading areas, utility connections, meters and structures, mailboxes, lighting, and similar accessory structures shall be subject to such setbacks, screen planting or other mitigation or screening methods as shall reasonably be required to prevent their being incongruous with or offensive to existing or proposed structures and surrounding properties. Special features, which are essential to a structure's function, shall be incorporated into the original structure design, not added as an afterthought.
- N. Make spaces secure and safe. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation, maximize accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces.
- O. Protect Winchendon's heritage. The removal or disruption of historic, traditional or significant uses, structures or architectural features or neighborhood patterns shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties. Significant structures and/or structures with important architectural features shall be identified by the Winchendon Historical Society. New structures, additions, and alterations shall be sympathetic to and complement the scale and design of surrounding historic structures and locally significant buildings of architectural merit.
- P. Consider the microclimate. A developer who proposes new structures, additional lot coverage, or the installation of machinery or equipment which emits heat, vapor, fumes, or noise shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on the noise and temperature levels of the immediate environment.
- Q. Consider Winchendon's resources. The applicant should be prepared to adequately describe the likely demands on local infrastructure, schools and municipal services and offer proposals to mitigate such demands on the Town's ability to provide such services to the project.
- R. Achieve design excellence. Endeavors to achieve design excellence in all new structures are encouraged. Where the existing character and quality merit change, the design of new structures shall be directed towards a specific design objective. In every case, the structure shall be made compatible with the character of Winchendon by means of the following factors:
  - (1) A silhouette harmonious with the natural landforms and building patterns produced by height limits;
  - (2) Maintenance of an overall height similar to that of surrounding buildings, or a sensitive transition, where appropriate, to development of a dissimilar character; and
  - (3) Use of materials, colors and scales similar to or harmonizing with those of nearby structures and neighborhoods.

### **§ 300-12.7. Planning Board regulations.**

The Planning Board shall adopt rules and regulations governing the submission and review of site plans. These regulations shall include a statement of the maximum impacts of a proposal that may be approved without review by the Board, the application procedure, including the required contents of an application, the review procedure, and any requirements for implementing its decision.

### **§ 300-12.8. Enforcement.**

- A. The Planning Board may require the posting of a bond or other adequate security to assure compliance with the site plan and conditions and may suspend any permit or license when work is not performed as required.

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B. Any site plan approved under this article shall lapse within two years, unless specifically noted otherwise in this bylaw, if the project has not been completed, except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws shall be excluded from the two-year time limit.

### **§ 300-12.9. Violations and penalties.**

Failure to conform to any conditions, safeguards or limitations imposed on a site plan by the Board shall be a violation of the Zoning Bylaw. Penalties for violations may include the issuance of a cease-and-desist order and are otherwise provided in § 300-13.4.

### **§ 300-12.10. Special permits.**

[Amended 11-2014]

A. Granting authority. Special permits may be granted by the Planning Board or by the Board of Zoning Appeals as specified elsewhere in this bylaw. Each of said boards shall be considered a "permit granting authority".

B. Criteria. Special permits will normally be granted where specific provisions of this bylaw are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

- (1) It appears that requirements of the bylaws cannot or will not be met; or
- (2) Traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character; or
- (3) The continued operation of or the development of adjacent uses as permitted in the Zoning Bylaw would be adversely affected by the nature of the proposed use; or
- (4) Nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the Town; or
- (5) For other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this bylaw.

C. Conditions.

- (1) In acting upon special permits, the special permit granting authority shall take into account the general purpose and intent of this bylaw and, in order to preserve community values, may impose conditions and safeguards deemed necessary to protect the surrounding neighborhood, in addition to the applicable requirements of this bylaw, such as, but not limited to, the following:
  - (a) Front, side or rear yards greater than the minimum required by this bylaw.
  - (b) Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, planting, or other devices.
  - (c) Modification of the exterior features or appearance of the structure.
  - (d) Limitations of size, number of occupants, method or time of operation, or extent of facilities.
  - (e) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable codes or regulations.

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- (f) Control of the number, location, size and lighting of signs.
- (g) Requirement of number, design, and location of access drives or other traffic features.
- (2) Any development application requiring a special permit from the Planning Board that contains elements requiring a special permit from the Board of Zoning Appeals may be allowed by the Planning Board within the scope of the Planning Board special permit and shall not require a separate application to the Board of Zoning Appeals.

## **ARTICLE XIII - Administration, Enforcement and Amendment**

### **§ 300-13.1. When effective.**

This Zoning Bylaw shall become effective upon adoption of the Town, subject to its approval by the Attorney General of Massachusetts and the publication and posting required by Massachusetts General Laws. All language of this bylaw which remains unchanged from previously adopted language shall be considered to have been adopted on the date of its initial adoption by the Town.

