

SUDBURY ZONING BYLAW

APRIL, 2001

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APPENDIX A: TABLE OF PRINCIPAL USE REGULATIONS, Section 2230

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APPENDIX C: LOCATION OF ZONING DISTRICTS

SUDBURY ZONING BYLAW
April 2001

ARTICLE 1000. PURPOSE AND ADMINISTRATION.

1100. PURPOSE. These regulations are enacted to promote the general welfare of the Town of Sudbury, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town, and to reduce the hazard from fire by regulating the location and use of buildings and structures and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1200. APPLICABILITY.

1210. Basic Requirements. No parcel of land in any district shall be used for any purpose other than that for which the district is established by this bylaw and the uses shall be subject to the other restrictions required by this bylaw except for any municipal purposes or exemption from other restrictions when and as authorized by a vote of the Town. The use of land in any district by the Sudbury Housing Authority for housing for elderly persons of low income shall be exempt from all of the provisions of this zoning bylaw when and as authorized by a two-thirds vote of the Town. The use, construction, alteration, height and area of buildings and the use of premises in the aforementioned districts shall be regulated and restricted as hereinafter provided. No lot, nor the building or structure, shall be changed in size, or use so as to violate the provisions of this bylaw.

1220. Other Laws. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

1230. Conformance. Construction or operations under a building permit or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as possible.

1300. ADMINISTRATION.

1310. Permits. This Bylaw shall be administered and enforced by the Inspector of Buildings. The Inspector of Buildings may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, structurally altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification. All building permits shall be posted conspicuously on the premises to which it applies during the time of construction. A certificate of occupancy shall not be issued for any dwelling until the street number, readable from the street has been attached to said dwelling. In cases where the dwelling set-back from the street makes this requirement impractical, the street number shall be placed at or near the driveway entrance.

1320. Enforcement. The Inspector of Buildings shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Bylaw and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

1330. Appeals. Any person aggrieved by the refusal of the Inspector of Buildings to grant a building permit or by any order or ruling made by him, notice of which shall have been given to the applicant or permittee, may appeal in writing to the Board of Appeals as is provided in M.G.L. Chapter 40A, s.15.

1340. Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

ARTICLE 2000. USE, DIMENSIONAL AND TIMING REGULATIONS.

2100. DISTRICTS.

2110. Establishment. For the purposes of this Bylaw, the Town of Sudbury is hereby divided into the following districts:

Single Residence "A" (A-Res.)

Single Residence "C" (C-Res.)
Wayside Inn Historic Preservation (WI)
Business (BD)
Limited Business (LBD)
Village Business (VBD)
Industrial (ID)
Limited Industrial (LID)
Research (RD)
Industrial Park (IP)
Open Space (OS)

Except as otherwise provided herein, the boundaries of these districts are defined and set forth on the map entitled, "Zoning Map, Town of Sudbury, last amended April, 1994," as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. The zoning map, with all explanatory matter thereon, is hereby made a part of this Bylaw.

The location of Districts is further described in narrative form with accompanying maps in Appendix C.

"Overlay" districts are also hereby created: Flood Plain Overlay District (reference section 4100), Historic Districts (Old Sudbury and Hudson Road Historic District, Wayside Inn Historic Districts 1 and 2, King Phillip Historic District (reference Appendix C), Water Resource Protection Overlay District (reference section 4200), Wireless Services Overlay District (reference section 4300) and Wastewater Treatment Facility Restricted Zones (reference section 4500).

2120. Boundary Definition. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the zoning map.

2130. Exempt Uses.

In order to maintain uniformity and consistency throughout residential districts in the Town of Sudbury, the following regulations shall apply to the use of land and/or buildings on residentially zoned property for religious, non-profit educational, or child care facilities, or other exempt uses provided for in M.G.L. Chapter 40A, Section 3:

- 2131. All buildings and structures constructed on the subject property shall be subject to the Dimensional Requirements of Section 2600 of this bylaw for the district in which the exempt use is located.
- 2132. Exempt uses shall be regulated as set forth in section 2200, Principal Use Regulations.
- 2133. Parking for any exempt use shall comply with Section 3100 of this bylaw.
- 2134. The Performance Standards in Section 3400 shall apply to all new construction of any exempt use.
- 2135. The Screening and Landscaping standards of Section 3500 shall apply to all new construction of any exempt use.
- 2136. The proposal shall be subject to the Site Plan Review process set forth in Section 6300 of this bylaw in order to provide information to town boards and departments as to how the project complies with the requirements of the Zoning Bylaw with respect to bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

2140. Certain nonexempt educational and child care uses.

The use of land and buildings thereon for non-exempt educational uses shall be allowed in those zones specified in the Table of Principal Use Regulations, subject to the issuance of a special permit by the Board of Appeals (if applicable), Site Plan review pursuant to section 6300 of the bylaw, and all the requirements contained in this Zoning Bylaw. The provisions of this section shall not apply to the use of land by the Town for municipal purposes.

2200. PRINCIPAL USE REGULATIONS.

2210. General. No structure shall be erected or used or land used except as set forth herein, unless exempted by this bylaw or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with Sections 2300, 5300 and 5400. Except as provided in sections 5300 and 5400, no lot within a subdivision or within the Town shall have more than one building to be used for dwelling purposes.

Symbols employed below shall mean the following:

- Y - A permitted use.
- N - An excluded or prohibited use.
- ZBA - A use authorized under special permit from the Zoning Board of Appeals.
- PB - A use authorized under special permit from the Planning Board.

BOS - A use authorized under special permit from the Board of Selectmen.

2220. Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

2230. Table of Principal Use Regulations. [See Appendix A.]

2240. Enclosure of Uses. All business and service, including incidental storage and light manufacturing, shall be conducted wholly within a completely enclosed building except for:

2241. The growing of plants in the soil.

2242. Open-air dining areas where patrons are seated at tables.

2243. Parking areas for customer and employee automobiles.

2244. Exterior signs as permitted herein.

2245. Open-air displays of sample merchandise on the same premises as a completely enclosed building in which such merchandise is regularly sold, provided that the portion of the lot used for such displays has a ground area of less than ten percent of the area covered by said building.

2246. The dispensing of fuels, lubricants or fluids at filling stations, and the dispensing of merchandise from a completely enclosed building to persons outside at drive-in establishments.

2247. In Industrial Districts, Limited Industrial Districts, and Industrial Park Districts, auxiliary outside storage or use shall be permitted provided that such outside storage or use shall not exceed in ground area a space equal to the number of square feet occupied by the building. Outside parking areas may be allowed at the sides of a building provided they are adequately screened and set back from the front of the building. [See section 3530, Landscaping Requirements for Property Lines]

2248. In Limited Industrial Districts and Industrial Park Districts, the regular parking of commercial motor vehicles within 1,000 feet of a residential district except wholly within a completely enclosed building is prohibited.

2249. In Research Districts only, such non-nuisance research, development or engineering work as must necessarily, or may more conveniently, be conducted outside.

2300. ACCESSORY USES AND STRUCTURES.

2310. Accessory Uses. Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 6300, shall also require site plan review and approval.

2311. Family Day Care and Adult Day Care. Family Day Care is a permitted accessory use. Adult Day Care may be permitted as a principal or an accessory use upon the issuance of a special permit by the Board of Appeals. Providers shall comply with all applicable federal, state, and local laws.

2312. Boarders in Single-family Dwelling. The renting of rooms and/or furnishing of board to not more than five (5) persons in a single-family dwelling by the owner thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to more than two persons shall cause the use to be classified as a boarding house subject to the provisions of Section 2230 (Table of Principal Use Regulations), herein.

2313. The Board of Appeals may grant a special permit for the nonexempt raising of swine, poultry, furbearing animals, and the operation of kennels in any district; in accordance with Section 6200, such Board may impose such restrictions with respect to the conduct thereof as in its judgment may seem necessary for the general welfare of the Town.

2314. Any use accessory to an allowed principal nonresidential use where such accessory use is an entry in the Table of Principal Use Regulations shall be allowed only upon the issuance of a special permit from the Board of Appeals.

2315. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted in Limited Industrial Districts, Industrial Districts, Industrial Park Districts, and Research Districts upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

2320. Accessory Structures.

2321. Unregistered motor vehicles. Unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative, shall not be stored, parked or placed upon any land in the town unless the same shall be within a building or in an area unexposed to the view of the public and abutters or in an area properly approved for the keeping of the same by licensed junk dealers (and automobile dealers).

2322. Trailers. Trailers, commonly known as mobile homes or house trailers, shall not be used for dwelling purposes in any part of the Town except in a trailer camp or park for which a permit has been granted by the Board of Appeals, as required by this bylaw and a license granted by the Board of Health under the provisions of G.L. c. 140; nor shall such trailers be stored or parked on any premises in a residence district except that the Board of Selectmen may upon written application grant to an owner of premises in any residence district, a special permit for the storing or parking of automobile trailers of the non-resident guests of such owner on such premises upon such conditions as the said board may prescribe and for a period not to exceed thirty days in any one calendar year, and except, the Board of Selectmen may upon written application grant to an owner of a residence lot or site, a special permit for dwelling purpose use of an automobile trailer; provided such owner has secured a building permit for the construction of a dwelling on such a lot or site, upon such conditions as the Board of Selectmen may prescribe and for a period not to exceed one year.

2323. A single camping trailer, utility trailer, horse trailer, boat or pick-up camper, not exceeding 24 feet in length, used by the resident for his own use, may be stored on a residential lot. No such trailer, camper or boat may be used for a dwelling on a residential lot.

2324. The temporary use of trailers for storage or office purposes is allowed where they conform to the procedural regulations adopted by the Board of Selectmen.

2325. In residential zoning districts, private or public swimming pools shall be permitted, provided that a building permit therefore be granted by the Building Inspector under the provision of the Commonwealth of Massachusetts State Building Code. Requirements for set back, side yard, front and rear yard clear distances shall be the same as for a principal building. Pools built for public or semi-public use (including private "clubs" or organizations) require Site Plan approval per Section 6300 of this bylaw and a special permit from the Board of Appeals. **Pools, whether above or below ground, shall be so enclosed as to prevent children or animals from accidentally falling into them. At a minimum, any pool at ground level shall be enclosed by a five-foot high fence, which cannot be climbed through or under. Any above-ground pool shall be enclosed by a fence at least thirty inches in height above the edge of the pool and the top of any fence shall be at least five feet above the ground. Any fence shall have at an opening or doorway a self-latching type gate or door which is not operable by preschool aged children. Any stairway to any pool or pool areas shall be protected by a fence, the top of which is at least five feet above the ground.

2326. In residential zoning districts, a one-story, non-commercial accessory building which is detached and not part of the main building and 10 feet or less in length on any side, may be built in the rear yard area. Such accessory building shall not be located nearer than five (5) feet to the rear or side lot line, nor nearer to the front street line than the prescribed minimum set-back distance of the respective districts. See Appendix B, Table of Dimensional Regulations.

2327. An accessory building shall not exceed 35 feet in height above the average grade level around the structure. See Appendix B, Table of Dimensional Regulations.

2330. Home Business - As of Right. A registered home business may be allowed as of right in all residential zoning districts, provided that it:

2331. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

2332. is clearly incidental and secondary to the use of the premises for residential purposes;

2333. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

2334. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);

2335. does not exhibit any exterior indication of its presence or any variation from residential appearance;

**Language adopted as Article 23 of the 1974 Annual Town Meeting

2336. does not produce more than one customer round trip per day to the occupation site;

2337. is registered with the Zoning Enforcement Agent.

2340. Home Business - By Special Permit. A registered home business may be allowed in all residential zoning districts by special permit issued by the Board of Appeals, provided that it:

2341. fully complies with Sections 2332, 2333 and 2334 above.

2342. is conducted within a dwelling, or within a building accessory to a dwelling, solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than one additional employee;

2343. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate compliant with Section 3200;

2344. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips.

2400. NON-CONFORMING USES AND STRUCTURES.

2410. Applicability. This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this Zoning Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing non-conforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

2420. Extension and Enlargement.

The Board of Appeals by special permit may authorize a non-conforming use to be extended or a non-conforming building to be structurally altered or enlarged; provided that such extension, alteration or enlargement meets all the following requirements:

2421. All the special permit guidelines of section 6220; and

2422. That it will not be substantially more detrimental or objectionable to the neighborhood than the existing non-conforming use.

2430. Variance Required. The reconstruction, extension or structural change of a non-conforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same non-conforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to non-conforming single and two family residential structures, which shall be governed by Section 2440, below.

2440. Non-conforming Single and Two Family Residential Structures. Non-conforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings that such proposed reconstruction, extension, alteration, or change does not increase the non-conforming nature of said structure, and the issuance of a building permit, where applicable. The following circumstances shall not be deemed to increase the non-conforming nature of said structure:

2441. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

2442. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

2443. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

2444. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

2445. alteration to a non-conforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Inspector of Buildings determines that the non-conforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where the proposed modification will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

2450. Abandonment or Non-Use. A non-conforming use that has been inactive for a period of two years shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw. A non-conforming structure that has been abandoned or not used for a period of two years shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw.

2460. Reconstruction after Catastrophe or Demolition. A non-conforming structure may be reconstructed after a catastrophe or after demolition, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within two years after such catastrophe or demolition, and provided that the building(s) as reconstructed shall be only as great in area as the original non-conforming structure. In the event that the proposed reconstruction would cause the structure to exceed the area of the original non-conforming structure, a special permit shall be required from the Board of Appeals. Nothing in this bylaw shall be construed to permit the reconstruction or resumption of use of a building or structure destroyed or damaged except substantially as it existed prior to said destruction or damage, and in compliance with any existing laws.

2470. Reversion to Non-conformity. No non-conforming use shall, if changed to a conforming use, revert to a non-conforming use.

2500. [RESERVED]

2600. DIMENSIONAL REQUIREMENTS.

2610. Applicability. Except as hereinafter provided, no dwelling house, no principal building or structure, nor any accessory building shall be erected on a lot in any district unless the lot and building or structure shall conform to the requirements in the Table of Dimensional Requirements, Appendix B.

2611. Where two or more of the requirements in this bylaw are applicable to the same open space, that which imposes the greatest restriction on the placement of the building will control.

2620. Table of Dimensional Requirements. See Appendix B.

2630. Exceptions.

2631. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen inches in width or of steps, unroofed porches or windowsills into any required yard or other open space.

2632. Height Limitations. The limit of height of buildings in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, church spires and other accessory and structural parts of such buildings, if they are not used for living purposes; except towers, whether or not they are to be attached to any building, may be erected for the sole purpose of amateur radio operation in any district in the Town if a permit is granted by the Board of Appeals subject to such conditions and regulations as may be imposed by such board.

2633. In A-RES, C-RES, Village Business Districts and Limited Business Districts, schools and municipal buildings may contain three full stories not to exceed forty-five (45) feet in height.

2640. Other Requirements.

2641. Lot Perimeter. In all residential districts any lot created after the adoption of this bylaw shall have no more than one foot of perimeter for every 40 square feet of lot area and shall not be less than 50 feet in width in any location within the lot except in a portion of the lot where two lot lines meet at a point. Any lot created before adoption of this bylaw and conforming to then applicable requirements shall be considered a conforming lot for purposes of this Zoning Bylaw.

2642. In Business Districts, Village Business Districts and Limited Business Districts, buildings and structures may not cover more than seventy-five percent (75%) of any corner lot.

2643. The open space required by the Table of Dimensional Requirements, Appendix B shall be so located as to properly light and ventilate building(s) and give access in case of fire.

2644. In Industrial Districts, the required front yard along the Post Road, so-called, shall be fifty (50) feet. In Limited Industrial Districts, the required front yard along the Post Road, so-called, shall be one hundred (100) feet.

2645. In Limited Business Districts and Business Districts, the five (5) foot required side yard shall not apply to non-residential buildings having a party wall on the side lot line.

2646. Any dwelling in a Limited Business District or Business District shall have required side and rear yards of twenty (20) feet.

2647. In A-RES, C-RES or Wayside Inn Historic Preservation Districts, a lot having frontage on two or more streets must have the minimum frontage required by the district on only one street and a minimum of one half the required frontage on the other street or streets.

2648. In all non-residential districts the set-back required from a Single Residence District boundary line need not apply whenever said boundary line is also a street line.

2649. In all Research Districts the set-back from the street center line need only be fifty (50) feet for a gate house, bus stop shelter or security office which is not more than one story in height.

2650. In Limited Business Districts, Business Districts, Limited Industrial Districts and Industrial Districts, no open display, no gasoline pump, and no structure having a height in excess of three feet, except a utility or light pole, shall be nearer to the center or exterior line of any street or way than seventy-five percent of the required set-back and front yard distance, respectively, specified herein for a building in the district in which located.

2651. Location of automobile services. No driveway opening serving a garage for motor vehicle repairs, an automobile filling station, a drive-in business establishment, or an automobile parking area with more than ten (10) spaces, shall be located in any district on either side of the same street between two intersecting streets as, and within 300 feet from, any entrance to or exit from a public or private school, public library, church, public park or playground, or public or private institution for the sick or dependent, or for children under sixteen years of age.

ARTICLE 3000. GENERAL REGULATIONS.

3100. PARKING STANDARDS.

3110. General. No building or structure shall be located upon any lot and no activity shall be conducted upon any lot unless the required parking facilities are provided in accordance with this section.

3111. Change of Use. The use of any land or structure shall not be changed from a use described in one section of the Table of Parking Requirements to a use in another section of the table nor shall any floor area of a building be increased in any manner unless the number of parking spaces required for the new uses are provided.

3112. Undetermined Uses. In the case where the use of a building or buildings has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the zoning district where such undetermined use is to be located shall apply.

3113. Reserve parking spaces. Upon the issuance of a special permit, the Board of Selectmen may authorize a reduction in the number of parking spaces required hereunder, in accordance with the following:

- a. The decrease in the number of parking spaces is no more than 30% of the total number of spaces otherwise required hereunder.
- b. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.
- c. Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of the use or building.
- d. The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, parking setback or open space.

e. The reduction in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this bylaw.

f. If, at any time after the Certificate of Occupancy is issued for the building or use, the Building Inspector determines that additional parking spaces are needed the Inspector shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed within a reasonable period.

3114. Handicapped Parking. Parking facilities shall provide specifically designated parking spaces for the physically handicapped in accordance with the latest edition of 521 CMR 1.00, et seq., the Rules and Regulations of the Architectural Access Board.

3120. Number of Parking Spaces. Uses listed in the following table shall have parking as set forth therein.

3121. Comparable Use Requirement. Where a use is not specifically included in the Table of Parking Requirements, it is intended that the regulations for the most nearly comparable use specified shall apply.

3122. Mixed Use Requirement. In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each area of use, so that adequate space shall be provided to accommodate the cars of all persons on the premises at any one time. Parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times and will continue to do so in the future.

TABLE OF PARKING REQUIREMENTS

USE	REQUIRED PARKING
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Dwelling	Two spaces for each dwelling unit
Registered Home Business	Two spaces
Hotel, Motel, Inn, Boarding House, Bed & Breakfast	One space for each bedroom plus one space for each employee on the largest shift; except in VBD, one space per bedroom
Educational Purposes, exempt or nonexempt	One space for each staff position plus one space for each five persons of rated capacity of the largest auditorium plus one space for each student vehicle which can be expected at maximum use time on the premises; except in VBD, one space for each two persons of student and staff population
Nursing Home	One space for each two beds plus one space for each employee on the largest shift
Retail Store; Personal Service Establishment; Bank or Financial Agency; Building Trade; or Restaurant with no seating	One space for each 180 square feet of gross floor area; except in VBD, one space for each 300 square feet of gross floor area
Business or Professional Office	One space for each 200 square feet of gross floor area; except in the Research District, one space for each 300 square feet of gross floor area; and in VBD, one space for each 350 square feet of gross floor area
Restaurant; Religious Use; Funeral Home; Private Club or Lodge; or other Place of Assembly as defined in the State Building Code	One space for each three seats plus one space for each employee on the shift, except in VBD: one space for each three seats
Motor Vehicle Light Service, General and Body Repair	Three spaces for each service bay plus one space for each employee on the largest shift
Industrial Uses at set forth in Section D of Appendix A.	One space for each 2,000 square feet of gross floor area for the first 20,000 square feet plus one space for each additional 10,000 square feet of gross floor area and one space per employee on the largest shift

3130. Standard Parking Dimensional Regulations. Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking (in degrees)	Width of Parking Stall (ft.)	Parking Stall Length of Line (ft.)	Width of Maneuvering Aisle (ft.)
90 (two-way)	9	18.5	24
60 (one way)	10.4	22	18
45 (one way)	12.7	25	14
Parallel (one-way)	8	22	14
Parallel (two-way)	8	22	18

3131. Small Car Stalls. In parking facilities containing more than 40 parking stalls or in any Village Business District site, 15 percent of such parking stalls may be for small car use, except for retail store, retail service business or restaurant uses. Such small car parking facilities shall be grouped in one or more contiguous areas and shall be identified by a sign(s).

3132. Small Car Parking Dimensional Regulations. Off-street small car parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking (in degrees)	Width of Parking Stall (ft.)	Parking Stall Length of Line (ft.)	Width of Maneuvering Aisle (ft.)
90 (two-way)	8.5	15	24
60 (one way)	9.8	18.5	18
45 (one way)	12	21.5	14
Parallel (one-way)	8	18	14
Parallel (two-way)	8	18	18

3140. Design Requirements for Parking Facilities.

3141. Residential Uses. One parking stall may be provided directly behind another for each dwelling unit, provided that each stall shall meet the width and depth requirement and in no case shall such stalls which are more than two deep be considered in computing the required parking.

3142. Business or Industrial Uses. Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage. No parking space or other paved surface, other than access driveway(s) or walkways, shall be located within 10 feet of any lot line, and notwithstanding the foregoing, no parking space or other paved surface, other than access driveway(s) or walkways, shall be located within the limits of a landscape buffer area required in section 3543 herein.

3143. Business or Industrial Uses. Each lot may have one access driveway which shall be at least 24 feet wide at its narrowest point but not more than 40 feet wide at its widest point. Each lot may have one additional access driveway for each 200 feet of frontage provided all such access driveway(s) shall be at least 200 feet apart on the lot measured from the centerline of each access driveway. In the case of an access driveway which shall be used for one-way traffic only, the minimum width may be reduced to 14 feet at its narrowest point.

3144. Non-residential Uses. All parking shall be located to the side or the rear of buildings, except in the Research District where parking may be located elsewhere so long as appropriate reasonable landscaping is placed around those parking areas not located behind a building and which can be seen from public ways, all as shown on a site plan accepted by the Selectmen submitted pursuant to Section 6300.

3145. Interior driveways may be reduced to no less than 20 feet for two-way traffic and 14 feet for one-way traffic.

3146. Village Business Districts. Parking shall be to the side or rear of the building. The number of parking spaces required for a given site may be on another site within the district. Such off-site parking must be established by legal documentation satisfactory to Town Counsel, and a copy filed in the office of the Town Clerk.

3147. In the Village Business District, the requirement of off-street parking may, at the applicant's option, be satisfied through payment of an annual Access Fee in lieu of providing up to 50% of the required spaces. The Access Fee per space shall equal \$800, indexed to change subsequent to 1994, in the Consumer Price

Index for all Urban Consumers, as published by the U.S. Bureau of Labor Statistics. Access Fees shall be held in an Enterprise Fund, or other account, restricting the use of those monies to the provision of off-street parking and non-automotive means of access serving the Village Business District.

3148. For parking areas of 10 or more spaces, bicycle racks facilitating locking, shall be provided to accommodate one bicycle per 10 parking spaces.

3150. Loading Areas. One or more off-street loading areas shall be provided for any business that may be regularly serviced by tractor-trailer trucks or other similar delivery vehicles, so that adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each building and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

3200. SIGNS AND ADVERTISING DEVICES.

3210. Purpose. The following sign regulations are intended to serve these objectives: (a) to facilitate efficient communication; (b) to avoid conflict between signs and the visual qualities of their environs; and (c) to support business vitality within non-residential districts by accomplishing the above objectives without burdensome procedures and restrictions.

3220. General Regulations. The following regulations shall apply in all districts:

3221. No exterior sign or advertising device shall be erected except as provided by this Bylaw.

3222. No sign which requires a sign permit under this Bylaw shall be erected except in the exact location and manner described in the permit.

3223. No sign shall be erected that in any way creates a traffic hazard or obstructs traffic.

3224. No sign shall be painted or posted directly on the exterior surface of any wall. All exterior attached signs shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior of a building, provided that such letters or devices have a

minimum depth of projection of one fourth (1/4) of an inch. The construction of the sign shall comply with the State Building Code.

3225. No sign shall be illuminated between the hours of 11:00 P.M. and 6:00 A.M. except signs on premises open for business, and then only upon issuance of a special permit by the Board of Appeals.

3226. Only white lights shall be used for illumination of a sign. The illumination of any sign shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.

3227. Any sign which advertises or identifies products, businesses, services or activities which are no longer sold, located or carried on at the premises shall be removed within 60 days after notice to the property owner by the Building Inspector.

3230. Sign Permits. All signs shall require a sign permit except as provided in Section 3250, herein. No sign which requires a sign permit shall hereafter be constructed except in conformity with a sign permit from the Design Review Board. Applications for sign permits shall be obtained from the Design Review Board and shall contain the following information:

- a. the location by street number, of the proposed sign;
- b. the name and address of the sign owner and the owner of the premises where the sign is to be located, if other than the sign owner;
- c. a scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the sign on the site, and method of illumination;
- d. such other pertinent information as the Building Inspector may require to ensure compliance with the bylaw and any other applicable law; and
- e. the application must be signed by the owner of the sign and the owner of the premises where the sign is to be located.

3231. The Design Review Board shall have the authority to reject any sign permit application which is not complete when submitted. The Building Inspector shall

refer all applications to the Design Review Board for recommendations in conformance with Section 6540 of this bylaw.

3232. Time Limitations. The Design Review Board shall approve or disapprove any application for a sign permit within 60 days of receipt of the application. If the Building Inspector should fail to act on an application for a sign permit within such 60 day period, the application shall be deemed to be denied.

3233. Fees. The Board of Selectmen shall establish and from time to time review a sign permit fee which shall be published as part of the sign permit application.