### **§ 300-13.2. Severability.**

If any provision of this bylaw or boundary depicted on the Zoning Map is held invalid, the validity of the remaining bylaw provisions and boundary lines shall not be affected thereby. Each article may be updated separately by Town approval and be valid based on a date posted on the article; the definitive version of the most up-to-date bylaw is available in the Town Clerk's office.

### **§ 300-13.3. Interpretation.**

To the extent that any specific provisions of this bylaw shall conflict with any general provisions thereof, the specific provisions shall prevail.

### **§ 300-13.4. Enforcement.**

This bylaw and the conditions and stipulations of permits and variances issued thereunder shall be enforced by a Building Commissioner, acting as Zoning Enforcement Officer, in accordance with any or all action necessary to enforce full compliance, as prescribed by the bylaws of this Town and Massachusetts General Laws.

### **§ 300-13.5. Building permits constrained by map limitations.**

In processing an application for a building permit, the Building Commissioner shall determine by direct reference to the Zoning Map, Soil Limitation Map and Floodplain Hazard Boundary Maps the extent to which any constraints imposed by such maps within the zoning district in question are applicable, and shall adhere to and be guided by such constraints.

### **§ 300-13.6. Board of Appeals.**

- A. A Board of Appeals of five members and three associate members shall be appointed by the Board of Selectmen in accordance with the provisions of the General Laws of Massachusetts and the Winchendon Home Rule Charter. The Board of Appeals shall possess and exercise those powers granted by the Massachusetts General Laws and shall establish procedures consistent with the provisions of this bylaw.
- B. All applications received by the Board of Appeals shall immediately be referred to the Planning Board for its comments. Comments by the Planning Board are not required, but should be considered by the Board of Appeals, if such are received.
- C. The Board shall carry out the following specific powers and duties:

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- (1) Appeals. To hear and decide appeals taken by any person aggrieved by reason of inability to secure a permit or enforcement action from the Building Commissioner pursuant to Massachusetts General Laws and the bylaws of this Town.
- (2) Special permits.
  - (a) Section 300-5.2 of these bylaws provides for specific types of uses which are only permitted in specific districts upon the issuance of a special permit ("SP"). Special permits may be issued only for uses which are in harmony with the general purpose and intent of these bylaws and shall be subject to the general or specific provisions set forth therein, in addition to which the Board shall consider whether the future use is detrimental to adjacent uses or to the existing or planned future character of the neighborhood, whether the proposed use will create undue traffic congestion or unduly impair pedestrian safety, whether the proposed use will overload any public water, drainage or sewer facility, or whether the proposed use will be offensive, dangerous or harmful to abutters or to the general public due to excessive noise, odor, vibration, dust, smoke or for any similar reason.
  - (b) Special permit time limitations. Special permits shall lapse if not exercised within 24 months from the date of filing with the Town Clerk. "Exercised" shall be defined as having obtained any necessary building or other permits and having begun the use of or construction. More particular requirements for the "exercise" of a special permit may be contained in specific sections of this Zoning Bylaw.
- (3) Variances. To hear and decide petitions for variances from the requirements of this bylaw, and to authorize such variances upon appeals, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon. Variances shall be granted only when:
  - (a) Owing to conditions specifically affecting such parcel or building but not affecting generally the zoning district in which located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant; and
  - (b) Desirable relief may be granted without substantially derogating from the intent and purpose of this bylaw, but not otherwise.

### **§ 300-13.7. (Reserved) <sup>2</sup>**

### **§ 300-13.8. Penalties.**

- A. Any person, firm or corporation violating any article or provision of this bylaw shall be fined the maximum amount allowed by statute, and each day shall constitute a separate violation.
- B. As an alternative to criminal prosecution in a specific case, the Building Commissioner may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

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2. Editor's Note: Original Sec. 13.7, Scheduled development, as amended 5-13-2002, expired 1-1-2008 and has therefore been removed from this chapter.

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### **§ 300-13.9. Amendments.**

This bylaw may be amended from time to time in accordance with the provisions of Chapter 40A of the General Laws of Massachusetts.

### **§ 300-13.10. Planning Board associate member.**

[Amended 12-12-2011]

The Planning Board, which consists of five members, shall also include one associate member, who shall be appointed in the same manner as regular members for terms of one year. Associate member should attend Board meetings and may participate in Board deliberations but shall not count in determining a quorum nor have voting powers except as provided herein. Any associate member may, from time to time, be designated by the Chairman of the Planning Board in the case of the absence, inability to act or conflict of interest of a regular member, or a vacancy on said Board, to act on special permits under the requirements of this bylaw.