3240. Signs Prohibited in All Districts.

3241. All portable "A" frame or similar signs, billboards, signs on utility poles, towers, trees or fences and all signs not located on the same premises as the advertised activity, business, product or person.

3242. All streamers, pennants and spinners or any sign or device which flashes, rotates or makes noise.

3243. All string lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.

3244. All self-illuminated signs.

3250. Signs Which Do Not Require a Sign Permit.

3251. Resident Identification Sign. One sign, either attached or freestanding, indicating only the name of the owner or occupant, street number, and accessory permitted uses or occupations engaged in thereon. All such signs shall not exceed two square feet in sign area and, if lighted, shall use indirect white light only.

3252. Governmental Signs or Signs for Religious Institutions. Signs erected and maintained by the Town of Sudbury, the Sudbury Water District, the Sudbury Housing Authority, the Lincoln-Sudbury Regional High School, the Commonwealth of Massachusetts, or the Federal Government on any land, building or structure used by such agencies and any other signs at any location required by such agencies for public health or safety purposes.

3253. Real Estate Signs. One real estate sign, not over six (6) square feet in area advertising the sale or rental of the premises on which it is located is permitted. One real estate sign not more than 10 feet in any dimension may be erected on subdivisions of land as defined in G.L. c. 41, s. 81L, solely to advertise the selling of land or buildings in said subdivision. Such signs shall be removed promptly after the completion of the subdivision, sale, rental or lease.

3254. Temporary Construction Signs. One temporary construction sign for a new project identifying the building, the owner or intended occupant and the contractor, architect and engineers, which shall not be illuminated nor in excess of six square feet in the residential district and twenty square feet in all other districts. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of completion of construction or issuance of the occupancy permit whichever occurs first.

3255. Window Signs. Temporary window signs in the Business or Industrial districts shall not require a sign permit provided that their aggregate display surface covers no more than 15% of the window or door on which they are placed. Such signs shall not be illuminated other than by standard lighting fixtures on the building. Window signs promoting a public service or charitable event shall not be calculated in the allowable 15%.

3256. Fuel Pump Signs. In accordance with G.L. c. 94, s. 295, standard gasoline fuel pump signs on service station fuel pumps bearing thereon in usual size and form the name, type and price of the gasoline.

3257. Vehicle Signs. Signs mounted on or within registered motor vehicles except where the signs are mounted on parked vehicles for the purposes of advertising goods or services sold or provided on the property where the motor vehicle is parked or elsewhere either by direct sale or by order. Notwithstanding the foregoing, signs normally painted on or attached to a motor vehicle identifying the owner and his or her trade and signs advertising the sale of the motor vehicle itself shall be allowed.

3258. Signs on Product Dispensing Devices. Signs integral to automated devices, not to include vehicles or gas pumps, which dispense one or more products, when the sign identifies the product(s) contained therein, provided the sign does not project beyond the device. Signs which are affixed but not integral to the device are not allowed.

3259. Flags.

3260. Signs Requiring a Sign Permit in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts. Any principal use permitted in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts may erect a sign or signs subject to the following:

3261. Exterior Sign. Except as may otherwise be provided, one exterior sign shall be permitted for each business, not including directional signs. The exterior sign may be a wall sign or individual letter sign. The wall sign or individual letter sign shall not exceed twenty-four square feet and shall not be higher than the top of the roof or ridge line of the building. No portion of a wall sign or individual letter sign shall project more than one foot from the face of a wall or above the wall of any building.

3262. Secondary Signs. If a business has a direct entrance into the business in a wall other than the front wall, there may be a secondary sign affixed to such wall; provided, however that no business shall have more than one secondary sign in any event. The display surface of the secondary sign shall not exceed six square feet.

3263. Directory Signs. One exterior directory sign listing the names and locations of the occupants of the premises may be erected on the exterior wall of a building near the entrance provided the display area shall not exceed one square foot for each occupant identified on the directory. If there is a panel supporting a group of individual tenant names, that panel shall not exceed 110% of the aggregate area of the individual names.

3264. Directional Signs. Directional signs may be erected near a street, driveway or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. The display area of each directional sign shall not exceed two square feet and no directional sign shall be located more than six feet above ground level if mounted on a wall of a building of more than three and one-half feet above the ground if freestanding. Directional signs shall not advertise, identify or promote any product person, premises or activity but may identify the street name/number and provide traffic directions.

3265. Freestanding Business Sign. One freestanding business sign which identifies only the name of a business center consisting of two or more businesses may be erected on a lot provided that no other sign(s) permitted under this bylaw other than directory or directional signs shall be on the same

lot. The display area of a freestanding business sign shall not exceed standards in the following table:

If the Property's street Frontage is:	The area of each side of the sign may not exceed:	The distance from the front property line shall be no less than:
Less than 75 feet	12 square feet	6 feet
75-150 feet	16 square feet	10 feet
151-250 feet	20 square feet	14 feet
251-350 feet	24 square feet	18 feet
351 feet or more	30 square feet	24 feet

3266. No freestanding business sign may be closer than fifteen (15) feet from a side property line.

3270. Special Provisions.

3271. Projecting Signs. A projecting sign may be erected in lieu of an exterior sign only when such exterior sign is permitted under Section 3261, provided it does not exceed sixteen square feet, or in lieu of a secondary sign only when such secondary sign is permitted under Section 3262, provided it does not exceed six square feet. The projecting sign shall not extend beyond the top of the roof or ridge line of the building.

3272. Awning Signs. An awning sign may be erected in lieu of an exterior sign only when such exterior sign is permitted under Section 3261, provided it does not exceed sixteen square feet, or in lieu of a secondary sign only when such secondary sign is permitted under Section 3262, provided it does not exceed six square feet. The sign shall be painted, sewn, or woven into the fabric of the awning. A sign which is affixed to an awning is not considered an awning sign and shall not be permitted. The awning sign shall comply with setback requirements delineated in Section 2650 of this bylaw. No business shall be permitted more than one awning sign.

3273. Banners. Any business may have a maximum of one banner mounted on the building facade. Such banners may pictorially represent the nature of the business and may only include verbiage to the extent that the block of verbiage does not exceed 15% of the total area of the banner. A banner shall not exceed 15 square feet.

3280. Signs Requiring a Sign Permit in the Residential Districts. One sign either attached or freestanding, pertaining to an apartment development or a permitted non-residential principal use such as farms, farm stands, nurseries, greenhouses, and similar uses may be erected upon a lot provided no other sign(s) permitted by this bylaw shall be on the same lot. The display area of the sign shall not exceed 10 square feet and if freestanding the height measured from grade to the uppermost part of the sign shall not exceed twelve feet. The freestanding sign shall not be located within 10 feet of any street or property line.

3290. Special Permits. The Board of Appeals may issue Special Permits for signs other than as provided herein if it is determined that: (a) the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest; (b) the sign will not cause visual confusion, glare, offensive lighting in the neighborhood; (c) the sign will not be a detriment to the surrounding area; (d) the sign will not significantly alter the character of the zoning district; (e) the sign will not interfere with traffic safety in the area; and (f) the sign will be consistent with the architecture of the building on the lot upon which the sign is to be located and of the surrounding area. In granting such permission, the Board of Appeals shall specify the size and location of the sign or signs and shall impose such other terms and restrictions as it may deem to be in the public interest. All applications under this provision shall provide the information required in Section 3230 above and specific information in the form of perspectives, renderings, photographs or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings and the reasons for allowing it.

3290A. Design Guidelines. The following are further means by which the objectives for signs stated at the beginning of Section 3200 can be served. These guidelines are not mandatory, but degree of compliance with them may be considered by the Design Review Board and by the Special Permit Granting Authority in acting upon permits authorized under this section, as may consistency with the basic sign objectives cited above.

3291A. Efficient Communication.

- a. Signs should not contain selling slogans or other advertising which is not an integral part of the name or other identification of the enterprise.
- b. Signs should be simple, neat and avoid distracting elements, so that content can be quickly and easily read.

3292A. Environmental Relationship.

- a. Sign design should take into consideration the size, brightness, style, height and colors of other signs in the vicinity.
- b. Sign brightness should not be excessive in relation to background lighting levels, e.g. averaging not in excess of 100 foot-lamberts in the commercial area of similarly bright areas and not in excess of 20 foot-lamberts in unlighted outlying areas and in areas bordering on or visible from residential zones.

3293A. Building Relationship.

- a. Signs should be sized and located so as not to interrupt, obscure, or hide the continuity of columns, cornices, roof eaves, sill lines, or other elements of building structure, and where possible, should reflect and emphasize building structural form.
- b. Sign materials, colors, and lettering should be reflective of the character of the building to which the sign relates.
- c. Clutter should be avoided by not using support brackets extending above the sign or guy wire and turn buckles.

3290B. Non-conformance. Any non-conforming sign legally erected prior to the adoption of this bylaw may be continued and maintained but shall not be enlarged or altered unless it conforms with the provisions contained herein. The exemption herein granted shall terminate with respect to any sign which:

3291B. Shall have been abandoned;

3292B. Advertises or calls attention to any products, business or activities which are no longer carried on or sold, whether generally or at the particular premises;

3293B. Shall not have been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the Building Inspector;

3294B. Which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as of the date of destruction.

3300. COMMON DRIVEWAYS.

3310. In Residence Districts. In all Residence Districts, no driveway or other access to a way shall serve more than two dwellings or other principal, permitted structures, except as provided by special permit issued pursuant to Sections 5300 and 5400.

3320. In Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts. A common driveway may serve two or more lots used for business, research or industrial use and located in the Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park or Research Districts provided that the common driveway is no wider than 40 feet at any point where it crosses required open space or any parking setback area required. The Board of Selectmen shall ensure that the common driveway shall not be located or designed to derogate from the intent of the bylaw to provide suitable open space on each site.

3400. PERFORMANCE STANDARDS.

3410. General. No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection and development included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at the applicant's expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert shall be made, or guaranteed by bond or other legally binding device, before further consideration of the application shall continue. After a permit is issued in accordance with this section, continuing compliance is required. When the Building Inspector suspects a subsequent violation he may, as necessary obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the town.

3420. Standards. The following standards are hereby established.

3421. Water quality. No discharge at any point into any public sewer, private sewerage disposal system, stream, water body, or into the ground, of any materials of such nature or temperature as can contaminate such water body or water supply, or cause emission of dangerous or offensive elements in reaction thereto, shall be permitted except in accordance with applicable federal, state, and local health and water pollution control laws and regulations.

3422. Air quality. No building or occupancy permit shall be issued for any facility regulated by the Commonwealth of Massachusetts, until written approval for the facility has been obtained from the Department of Public Health. The provisions of said regulations shall apply to dust, flash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof in the ambient air space.

3423. Noise. No use shall be permitted within the Town of Sudbury which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property. The standards of the Department of Environmental Protection set forth at 310 CMR 7.10(1), which prohibit willful or negligent emissions of sound which may cause noise are hereby adopted by this bylaw. Exempt from the provisions of this section are (a) vehicles not controlled by an owner or occupant of a lot within the town, (b) temporary construction activities occurring during the hours of 7 a.m. to 6 p.m. on weekdays, (c) occasionally used safety signals, warning devices, emergency pressure relief valves, or other such temporary activity, (d) use of power tools and equipment such as lawn mowers, snow-blowers, chain saws, tractors, and similar equipment for the maintenance of property.

3424. Solid waste storage. Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure or residential property line, and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with section 2240 of this bylaw. Screening materials will not be attached to any structure. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

3425. No vibration, odor, glare, or flashing shall be detectable without instruments at any lot line of a residential or institutional use. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

3426. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

3427. Site Development Criteria.

a. Natural Features Conservation - Disruption of existing site features, including particularly the changing of natural topography shall be kept to an absolute practical minimum. Where tree coverage does not exist or has been removed, new planting may be required. Finished site contours shall approximate the character of the site and surrounding properties.

b. Vehicular and Pedestrian Circulation - Pedestrian walkways, streets, driveways, and parking areas shall be carefully designed with respect to topography, proper relation to surrounding streets and pedestrian ways, number of access points to public streets, provision of a clear and efficient street system on the site, adequate widths of drives, separation and attractive parking areas, and proper relation of circulation elements to structures and other site features.

c. Siting of Structures - All buildings and other structures shall be sited to minimize disruption of the topography, to facilitate natural surface drainage and shall be properly designed for the particular site conditions. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscape elements, and paved areas.

d. Stormwater Runoff – Stormwater Management for all proposals shall meet or exceed the requirements of the Massachusetts Department of Environmental Protection Stormwater Management Policy. No stormwater runoff in excess of rates existing prior to new construction shall be allowed and no stormwater runoff in excess of rates existing prior to new construction shall be discharged onto a public way or into a public drainage system, unless the Town Engineer assures the Board of Selectmen there is sufficient capacity to handle the additional runoff. Permits will not be granted for the construction or alteration of any structure that will cause a change in existing grades and contours which interfere with drainage of water from any public street unless provision is made at the owner's expense for the proper disposal of such water by

gutters, ditches, pipes or other necessary drainage structures. The owner will be required to grant the Town any necessary drainage easements.

e. Utilities - All electrical utility lines, including but not limited to telephone, power and cable TV, shall be placed underground in new developments. The placement of electrical lines and other underground utility lines such as water, sewerage and gas shall be coordinated whenever possible and desirable among responsible parties. Placement of utilities including sanitary disposal facilities shall be done so as to minimize disruption of topography and cutting of trees or undergrowth.

f. Outdoor Lighting - Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to avoid glare and light spilling over to neighboring properties. Except for low-level pedestrian lighting with a height of less than eight feet, all outdoor lighting shall be designed and located so that 1) the luminaire has an angle of cutoff less than 76 degrees, 2) a line drawn from the height of the luminaire, along the angle of cutoff, intersects the ground at a point within the development site and 3) the bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets. In Village Business Districts, general site lighting fixtures shall be placed no higher than 16 feet above grade.

g. Other Site Features - All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other service or utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances.

3430. Erosion Control. Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

3431. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Board of Selectmen where such use requires site plan review, or the Planning Board in all other cases, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation.

Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

3432. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

3433. No area or areas totaling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

3434. The Building Inspector may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.

3435. In granting a special permit hereunder, the Board of Selectmen or the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section.

3436. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55

25.0 - 29.9	70
30.0 and above	85

3440. Excavations abutting roads. No excavation lower than the grade of any road upon which such excavation abuts shall be made nearer than 50 feet from such road boundary, and that the slope of any side of the excavation abutting on a road or on adjoining property shall not be steeper than the angle of repose of that particular soil except as may be authorized by the Board of Appeals.

3500. SCREENING AND LANDSCAPING.

3510. Purpose. This section is designed to accomplish the following objectives:

3511. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;

3512. To define the street edge and provide visual connection between nonresidential uses of different architectural styles;

3513. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of unsightly buildings or parking lots;

3514. To provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas;

3515. To preserve or improve the visual and environmental character of Sudbury, as generally viewed from residential or publicly accessible locations; and

3516. To offer property owners protection against diminution of property values due to adjacent non-residential use.

3520. Applicability. The requirements of this section shall apply to any non-residential use.

3520A. General Requirements.

3521A. Plant materials utilized for screening shall be with species native to Massachusetts to the extent practicable.

3522A. Where appropriate, existing vegetation may be retained and used to satisfy these requirements.

3523A. The buffer area required herein may contain walks, sewerage, and wells, but no part of any building structure, or paved space intended for or used as a parking area may be located within the buffer area.

3530. Landscaping Requirements for Property Lines.

3531. Non-residential uses shall be screened from residential uses by means of plantings or maintenance of trees of a species appropriate for screening, spaced to minimize visual intrusion, and providing a year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for non-residential purposes. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district:

DISTRICT	BD	LBD	VBD	ID	LID	IP	RD
Buffer size (feet)	20	20	15	30	30	30	30

3532. In addition to the buffer requirements above, at least 30% of a lot shall be designated open space, except up to 10% of the open space required may include walkways, patios and terraces.

3533. The requirements set forth in Section 3531 may be reduced by special permit issued by the Board of Selectmen upon a finding that such reduction will not detract from the objectives of this Section 3500.

3540. Landscaping Requirements for Parking Areas.

3541. Parking areas with more than 10 spaces shall contain 150 square feet of planted areas for every 1000 square feet of parking proposed, including aisles, appropriately situated within the parking area. Such planted area shall contain an appropriate mix of trees and other plants.

3542. Parking lots, loading areas, storage areas, refuse storage and disposal areas, and service areas shall be screened from view, to the extent feasible, from all public ways, and from adjacent properties, by the use of planted areas, berms, natural contours, fences or a combination of the above.

3543. Buffer strips between parking lots and rear or side lot lines shall meet the following specifications:

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10 feet
11-24	10 feet plus one foot for each space in excess of 10 spaces
25 or more	25 feet

3544. The requirements set forth in Section 3543 may be reduced by special permit issued by the Board of Selectmen upon a finding that such reduction will not detract from the objectives of this Section 3500.

3550. Landscaping Requirements for Street Frontage of Non-residential Uses. A landscaped buffer area, except for approved access ways and walkways, at least twenty feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium height shrubs, and trees. Where appropriate, street trees shall be planted at least every 40 feet along the frontage.

3560. Provisions in Village Business Districts.

3561. In Village Business Districts, sidewalks shall be constructed of brick, stone, or concrete, and be maintained by the owner.

3562. Each lot shall have a minimum of 10% pervious surface.

3563. In Village Business Districts, open space may include parking areas.

3570. Planted Area Requirements. Planted Areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to the proposed use, siting, soils, and other environmental conditions. Where the Board of Selectmen determines that the planting of trees is impractical, the applicant may substitute shrubbery for trees. Plant species native to Massachusetts are favored.

3571. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

3572. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

3573. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

3580. Screening of Open Uses.

In all non-residential districts, parking lots and any open storage or display of junk, (including wrecked automobiles, scrap iron, used paper or rags) or of other material whose open storage or display is deemed by the Planning Board as creating a substantial visual nuisance, shall be completely screened from view at normal eye level from any public or private street or any premises, other than that on which located. Any other business or industrial use conducted outside a completely enclosed building (including open displays, signs, service operations, storage, parking and manufacturing) shall, if normally visible at eye level from any point within a Single Residence District and less than 150 feet distant, be completely screened from such view, except where the business or industrial use is separated from the single Residence District by a public street having a width of 40 feet or more. Screening required under this paragraph shall be by an evergreen planting fence or other suitable, visual barrier. In Industrial Park Districts screening required under this paragraph shall be such that the use being screened is not visible at any time at normal eye level from any point within a Single Residence District and less than 150 feet distant from the boundary of the Industrial Park District.

3590. Coordination with Site Plan Approval. The Board of Selectmen may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section 3500.

3590A. Maintenance of Landscaped Areas. The owner of the property used for non-residential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

ARTICLE 4000. SPECIAL REGULATIONS.

4100. FLOOD PLAIN OVERLAY DISTRICT.

4110. Purpose. The purposes of the Flood Plain Overlay Districts are to preserve and protect the streams and other watercourses in the Town and their adjoining lands; to protect the health and safety of persons and property against the hazards of flooding; to preserve and maintain the ground water table for water supply purposes; to protect the community against the detrimental use and development of lands adjoining such water courses and to conserve the watershed areas of the Town for the health, safety and welfare of the public.

4120. Overlay District. The Flood Plain Overlay District shall be an overlay district; therefore, the requirements of the Flood Plain Overlay District shall apply in addition to all other requirements of other districts into which the town is divided. In all questions of construction, the more limiting requirements in the applicable district shall apply.

4130. Location. The Flood Plain Overlay District shall consist of the several areas shown as flood plains on the following described maps or as otherwise described:

Flood Plain Boundaries

The Flood Plain District is herein established as an overlay district. The District includes all “special flood hazard areas inundated by 100-year flood” designated as Zones A, AE, AH, AO and A99, and “floodway areas in Zone AE” on the Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, entitled “National Flood Insurance Program FIRM Flood Insurance Rate Map, Town of Sudbury, Massachusetts, Middlesex County”, comprised of six panels, revision date November 20, 1998, indicating the 100-year regulatory flood plain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated November 20, 1998. The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department.

Floodway Data

In Zones A, AE, AH, AO, A99, X and D along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which

would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

The areas in the Flood Plain District are hereby deemed to be subject to seasonal or periodic flooding, and the use of land in any such area is hereby declared to be dangerous to the health and safety of the occupants thereof, and each said area shall be known as a Flood Plain.

4140. Prohibited Uses or Activities. Except as otherwise provided herein, the following uses or activities are prohibited in the Flood Plain Overlay District:

4141. No building, wall, dam or other structure shall be erected, constructed, altered, enlarged or otherwise created or moved for any living or other purpose, provided that tents, fences, wildlife management shelters, foot paths, bicycle paths, horse paths, and foot bridges are permitted if (i) they are accessory to lawful primary uses in a single residence district and (ii) they do not affect the natural flow patterns of any watercourse.

4142. Dumping, filling, excavating or transferring of any material which will reduce the natural floodwater storage capacity or interfere with the natural flow patterns of any watercourse within this district is prohibited.

4143. Encroachments, including fill, new construction, substantial improvements and other development within any floodway shown on the Flood Boundary and Floodway Map for the Town of Sudbury Community No. 250217, dated November 20, 1998, prepared by the Federal Emergency Management Agency under the National Flood Insurance Program (on file with the Town Clerk and incorporated herein by reference), which would result in any increase in the 100-year flood level are prohibited, and no special permit shall be issued to allow such encroachments.

4150. Permitted Uses in Flood Plain Overlay District. The following uses, insofar as permitted in Single Residence Districts are permitted as a matter of right, subject to the following provisions:

4151. Conservation of soil, water, plants and wildlife;

4152. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting where otherwise legally permitted;

4153. Proper operation and maintenance of dams and other water control devices, including temporary alteration of the water level for emergency or maintenance purposes, and including removal of any and all flashboards of a privately owned dam in order to lower the water level so as to exclude from being covered by water any land which was not flooded or saturated prior to the erection of the dam;

4154. Grazing, farming, nurseries, truck gardening and harvesting of crops;

4155. Forestry;

4156. Any religious use or any educational use which is religious, sectarian, denominational or public as provided for by G.L. c. 40A, s.3;

4157. Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.

4160. Uses Available by Special Permit in Flood Plain Overlay District. Upon the issuance of a special permit by the Board of Appeals, and subject to the conditions hereinafter specified and such other special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions, as permitted in Single Residence Districts, may be permitted:

4161. Duck-walks and boat landings

4162. Appropriate municipal uses such as waterworks, pumping stations and parks;

4163. Temporary storage of materials or equipment, but in no event to exceed three months;

4164. Dams, excavations or grading, consistent with the purposes of this section, to create ponds, pools or other changes in watercourses for swimming, fishing or other recreational uses, agricultural uses, scenic features, or drainage improvements;

4165. Driveways and roads, if alternate means of access are impractical and if the Town Engineer has certified the said driveways and roads if constructed shall not endanger the health, safety and welfare of the public;

4166. Any other filling, excavating or transferring of any material, or erection, construction, alteration, enlargement, removal or demolition of any structure, upon the condition that with respect to each such action and structure the Board of Appeals determines that granting a special permit therefore would not result in any risk of pollution or contamination of any waterway or pond, reduction of seasonal high water storage areas, reduction of ground water absorption areas which serve the public water supply or other derogation from the intent and purpose of this Section.

4170. Special Permit Procedures. Prior to issuing a special permit the applicant shall satisfy the Board of Appeals that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.

4180. Other Requirements. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with G.L. c. 131, s.40 and with the following:

4181. Massachusetts State Building Code as to floodplain and coastal high hazard areas (currently 780 CMR 2101.0, Flood Resistant Construction);

4182. Wetlands Protection Regulations, Department of Environmental Protection, DEP (currently 310 CMR 10.00);

4183. Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);

4184. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.000, Title 5);

4185. The Sudbury Wetlands Administration Bylaw;

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

4190. Monuments. When this bylaw, or amendments thereto, shall become effective, and appropriation has been made therefore, the Board of Selectmen shall cause to be installed at or near the perimeter of each such flood plain, monuments in such numbers and at such intervals as they shall deem necessary, and on the top of which shall be permanently affixed disks of copper or bronze on which shall be inscribed the elevation

above mean sea level as established by the United States Geodetic Survey level datum as of 1929, at the point of installation. Such monuments shall be of stone or other material of equal durability and shall be so installed that the tops thereof shall be at least one and one-half inches above the surface of the ground and, thereafter, the Board of Selectmen shall cause the location of each monument to be shown on the aforesaid map of Flood Plains in Sudbury, Massachusetts.

4200. WATER RESOURCE PROTECTION OVERLAY DISTRICTS.

4210. Purpose. The purposes of the Water Resource Protection Overlay District (Water Resource Protection Overlay District) are (a) to promote the health, safety, and general welfare of the community; (b) to protect, preserve and maintain the existing and potential water supply and ground water recharge areas within the Town; (c) to preserve and protect present and potential sources of water supply for the public health and safety; (d) to conserve the natural resources of the Town; (e) to prevent the pollution of the environment; and (f) to provide for monitoring of ground and surface water quality in areas of present and potential water supply sources to accomplish detection of potential contamination at an early stage, thereby minimizing damage to such sources. Water Resource Protection Districts are delineated on the basis of the location of aquifers, aquifer contribution zones and aquifer recharge zones, as defined herein, within the Town. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw.

4220. Overlay District. The Water Resource Protection Overlay District shall be considered as overlaying other zoning districts. These overlay districts shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Water Resource Protection Overlay District must comply with the requirements of these districts as well as those of the underlying zoning district. Uses not permitted in the portions of the districts so overlaid shall not be permitted in the Water Resource Protection Overlay District.

4230. Location. The Water Resource Protection Overlay District consists of well head areas (Zone I), aquifer contribution zones (Zone II) and aquifer recharge zones (Zone III). Zone I is delineated as that area within a 400 foot radius of the well head of each public supply well. Zone II is that area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated. It is scientifically determined by the groundwater divides which result

from pumping the well and by the contact of the edge of the aquifer with less permeable material such as till and bedrock. For wells which have not been hydrogeologically mapped, a default Zone II shall be utilized and is delineated on the basis of topography, groundwater flow and surface water drainage, and includes that area within a one-half mile (2,640 feet) radius of the well head of each public water supply well. Zone III is the land area beyond the area of Zone II from which surface water and groundwater drain into Zone II as determined by topography and surface water and groundwater drainage characteristics. In locations where the surface and groundwater drainage are not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas. The Water Resource Protection Overlay Districts are delineated on a map at a scale of 1 inch to 1,000 feet entitled: "Map of Water Resource Protection Districts, Town of Sudbury, Massachusetts, February 15, 2001". This map is hereby made a part of the Sudbury Zoning Bylaw and is on file in the office of the Town Clerk.

4231. If any land designated as lying within a Water Resource Protection Overlay District is proved not to possess the characteristics by which such districts are delineated and which this bylaw seeks to protect, the Planning Board may permit uses of the land otherwise prohibited or requiring a special permit under this section if it finds that such use will not be detrimental to the environment or the health, safety and general welfare of the community. If any land designated as lying within a Water Resource Protection Overlay District, Zone II, is proved not to possess the characteristics by which such zone is

delineated, but rather, characteristics by which Zone III is delineated, the Planning Board may permit use of the land in accordance with the uses permitted in Zone III if it finds that such use will not be detrimental to the environment or the health, safety and general welfare of the community. The burden of proof in such cases concerning the proposed designation of the land at issue shall be upon the owner(s) of the land in question. At the request of the owner, the Planning Board may engage a professional geologist, hydrologist, soil scientist, or Massachusetts Engineer or other such consultant experienced in ground water evaluation or hydrogeology or wastewater or toxic and hazardous waste for the purpose of determining whether the land in question possesses the characteristics by which Water Resource Protection Overlay District are delineated or whether land designated as lying within Zone II actually possesses the characteristics by which Zone III is delineated, and may charge the owner for the cost of making such determination. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

4240. Use Regulations - Zone II. Within the Water Resource Protection Overlay District - Zone II, these regulations shall apply:

4241. The following uses are permitted within Water Resource Protection Districts, Zone II, subject to Section 4242, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Maintenance, repair and enlargement of any existing structure provided no more than fifteen percent (15%) of the lot in total is rendered impervious;
- f. Residential development, if permitted in the underlying district, provided that no more than fifteen percent (15%) of a building lot is rendered impervious;
- g. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection District.
- h. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, but excluding underground storage tanks related to such facilities which are categorically not permitted.

4242. The following uses are specifically prohibited within Water Resource Districts, Zone II:

- a. Solid waste disposal facilities, including, without limitation,

landfills and junk and salvage yards that require a site assignment from the Board of Health under G.L. c. 111, 150A, (the landfill assignment law) and regulations adopted by the Department of Environmental Protection 310 CMR 19:00;

b. Storage of liquid petroleum products, except the following: (a) normal household use, outdoor maintenance, and heating of a structure; (b) waste oil retention facilities required by statute, rule or regulation; (c) emergency generators required by statute, rule or regulation; (d) treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters;

c. Dumping of snow containing road salt or other deicing chemicals, which is brought into any particular Zone II or Zone III from outside that particular aquifer district;

d. Facilities that generate, treat, store, or dispose of hazardous waste, except by the following: (a) very small quantity generators as defined under 310 CMR 30.00; (b) household hazardous waste collection centers and events under 310 CMR 30.390; (c) waste oil retention facilities required by G.L. c. 21, s.52A; (d) water remediation treatment works approved under 314 CMR 5.00;

e. Automobile graveyards and junkyards, as defined in G.L. c. 140B, s.1;

f. Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) serving one- or two-family residences and serving all uses within Zone II of Well #5, the Rte. 117 Well, which discharge more than 550 gallons per day per 40,000 square feet of lot area; and individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) serving business, industrial, research or institutional uses in all other districts which discharge more than 1000 gallons per day per 40,000 square feet of lot area. The replacement or repair of an existing system that will not result in an increase in design capacity above the previously approved design is not prohibited hereunder. In cluster subdivisions, the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel. Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance

goal for nitrates of 5 MG/L will not be exceeded in any present or proposed public water supply well, in the relevant water resource protection district, if the capacity of all sewage disposal systems at full build-out in the relevant district were to increase their capacities to the proposed volume. On residentially zoned lots legally in existence as of the effective date of this bylaw, which contain less than 40,000 square feet of area, the discharge rate of any individual sewage disposal system shall be permitted up to a maximum limit of 550 gallons per day;

g. Permanent removal, or regrading of the existing soil cover, except for excavations for building foundations, roads or utility works, resulting in a finished grade at a level less than eight (8) feet above the historical high groundwater (average for the preceding five (5) years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by the United State Geological Survey (USGS), and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Earth removal or earth moving shall be subject to the provisions set forth herein;

h. Boat or motor vehicle service or repair shops, car washes, heliports, electronic manufacturing, metal plating, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises, and print and photo processing operations;

i. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

j. Treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following: (a) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works; (b) the replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s); (c) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground water;

k. Industrial and commercial uses which discharge process wastewater on-site;

l. The use of septic system cleaners which contain toxic or hazardous materials;

m. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), connect the drain to a municipal sewer system (with all the appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

n. Any use that will render impervious more than 15% of any lot, or 2500 square feet, whichever is greater, unless a special permit has been granted.

4243. The following uses and activities may be allowed by special permit within the Water Resource Protection Overlay District Zone II, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section 4242:

a. Enlargement or alteration of pre-existing uses prohibited by Section 4242 of this Bylaw;

b. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal standards. If applicable, the applicant shall provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

c. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

d. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal

household use, permitted in the underlying zoning (except as prohibited under Section 4242). Such activities shall require a special permit to prevent contamination of groundwater;

e. The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements, provided such activities do not adversely affect water quality or quantity;

f. Those business, industrial, research and institutional activities permitted in the underlying district with a site plan review to prevent any adverse impact on the Water Resource Protection Districts and the interests to be protected thereunder;

g. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

h. Storage of liquid hazardous materials which are in a freestanding container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity, or 100% of the total volume of liquid permitted to be stored, whichever is greater;

i. Storage of commercial fertilizers, as defined in G.L. c. 128, s.64, within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

j. Storage of road salt or de-icing chemicals unless such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

k. Any use that will render impervious more than 15%, but less than 25%, of any lot, or 2500 square feet, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells may be considered only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by forebays, or oil, grease, and sediment traps or other best management practices to facilitate removal of contamination. Any and all

recharge areas shall be permanently maintained in full working order by the owner.

4250. Use Regulations - Zone III. Within the Water Resource Protection Overlay District - Zone III, these regulations shall apply:

4251. The following uses are permitted within Water Resource Protection Districts, Zone III, subject to section 4252, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- c. Foot, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing, water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. Residential development, as permitted in the underlying district;
- f. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials are not stored or used in any manner which may adversely affect the Water Resource Protection District;
- g. In the Research District, uses and development to accommodate such uses permitted in the Research District. Such uses shall not be subject to Section 4253.

4252. The following uses are specifically prohibited within Water Resource Protection Overlay District, Zone III:

- a. Solid waste disposal facilities, including, without limitation, landfills and junk and salvage yards that require a site assignment from the Board of Health under G.L. c. 111, s. 150A (The Landfill Assignment Law) and regulations adopted by the Department of Environmental Protection, 310CMR 19:00;

- b. Storage of petroleum or petroleum products including without limitation, gasoline, waste oil, heating oils, diesel fuel and any other liquid hydrocarbons, except within buildings which the product will heat or in quantities for normal household use and except for replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded providing there is compliance with all local, state and federal laws;
- c. Manufacture, use, storage or disposal of toxic or hazardous materials, excluding normal household activities;
- d. Storage or disposal of hazardous waste, including, without limitation, chemical wastes, radioactive wastes, and waste oil other than in the course of normal household activities;
- e. Industrial uses which discharge process liquids on-site;
- f. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving one- or two-family residences or serving business, industrial or institutional uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area in compliance with Title V of the State Environmental Code;
- g. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, electronic manufacturing, metal plating, commercial or bacteriological laboratories, (except as otherwise permitted in the Research District), and establishments conducting dry cleaning activities on the premises; and
- h. Mining of land, except as incidental to a permitted use.

4253. The following uses are permitted by special permit within Water Resource Protection Overlay District - Zone III, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to section 4252.

- a. The application of agricultural chemicals, including, but not limited to, pesticides, herbicides, fertilizers and soil amendments for non-domestic or non-agricultural uses provided that all necessary precautions shall be taken to prevent any adverse impact on the Water Resource Protection

District and the interests to be protected thereunder. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water and the prevention of volatilization and deposition of agricultural chemicals;

b. Those business, industrial, research and institutional activities permitted in the underlying district with a site plan review to prevent any adverse impact on the Water Resources Protection District and the interests to be protected thereunder;

c. Construction of dams or other water control devices including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection District;

d. Ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection District;

e. Storage of uncovered manure, except within 100 feet from the average high water line for the preceding five years of any water bodies and courses within Water Resource Protection Districts as determined by the Planning Board, provided that such storage will not adversely affect the quantity or quality of water available in the Water Resource Protection District;

f. Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use; and

g. Dumping of snow, containing road salt or other de-icing chemicals, which is brought in from outside the district.

4260. Earth Removal or Earth Moving in the Water Resource Protection Overlay District - Procedures and Conditions. No special permit involving excavation shall be issued or renewed under this Section 4200 until the applicant has submitted to the Special Permit Granting Authority a plan showing existing grades in the area from which material is to be removed, together with a plan showing the grades as they will be at the conclusion of the operation. The grading plans must indicate maximum

groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts Registered Professional Engineer at the expense of the applicant and shall be observed by a representative of the Special Permit Granting Authority or its designee. Test results shall be submitted to the Special Permit Granting Authority. The plan showing the grades at the conclusion of the operation shall show no grades in excess of one foot of vertical rise in two feet of horizontal distance; 4:1 slopes are preferred.

4261. Conditions. Special permits granted under this Section 4200 involving excavation must be made subject to the following conditions, said conditions to be written in the permit and made a part thereof:

- a. That proper and reasonable surface drainage of the land affected by earth removal operations be assured during and after the removal operation and further that the quantity of runoff after removal operations are complete shall not exceed the quantity of runoff that left the site before excavation;
- b. That areas that have been compacted by heavy machinery shall be scarified to a depth of at least 3 feet before topsoil is replaced;
- c. That at the conclusion of the excavation operations, or of any substantial portion thereof, the whole area where excavation has taken place be covered with not less than eight inches of top soil and seeded with a suitable cover crop, except where ledge rock is exposed, and that all large stones and boulders which protrude above the finished grade are to be removed or buried;
- d. That activities ancillary to the excavation, including, but not limited to, equipment and vehicle maintenance and storage of lubricants, fuels, solvents and other chemicals associated with earth removal operations will be prohibited in Zone II;
- e. That the applicant post a bond with the Treasurer of the Town in an amount determined by the Special Permit Granting Authority as sufficient to guarantee conformity with the provisions or conditions of the permit, the amount of the bond to be not less than \$5,000 per acre of land from which earth is to be removed.

4270. Special Permit Procedures. The Special Permit Granting Authority under this bylaw shall be the Planning Board. Such special permit shall only be granted if the Special Permit Granting Authority determines that the intent of this bylaw as well as each of its specific criteria are fully met. In making such determination, the Special Permit Granting Authority shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency. The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.

4271. Technical Assistance. To assist its review of applications for special permits, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to review the application for completeness and accuracy and shall charge the applicant for the cost of such review. The Special Permit Granting Authority may retain a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant hereunder only for reviewing the applicant's projections of the impact of the proposed activity on the purposes of the district described herein, verifying information contained in the application, and verifying the inclusion of the subject land within Zone II or Zone III, whichever is proposed.

4272. If an application submitted to the Special Permit Granting Authority does not contain adequate data, including field and laboratory measurement results and fully documented calculations, performed or certified by a professional geologist, hydrologist, soil scientist or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste, which verifies groundwater, surface water and drinking water supply information submitted in support of the application and inclusion of the subject land within Zone II or Zone III, whichever is proposed, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to perform analyses and prepare data necessary to provide the information required herein and shall charge the applicant for the cost of providing such information. The Special Permit Granting Authority shall provide the applicant with a statement of work performed and the cost thereof when charging an applicant hereunder. The

Special Permit Granting Authority shall not engage such professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste unless it notifies the applicant that the information in the application is not in compliance and provides the applicant an opportunity to supplement the application with information prepared by a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or such other consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste approved by the Special Permit Granting Authority or is notified by the applicant that the applicant will not supplement the information.

4273. Application Contents. In addition to the requirements of G.L. c. 40A, s. 9 and the Rules and Regulations of the Special Permit Granting Authority, the following additional requirements shall apply:

- a. Each application for a Special Permit shall be filed with the Special Permit Granting Authority. The application, including any plans and accompanying text shall be sufficient to allow full evaluation of the proposed use on the Water Resource Protection Overlay District;
- b. The application shall contain a complete list of chemicals, pesticides, herbicides, fertilizers, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
- c. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Town's Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include: (a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures; (b) provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; (c) evidence of compliance with the Massachusetts Hazardous Waste Regulations, 310 CAR 30.00, including an EPA identification number from the Massachusetts Department of Environmental Protection;
- d. The application shall include proposed locations for groundwater monitoring wells adequate to enable timely detection of potential contamination so as to prevent or minimize damage and remediation

costs. The Special Permit Granting Authority may require periodic testing by the owner of the property and full disclosure of the test results from the laboratory directly to the appropriate Town boards and Sudbury Water District. The Special Permit Granting Authority may also impose requirements for reporting threats of contamination to appropriate Town agencies and the Water District;

e. The application shall be prepared in accordance with the data requirements of the proposed development, (e.g. site plan review, erosion and sedimentation control plan, etc.);

f. The application shall include an analysis by a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to demonstrate that the proposed activity will not be detrimental to the purposes of the district as set forth herein. At a minimum, the analysis shall fully describe the seasonal profile of volumes and directions of groundwater and surface water flows with and without the proposed use, the location and use of any surface and/or groundwater that could be affected by the proposed use and shall quantify the incremental effect of the proposed use upon surface and groundwater quality and quantity under the full range of potential wastewater discharge rates and groundwater flow and conditions, including the potential range of water supply withdrawal conditions and well pumping rates and durations. The application shall contain adequate data including field and laboratory measurement results and fully documented calculations. In describing drinking water supplies, the applicant shall document all previously delineated Massachusetts Department of Environmental Protection Aquifer Classification information for the potentially affected area; and

g. A full profile of potential events which could adversely affect the normal range of quantity or quality of water leaving the site. Such events shall include any which could reasonably be expected to occur at least once in the lifetime of the proposed use.

4274. Review by Other Town Boards or Agencies. Upon receipt of the special permit application, the Special Permit Granting Authority shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments or committees as it may deem necessary or appropriate,

their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant within thirty-five (35) days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report with thirty-five (35) days of receipt of the application shall be deemed a lack of opposition.

4275. Special Permit Criteria. After notice and public hearing, and after due consideration of the reports and recommendations of the other town boards or agencies, the Special Permit Granting authority may grant such a special permit provided that it finds that the proposed use:

- a. Will in no way during construction or any time thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection District;
- b. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or for parameters where no standards exist, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;
- c. Is in harmony with the purpose and intent of the bylaw and will promote the purposes of the Water Resource Protection District;
- d. Is appropriate to the natural topography, soils and other characteristics of the site to be developed, and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed;
- e. Will not, during construction or thereafter, have an adverse environmental impact on any body or course in the district; and
- f. Will not adversely affect an existing or potential water supply.

4280. Design and Operation Guidelines. At a minimum the following design and operation guidelines shall be observed within Water Resource Protection Overlay Districts:

4281. Fill. Fill material used in the Water Resource Protection Overlay District shall contain no solid waste, toxic, or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the Special Permit Granting Authority to guarantee the chemical quality of the fill. The Special Permit Granting Authority may require testing by a certified laboratory at the applicant's expense.

4282. Drainage. All runoff generated on the site shall be recharged on-site in a manner demonstrated to assure full protection of the water quality in the Water Resource Protection District. The Special Permit Granting Authority may require off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge.

4290. Other Matters.

4291. Violations and Enforcement. Written notice of any violation of this section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, Town Engineer and Sudbury Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. The owner and operator of any property for which a special permit has been issued hereunder shall notify the Building Inspector and the Board of Health of any known violation of the terms and conditions of such special permit. Such notification shall be given immediately (within 48 hours) after knowledge thereof, in person or by telephone, and shall be followed within two (2) weeks by written notice specifying the details of the violation. The owner and operator shall take all appropriate remedial action to cure such violation. Failure of the owner and operator to report a violation in a timely manner, or failure to take appropriate remedial action, or failure to otherwise comply with the terms and conditions of a special permit, or the requirements of the Board of Health or the Building Inspector, shall be sufficient grounds for revocation of the special permit.

4292. Rules and Regulations. The Special Permit Granting Authority may adopt, and from time to time amend, Rules and Regulations consistent with the

provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

4293. Severability. The invalidity of any portion or provision of this section regarding Water Resource Protection Overlay Districts, shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

4300. WIRELESS SERVICES OVERLAY DISTRICT.

4310. Purpose. The purpose of this Bylaw is to establish districts within Sudbury in which wireless services may be provided with minimal harm to the public health, safety and general welfare of the inhabitants of Sudbury; and to regulate the installation of such facilities by 1) minimizing visual impact, 2) avoiding potential damage to adjacent properties, 3) by maximizing the use of existing towers and buildings, 4) by concealing new equipment to accommodate the needs of wireless communication in order to reduce the number of towers needed to serve the community and 5) promoting shared use of existing facilities.

4320. Overlay District. Wireless services (including antennas, transceivers, towers, equipment buildings and accessory structures, if any) may be erected in a Wireless Services Overlay District subject to Site Plan approval pursuant to Section 6300 of the Zoning Bylaw, as may be amended, and upon the issuance of a special permit by the Board of Appeals pursuant to Section 6200 of the Zoning Bylaw. The Wireless Services District shall be constructed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

4330. Location. The Wireless Services Overlay District shall include those parcels of land owned by the Town of Sudbury, which is held in the care, custody, management and control of the Board of Selectmen, Park & Recreation Commission, and parcels of land owned by the Sudbury Water District, as of the effective date of this Bylaw, as listed below:

- 4331. Sudbury Landfill property, Assessor's Map No. K12, Parcel 002
- 4332. Former Melone property, Assessor's Map No. C12, parcel 100
- 4333. Sudbury Water District Borrow Pit, North Road, Assessor's Map No. C12, Parcel 004

- 4334. Raymond Road well field area, including Feeley Park and surrounding Town and Water District land, Assessor's Map Nos. L08, Parcels 001, 002, 008, 009, 010, 012 and M08, Parcel 021
- 4335. Highway Department property, Old Lancaster Road, Assessor's Map No. H08, Parcel 049

Also included in the overlay district are all properties within Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research districts.

4340. Uses Available As of Right. The following are allowed as-of-right in the overlay district, or elsewhere as specified, subject to section 4360 and Site Plan Review under section 6300 of the Zoning Bylaw.

4341. All interior mounted wireless communications equipment is allowed in any zoning district in the Town. In residential districts, interior-mounted wireless communication equipment shall be permitted only in steeples, bell towers, cupolas and spires of non-residential buildings or structures, or in agricultural buildings.

4342. Roof-mounted wireless communications equipment is allowed in the overlay district if it meets the following conditions:

HEIGHT OF BUILDING	MAX. HEIGHT OF EQUIPMENT ABOVE THE HIGHEST POINT OF THE ROOF	REQUIRED SETBACK FROM EDGE OF ROOF OR BUILDING
More than 36 feet	12 feet above roof	1/2 foot for every foot of equipment height, including antenna
10-36 feet	10 feet above roof	1 foot for every foot of equipment height, including antenna

If there is a parapet on any building or structure which does not exceed 36 feet in height and if the roof-mounted wireless communication equipment will be transmitting or receiving in the direction of that parapet, the required setback from the edge or edges of the roof of the building at or beyond the parapet shall be reduced by the height of such parapet. The height of a parapet shall not be used to calculate the permissible maximum height of roof-mounted wireless

communication equipment. For the purposes of this section, a parapet is that part of any wall entirely above the roof line.

4343. Facade-mounted equipment within the overlay district which a) does not extend above the face of any wall or exterior surface in the case of structures that do not have walls, b) does not extend by more than 18 inches out from the face of the building or structure to which it is attached, and c) does not obscure any window or other architectural feature.

4344. Small transceiver sites which utilize technology that does not require the construction of an equipment building, shelter, cabinet or tower (micro-cells), and have a total power input to the antenna of twenty (20) watts or less, in any zoning district.

4345. Changes in the capacity or operation of a wireless service facility which has previously received a special permit under this Bylaw, limited to an increase or decrease in the number of antennae, cells or panels, or the number of service providers (co-locators), shall be permitted, subject to Site Plan review under section 6300 of the Zoning Bylaw and authorization from the lessor of the property.

4350. Uses Available by Special Permit. Free-standing monopoles meeting the following criteria may be authorized by Special Permit. Any special permit granted under this section shall expire in five (5) years from the date of issuance. Continued operation of such facility shall be subject to application for and renewal of the special permit by the Zoning Board of Appeals.

4351. Free-standing monopoles shall be allowed only on those parcels in the overlay district which are listed in sections 4331-4335 herein.

4352. Free-standing monopoles shall be no higher than 100 feet.

4353. The setback for a free-standing monopole shall be at least 125 feet from the property line.

4354. Co-location of wireless communication equipment on existing towers and buildings is encouraged. The applicant for a monopole shall demonstrate that the communication equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure or building within a one-half mile search radius of a proposed monopole for one or more structural,

technical, economic or other reasons as documented by a qualified engineer or other qualified professional including, but not limited to the following.

- a. no such tower or building exists.
- b. the structural capacity of the existing tower or structure is inadequate and cannot be modified at a reasonable cost or the proposed equipment will interfere with the usability of existing equipment.
- c. the owner of an appropriate building or structure has effectively denied permission to co-locate by unreasonable delay or commercially unreasonable terms or conditions.
- d. the height of existing tower or structure is not adequate to permit the proposed equipment to function.

4355. Every new monopole or tower shall be automatically subject to the condition that the permit holder must allow co-location upon the structure by other wireless communication providers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by a permit holder which requires the payment of rent in excess of industry standards or which allows the co-location only if the requesting party provides comparable space on one of its structures to the permit holder shall be deemed commercially unreasonable.

4360. Facility and Site Design Criteria.

4361. All wireless communication equipment shall be sited, screened and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted or in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached. In certain circumstances, additional architectural features or changes to the façade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted wireless communication equipment.

4362. Equipment boxes or shelters for wireless communication equipment must either be interior to the building on which it is located, completely camouflaged, and/or completely screened from view from the public way.

4363. No radiating component of a wireless service facility shall be located within five hundred (500) feet of a residential lot line, measured from the horizontal distance from the radiating structure, except small transceiver sites permitted herein. No component of a wireless service facility shall be located within one thousand (1,000) feet of any school building, except small transceiver sites permitted herein.

4364. Existing on-site vegetation shall be preserved to the maximum extent practicable. Major topographical changes shall be avoided.

4365. Traffic associated with the facilities and structures shall not adversely affect abutting ways. No part of any building-mounted wireless communication equipment shall be located over a public way. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.

4366. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis.

4367. Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

4368. Applicants proposing to erect wireless communications facilities and structures on municipal properties shall provide evidence of contractual authorization from the Town of Sudbury or the Sudbury Water District to conduct wireless communications services on said property.

4369. All unused facilities or parts thereof or accessory facilities and structures which have not been used for two (2) years shall be dismantled and removed at the owner's expense. A bond in an amount which shall not be less than the estimated cost to dismantle and remove the wireless communication facility plus twenty-five percent (25%), shall be required to be furnished to the Town prior to construction of the facility.

4370. Submittal Requirements. As part of any application for a special permit under this Section, applicants shall submit, at a minimum, the applicable information required for site plan approval, as set forth herein at Section 6300, as may be amended, and the following additional information:

4371. A color rendition of the proposed facility with its antenna and/or panels at the proposed location is required. One or more renditions shall also be prepared illustrating the visual effects of the facility from prominent areas.

4372. The following information prepared by one or more professional engineers:

- a. a description of the facility and the technical, economic and other reasons for the proposed location, height and design.
- b. confirmation that the facility complies with all applicable Federal and State standards.
- c. a description of the capacity of the facility including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.

4373. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

4374. A general description of the build-out plan of other wireless communications facilities that the provider plans to install in Sudbury within the next five (5) years, including locations, approximate tower height, the capacity of the facility and the proposed compensation to the Town or Water District.

4375. Balloon Test: Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the proposed facility. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised, by the applicant, at least 7 days in advance of the first test date in a newspaper with a general circulation in the Town of Sudbury. The applicant shall inform the Board of Appeals, in writing, of the times of the test at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between the hours of 8:00 a.m. and 6:00 p.m. on the dates chosen, which shall be on a weekend.

4380. Exemptions. The following types of uses are exempt from this Section:

4381. Towers, satellite dishes or antennas for non-commercial use are regulated under Section 2632 of the Zoning Bylaw.

4382. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the tower operator is not licensed to conduct commercial business on a daily basis from that facility.

4390. Selectmen Authority to Lease Town-owned sites. The Board of Selectmen may lease Town-owned property to facilitate the purposes of this bylaw.

4400. OPEN SPACE DISTRICT.

4410. Purpose. The Open Space District is intended for the preservation and maintenance of the ground water table upon which the inhabitants of the town and other municipalities depend for water supply; for protection of the public health and safety of persons and property against the hazards of flood water inundation; for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods; to preserve and increase the amenities of the town; and to conserve natural conditions, wild life and open spaces for the education, recreation and general welfare of the public.

4420. Permitted Uses Within the Open Space District. The following uses are permitted within the Open Space District:

4421. Conservation of soil, water, plants and wildlife;

4422. Recreation including nature study, boating and fishing where otherwise legally permitted;

4423. Grazing and farming, including truck gardening and harvesting and storage of crops;

4424. Forestry;

4425. Proper operation and maintenance of dams and other water control devices including temporary alteration of the water level for emergency or

maintenance purposes. An owner of a private dam may lower the water level to a point not below what was flooded prior to the erection of the dam;

4426. Any religious use or any educational use which is religious, sectarian, denominational or public as provided for by G.L. c. 40A.

4430. Uses Permitted by Special Permit Within the Open Space District. Upon the issuance of a special permit by the Board of Appeals, and subject to such other special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions are permitted:

4431. Boat houses, duck walks, landings and small structures for non-commercial recreational uses;

4432. Municipal uses such as water works, pumping stations and parks;

4433. Temporary storage of materials or equipment but in no event to exceed three months;

4434. Dams, excavations or grading, consistent with the purposes of this section to create ponds, pools or other changes in water courses, for swimming, fishing or other recreational uses, agricultural uses, scenic features, or drainage improvements.

4440. Restrictions. Except as provided above, there shall be in the Open Space District:

4441. No land filling or dumping in any part of the District;

4442. No building or structure, except as provided herein;

4443. No permanent storage of materials or equipment;

4500. WASTEWATER TREATMENT FACILITIES

4510. Purpose. The purpose of this Section is to ensure that any wastewater facilities in Sudbury will be sited, constructed, and operated in a manner that protects the public and environmental health, safety, and welfare of all residents of the Town.

4520. Definitions. For the purposes of the Zoning Bylaw, the following terms shall have the following meanings:

4521. Aquifers are areas of permeable deposits of rock or soil, containing significant amounts of potentially recoverable potable water.

4522. Aquifer contribution zones are scientifically determined by the groundwater divides which result from pumping a well and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. They are presently delineated as those areas within a one-half mile (2,640 feet) radius of the well head of each public water supply well in Sudbury.

4523. Areas underlain by groundwater favorable for potable water supply development are scientifically determined by the presence of saturated, stratified drift deposits forty feet or more in thickness and are in general highly transmissive of groundwater flow. Stratified drift deposits are really continuous deposits of permeable sand and gravel with occasional silt or clay layers which, because of such constitution, are generally favorable for water supply development. These areas are presently delineated on the basis of data summarized on Plate 5 of the report "Hydrogeology and Groundwater Resources of Sudbury, Massachusetts" by Ward S. Motts (1977).

4524. Wastewater treatment facility shall mean any wastewater treatment plant and its associated infrastructure, including but not necessarily limited to the sewers serving such facility, pumping stations, wastewater treatment works, all wastewater treatment operations, sludge treatment disinfection, advanced waste treatment, subsurface disposal and land treatment, wastewater recycling and reuse, plant proper, and discharge system all of which serve primarily for the collection, treatment and discharge of wastewater.

4525. Restricted Zone shall mean the Wastewater Treatment Facility Restricted Districts so denominated and delineated under this Section.

4530. Delineation of Wastewater Treatment Facility Restricted Zones. There are hereby established Restricted Zones, consisting of aquifers, aquifer contribution zones and areas underlain by groundwater favorable for potable water supply development as defined herein. These Restricted Zones are delineated on a map at a scale of 1 inch to 1,000 feet entitled: "Wastewater Treatment Facility Restricted Zones, Town of Sudbury," which map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk. Restricted Zones shall be considered as overlaying other existing zoning districts.

4531. If any land designated as lying within a Restricted Zone is proved not to possess the characteristics by which such Zones are delineated, the Planning Board may grant a special permit for a wastewater treatment facility on such land, to the extent such use is otherwise permitted by the Zoning Bylaw, if it finds that construction and operation of such facility will be consistent with the purpose of this Section. The burden of proof in such cases shall be upon the owner(s) of the land in question. At the request of the owner the Planning Board may engage a professional geologist, hydrologist, soil scientist, or Massachusetts Engineer experienced in water resources evaluation or hydrogeology for the purpose of determining whether the land in question possesses the characteristics by which Restricted Zone are delineated, and may charge the owner for the cost of making such determination. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

4540. Special Permit. The Planning Board may grant a special permit for a wastewater treatment facility subject to the following terms and conditions:

4541. No wastewater treatment facility shall be constructed or expanded in treatment capacity except pursuant to and in compliance with a special permit from the Planning Board.

4542. No wastewater treatment facility with a design discharge volume in excess of 20,000 gallons per day shall be permitted.

4543. No wastewater treatment facility shall be permitted in any Restricted Zone except in accordance with the provisions herein.

4544. No wastewater treatment facility shall receive wastewater from any facility or other structure located on a different lot than the wastewater treatment facility.

4545. No wastewater treatment facility shall be permitted to discharge any effluent at any point which is less than one-half mile from any discharge point of another wastewater treatment facility which discharges to the same receiving surface water or groundwater drainage area.

4550. Rules and Regulations. The Planning Board may adopt, and from time to time amend, rules and regulations, including establishment of filing fees, consistent with this

Section, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk.

4560. Fees.

4561. Filing Fee. Each application for a special permit hereunder shall be accompanied by a filing fee as established under the rules and regulations authorized hereunder.

4562. Independent Review Fee. To assist its review of applications, the Planning Board may engage scientific, engineering and planning professionals to review an application for completeness, technical accuracy and compliance with this Bylaw, including review of the adequacy and accuracy of the impact report submitted pursuant to section 4574 hereof, and charge the applicant for the cost of such review in addition to the filing fee. The Planning Board shall provide the applicant with a statement of the work performed and the cost thereof.

4570. Application. Each application for a special permit hereunder shall contain the following:

4571. A detailed plan of the proposed facility, certified by a registered professional sanitary engineer.

4572. A plan showing the buildings and all other structures to be served by the facility, and showing the entire property area on which such structures are sited.

4573. A detailed description of the proposed operation of the facility, including staffing.

4574. An environmental, fiscal, and public services impact report which identifies the projected impact of the facility on the environment and the natural resources and public services on the Town. At a minimum, the report shall detail the impact of the proposed facility in comparison with the impact of one or more feasible alternative, describe in detail, which alternatives would comply with all provisions of Title 5 of the State Environmental Code, the Wetlands Protection Act (M.G.L. c.131 s.40), and all applicable regulations of the Town of Sudbury on the following: public health and welfare; conservation of soil quantity and quality; surface and groundwater resources quantity and quality; drainage; open space and land used or available for recreation; municipal services, including schools, roadways, water supply, public works, and police and fire protection.

4575. A full profile of all potential events which could reasonably be expected to occur at least once in the lifetime of the facility and which could adversely affect the quantity or quality of effluent discharged from the facility.

4576. Copies of all trust, deeds, covenants, restrictions, contracts and other documents describing the legal and institutional organization of the applicant, the entity responsible for construction and operation, and the owner of the facility. Such documents shall specify the proposed legal and institutional mechanisms for guaranteeing plant performance, and accomplishing routine maintenance, major repairs and response to emergencies.

4577. A detailed contingency plan including details of response to all events of failure or partial failure of the facility or any portion thereof as profiled herein.

4578. A definitive plan for the handling of, and off-site disposal of wastewater during any period of facility failure or inability to operate to all design specifications. The plan shall include copies of all required agency approvals and outside contractual agreements needed to demonstrate its feasibility.

4579. The proposed mechanism, whether letter of credit, escrow account, insurance policy or other financial device to provide the Town 1) an account in the amount of 100 percent of the costs necessarily associated with the replacement of the facility, including design, materials and construction costs, and 2) an account to fund any costs necessarily associated with modifications to the facility which are required for compliance with any of its local, state or federal approvals or permits, for use in the event that the owner or operator of the facility fails to undertake such replacement or modifications when required by law, regulation or physical condition of the facility. Such financial security must be sufficient to cover against inflation and any other cost increases.

4579A. The proposed mechanism, whether letter of credit, escrow account, insurance policy or other financial device, in the amount of no less than \$5,000,000.00 to 1) indemnify the Town from and against any and all claims for injuries or death of persons or damage to property, the environment or groundwater arising out of the installation, operation or failure to operate of the facility, and 2) provide insurance coverage against all such injuries or damage to the Town or other persons or entities.

4579B. Copies of all required approvals for the facility from other permitting and review agencies, including but not limited to the Sudbury Board of Health,

Conservation Commission, Massachusetts Department of Environmental Protection and Massachusetts Environmental Policy Act Unit.

4580. Planning Board Action.

4581. Review by other Town Boards or Agencies. Upon receipt of the Special Permit Application, the Planning Board shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments, or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and to the applicant within thirty-five (35) days of receipt of the application by such or agency. Failure of such board or agency to make a written recommendation or submit a written report within thirty-five (35) days of receipt of the application shall be deemed a lack of opposition. In any instance where the applicant also requires a Disposal Works Construction Permit for the facility from the Sudbury Board of Health, the Planning Board shall work with the Board of Health to ensure that to the extent practicable the application review process of the respective boards are coordinated and consolidated. In no case shall the Planning Board issue a Special Permit under this bylaw prior to the issuance of any applicable Disposal Works Construction Permit by the Sudbury Board of Health.

4582. The Planning Board shall not grant a Special Permit for a wastewater treatment facility unless it finds that the applicant has clearly demonstrated that the proposed facility fully complies with the purpose of this Section and the application complies with all the terms and requirements of this Section including all of the following:

- a. That the proposed facility would comply with all of the requirements of the section 4540;
- b. After detailed review of the certified application the impacts of the proposed facility in each category of section 4574 would be superior to those of the other feasible alternatives which would fully comply with Title 5 of the State Environmental Code and the Wetlands Protection Act, Chapter 131, Section 40, and all applicable regulations of the Town of Sudbury;

- c. That construction and operation of the facility will not cause the groundwater or surface water quality to fall below the standards established in 314 CMR 6.00, Massachusetts Groundwater Quality Standards or 314 CMR 4.00, Massachusetts Surface Water Quality Standards or for parameters where no standards exist, below standards established by the Board of Health and, where existing quality is already below those standards, upon determination that the proposed activity will result in no further degradation;
- d. That the facility plans are fully adequate and consistent with broadly accepted, good engineering practice;
- e. That the institutional/legal arrangements, required financial guarantees, approvals and insurance requirements noted in section 4570 are fully adequate and in place.

4590. Severability. The invalidity of any portion of this section shall not invalidate any other portion or provision thereof nor any special permit issued thereunder.

ARTICLE 5000. ALTERNATIVE RESIDENTIAL REGULATIONS.

5100. CLUSTER DEVELOPMENT.

5110. Purpose. The purpose of Cluster Development is to maintain land use density limitations while encouraging the preservation of common land for conservation, agriculture, open space, and recreational use; to preserve historical or archeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote more suitable siting of buildings and better overall site planning; to promote better utilization of land in harmony with neighboring parcels, with its natural features and with the general intent of the zoning bylaw through a greater flexibility in design; and to allow more efficient provision of municipal services.

5120. Applicability. The Planning Board may grant a Special Permit for a Cluster Development in Single Residence "A", Single Residence "C" and the Wayside Inn Historic Preservation Residential Zone Districts for single family detached dwellings and accessory structures, subject to the provisions of this Section 5100.

5130. Standards. The following standards shall apply to all Cluster Developments:

5131. Minimum Tract Size. Cluster Developments shall be located upon a single tract, in common ownership with definite boundaries ascertainable from recorded deed or recorded plan, having an area of at least 10 acres and undivided by land of separate ownership or by a private or public right-of-way.

5132. Number of Building Lots Permitted. The total number of building lots in a cluster development shall be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. For purposes of this section, "building lot" shall mean any lot found by the Planning Board, Board of Health and Conservation Commission, at the time of application, assuming compliance with the Zoning Bylaw, to be suitable for the construction thereon of residential dwelling units under the rules and regulations of the Town of Sudbury and the applicable laws of the Commonwealth of Massachusetts relating thereto. In making the determination of the number of allowable lots, the Board shall require that the applicant provide evidence, satisfactory to the Board, that the number of lots shown on the Cluster Development Plan is no greater than the number of lots that could otherwise be developed. Such evidence shall include but not be limited to the materials specified in Section 5152, herein.

5133. Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Article 2000, the requirements of this Section shall prevail. The following minimum dimensional requirements shall be observed in all Cluster Developments:

DISTRICT	A-RES	C-RES	WAYSIDE
Minimum Lot Area ¹	20,000 sq. ft.	30,000 sq. ft.	2 acres
Minimum Frontage	50 ft.	50 ft.	50 ft.
Average Frontage ²	90 ft.	105 ft.	105 ft.
Minimum Front Yard Setback (ft.)	35	35	50
Minimum Side Yard Setback (ft.)	20	20	30
Minimum Rear Yard Setback (ft.)	30	30	30
Minimum Lot Width (ft.) (Lot perimeter ratio from section 2641 shall not apply)	50	50	50

5134. Minimum Perimeter Buffer. To provide a buffer between a cluster development and surrounding properties, no structure shall be located within 100 feet of the overall perimeter boundary. A lesser buffer may be approved when, in the opinion of the Planning Board, such requirement would prohibit the use of this bylaw due to the shape, topography, or other physical constraints of the property.

¹ In instances where a tract overlaps Residence Zones "A", "C" or the Wayside Inn Historic Preservation Zone, the size and number of allowable lots shall be determined independently within each zone as follows: The minimum lot size in the cluster development shall be determined by multiplying the number of lots in Residence Zone "A" by 20,000 square feet, in Residence Zone "C" by 30,000 square feet and in the Wayside Inn Historic Preservation Zone by 2 acres, adding the areas and dividing by the total number of lots. The minimum area of any cluster development building lot which includes a Special Water Resource Area as defined in this paragraph shall be equal to that which would otherwise be allowed in the district in which it is located. For purposes of this section, 'SPECIAL WATER RESOURCE AREA' shall include any area constituting a protected resource under M.G.L. c. 131, s. 40, and the Town of Sudbury Wetlands Bylaw excluding the 100 foot buffer contained in the law, regulations promulgated under the law, or the Town bylaw and any area used for or suitable for development of a municipal water supply. An area shall be considered suitable for development of municipal water supply if the Planning Board finds, after reviewing the documentation provided under section 5150 of this section and after consulting with the Sudbury Water District, that the hydrogeology of the area compared favorably with that of one or more other areas used successfully for municipal water supply in Sudbury.

² Lot frontages in a cluster development may be averaged together provided the average lot frontage in the cluster development is not less than the requirement set forth herein. In any case, no lot in a Cluster Development may have a lot frontage of less than 50 feet exclusive of any easements.

5135. Water Quality Protection. To provide adequate dispersion of contaminated water originating on a cluster development, each applicant for a Special Permit shall demonstrate to the satisfaction of the Planning Board, Board of Health and Conservation Commission that the concentration of substances in surface and groundwater from the development shall nowhere exceed the concentrations that would be expected from the development that would otherwise be allowed on the tract.

5136. Preservation of Natural Site Features. Natural site features shall be preserved by minimizing disturbance to existing vegetation and by minimizing changes to existing topographic conditions on the site.

5137. Relation of Buildings to Environment. Proposed buildings shall be related harmoniously to the terrain and to the use, scale and proportions of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings.

5138. Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings.

5140. Common Land. Not less than 35% of the land area of the tract, exclusive of land set aside for road area, shall remain unsubdivided and shall be dedicated as common open land. The common open land shall contain, as a minimum and exclusive of land set aside for road area, 17.5% of the upland area of the parcel being subdivided. Uplands shall be defined as those portions of the parcel not defined as wetlands under G.L. c. 131, s. 40 and the Sudbury Wetlands Administration Bylaw, excluding buffer area. Ledge outcroppings, slopes in excess of 15% grade and Flood Plain shall not be included in the common open land for purposes of calculating the 17.5% minimum upland requirement.

5141. The common land shall be used for open space, conservation, agriculture, outdoor recreation or park purposes and shall be maintained and groomed by the owner in a manner appropriate for such use and in accordance with the purpose of this bylaw. The common land shall be in one or more parcels of a size, shape and location appropriate for its intended use as determined by the Planning Board. The common land shall be selected in order to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The common

land shall be left in an undisturbed, natural state. The common land shall remain unbuilt upon, except that a maximum of 5% of such land may be devoted to paved areas or structures accessory to active outdoor recreation and consistent with the open space use of the land. Such structures or paved areas may not be constructed on floodplain, wetland, slopes in excess of 10% grade, or ledge outcroppings. Provision shall be made so that the common land shall be readily accessible to all lots within the cluster development that do not abut the common land. Each parcel of common land shall be provided with at least one means of access at least 20 feet in width, leading from a public or private way. Such means of access shall be identified on the "Cluster Development Site Plan" submitted with the special permit application.

5142. The ownership of common land shall either be conveyed to the Town of Sudbury and accepted by it for open space, conservation, agriculture, outdoor recreation or park use, or be conveyed to a non-profit 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 within the development. In all cases of ownership, a perpetual restriction of the type described in G.L. c. 184 ss. 31-32 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded for all common land. Such restriction shall provide that the common land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, outdoor recreation or park purposes. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the common land as the Planning Board may deem appropriate.

5143. In the case where the common land is not conveyed to the Town of Sudbury and in order to ensure that the corporation, trust or non-profit organization will properly maintain the common land, an instrument shall be recorded at the Middlesex South District Registry of Deeds which shall, at a minimum provide:

- a. a legal description of the common land;
- b. A statement of the purposes for which the common land is intended to be used and the restrictions on its use and alienation;
- c. The type and name of the corporation, trust or non-profit organization which will own, manage and maintain the common land;

d. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, the ownership or beneficial interest in the corporation, non-profit organization or trust of each owner of a dwelling in the Cluster Development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom;

e. Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and officers of the corporation or non-profit organization or of trustees of the trust;

f. Procedures for the conduct of the affairs and business of the corporation, trust or non-profit organization, including provisions for the calling and holding of meetings of members, directors and officers of the corporation or non-profit organization or beneficiaries and trustees of the trust, and provisions for quorum and voting requirements for action to be taken. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation or trust;

g. Provisions for the management, maintenance, operation, improvement and repair of the common land and facilities thereon, including provisions for obtaining and maintaining adequate insurance and where applicable levying and collecting from the dwelling owners common charges to pay for expenses associated with the common land, including real estate taxes. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, it shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation or trust and that each dwelling owner's share of the common charges shall be a lien against his real estate in the Cluster Development which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;

h. The method by which such instrument or instruments may be amended.

5150. Application for a Special Permit. Any person who desires a special permit for a Cluster Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

5151. A "Cluster Development Site Plan" showing, as a minimum, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: a hydrogeologic description of the suitability of the site and all of its subareas for development of potable water supply; soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c. 131, s.40, including delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission; existing floodplain boundary lines; proposed location of dwellings, all setback lines, garages, driveways, lighting, signs; proposed and existing wells and septic systems on the parcel and abutting properties; existing and proposed grades of the land; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon, and the proposed ownership of all common land and any other information required by the Planning Board.

5152. Preliminary Subdivision Plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section. Such plan shall generally conform to provisions described in the Rules and Regulations governing the subdivision of land for a Preliminary Subdivision Plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from the Board of Health stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Said plan shall also delineate the official wetland area boundaries and areas of the site potentially suitable for development of potable water supply consistent with the provisions of this section.

5153. Copies of all instruments to be recorded with the Cluster Development Site Plan including the proposed common land deed and, if applicable, the trust document(s) or organizational articles of the corporation and perpetual restriction.

5160. Reports from Town Boards or Agencies. The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of

Health, Conservation Commission, Engineering Department, Design Review Board, Park and Recreation Commission, Historic Districts Commission, Building Inspector, Fire Department, Highway Surveyor, Tree Warden and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the petition shall be deemed a lack of opposition.

5161. Appointment of Design Review Committee. The Planning Board may, for purposes of reviewing cluster subdivision plans, appoint a Design Review Committee numbering at least three professionals in the fields of land planning, landscape architecture, or engineering to act in a review capacity to the Planning Board during the approval process of the cluster subdivision.

5170. Planning Board Action. The Planning Board, in considering an application for a Cluster Development, shall grant a special permit for a Cluster Development if it finds that the Cluster Development complies with the purposes of Cluster Development as stated herein; the Cluster Development duly considers the existing and probable future development of surrounding areas; the layout and design of the Cluster Development minimizes disturbance to the natural site features; the Cluster Development responds to the recommendations of Town Boards and Agencies; the granting of the special permit would not result in unsuitable development of the land in question; and the development of the tract as a conventional subdivision would not be consistent with the purposes of this Section.

5171. Special Permit Conditions. The Planning Board shall grant a special permit for a Cluster Development if it appears that the granting of such permit will be consistent with the intent of cluster development, and will result in suitable development in compliance with the standards enumerated in this bylaw. The Planning Board may impose further restrictions upon the tract as a condition to granting the special permit as the Planning Board shall deem appropriate to accomplish the purposes of this bylaw.

5172. Common Land Conveyance. If a special permit is granted under this section, the Planning Board shall impose as a condition that the common land shall be conveyed, free of any mortgage interest, security interest, liens or other encumbrances and subject to a perpetual restriction of the type described above, prior to any construction or alteration of the land. The petitioner shall provide satisfactory assurance of said conveyance recording in the form of copies of the recorded instruments bearing the recording stamp.

5173. Changes of Cluster Development Plan. Any change in the number of lots, the layout of ways, any significant changes in the common open land, its ownership or use, or in any conditions stated in the original special permit shall require that a new special permit be issued in accordance with the provisions of this Bylaw.

5174. Limitation of Subdivision. No lot shown on a plan for which a permit is granted under this section may be further divided so as to reduce the area of any lot for the purpose of creating an additional building lot(s) and a condition to that effect shall be shown on the recorded plan and on each deed conveying building lots on said plan.

5180. Rules, Regulations and Fees. The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this bylaw, G.L. c. 40A and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum, the size, form, contents, style and number of copies of plans and specifications, the town board or agencies from which the Planning Board shall request written reports, and the procedure for submissions and approval of a Cluster Development Special Permit. Nothing contained herein shall in any way exempt a proposed subdivision from compliance with other applicable provisions of these bylaws or the Subdivision Rules and Regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without conditions and modifications, or disapprove a subdivision plan in accordance with the provisions of such Rules and Regulations and of the Subdivision Control Law.

5200. FLEXIBLE DEVELOPMENT.

5210. Purpose. The purpose of Flexible Development is to allow development to be sited in the most suitable areas of a property; to allow for greater flexibility and creativity in the design of residential developments; to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner; to encourage a less sprawling form of development; and to minimize the total amount of disturbance on the site.

5220. Applicability. The Planning Board may grant a Special Permit for a Flexible Development in Single Residence "A", Single Residence "C", and the Wayside Inn Historic Preservation Residential Zoning Districts for the construction of single family detached dwellings and accessory structures, subject to the provisions of this Section 5200.

5230. Standards. The following standards shall apply to all Flexible Developments:

5231. Minimum Tract Size. Flexible Developments shall be located upon a single tract, in common ownership with definite boundaries ascertainable from recorded deed or recorded plan, having an area of at least 10 acres and undivided by land of separate ownership or by a private or public right-of-way.

5232. Number of Building Lots Permitted. The total number of building lots in a Flexible Development shall be equal to the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils for the construction of a single family wastewater disposal system as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home.

5233. Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Article 2000, the requirements of this section shall prevail. The following minimum dimensional requirements shall be observed in all Flexible Developments:

DISTRICT	A-RES	C-RES	Wayside Inn Zone
Minimum Lot Area	30,000 sq. ft.	40,000 sq. ft.	2 acres
Minimum Frontage ³	120 ft.	120 ft.	120 ft.

5234. Single dwelling per lot. No more than one single family dwelling and its accessory structures and uses may be located on a lot created under this Flexible Development Bylaw.

5235. Restriction Against Further Development. No Flexible Development for which a Special Permit has been issued under this section may be further subdivided. A notation to that effect shall be made on the Definitive Plan prior to endorsement by the Planning Board and recording in the Registry of Deeds or

³ Provided, however, that where 100% of the frontage is located along the arc of the circular turnaround of a cul-de-sac, minimum frontage shall be 90 feet, further provided a front building line is designated for such a lot and the width of the lot at the building line is at least equal to 120 feet.

the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Sudbury, shall be recorded with respect to the land within the Flexible Development. Such restriction shall provide that no lot in the Flexible Development may be further subdivided into additional building lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.

5236. All applications for Flexible Development shall require subdivision approval pursuant to G.L. c. 41, and shall conform to the Preliminary or Definitive Plan requirements, and all design and construction standards in the Rules and Regulations Governing the Subdivision of Land, as may be amended.

5240. Planning Board Action. A Special Permit for Flexible Development shall be granted only if the Planning Board determines the proposal better serves the bylaw purposes than would development under otherwise applicable requirements by the incorporation into the proposal of one or more of the following elements:

5241. Traffic circulation and safety would be improved through a reduction in length of streets or creation of fewer or better located or designed driveways and street egresses from the development onto existing streets.

5242. Visual intrusion would be reduced by preserving some visual buffering between proposed dwellings and previously existing streets.

5243. Protection of natural features would be accomplished by reducing the volume of cut and fill for roads and construction sites; reducing the area of vegetation displaced or disturbed; or reducing the area of environmentally sensitive lands disturbed by construction.

5244. Maintaining water quality within Water Resource Protection Overlay Districts would be achieved by reducing the number of on-site wastewater disposal systems or the amount of impervious surfaces within the development.

5245. Recreation and conservation needs would be promoted by reserving common land in a condition appropriate to meet those needs.

5250. Rules and Regulations. The Planning Board may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Bylaw, G.L. c. 40A and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. In the absence of dedicated Rules and

Regulations for Flexible Development, those Rules and Regulations Governing the Subdivision of Land shall suffice, where applicable.

5300. SENIOR RESIDENTIAL COMMUNITY.

5310. Purpose. The purposes of the Senior Residential Community Special Permit are to provide alternative housing for a maturing population; to provide a type of housing which reduces residents' burdens of property maintenance and which reduces demands on municipal services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.

5320. Applicability. The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of a Senior Residential Community (SRC) and accessory structures, in the following districts: Single Residence "A", Single Residence "C", the Wayside Inn Historic Preservation, Limited Business, Village Business and Research Districts.

5330. Standards. The following standards shall apply to all Senior Residential Communities:

5331. Tract Qualifications. At the time of granting a special permit by the Planning Board, the property under consideration for a SRC shall be located on one or more contiguous parcels, whether or not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 20 acres.

5332. Age Qualification. A SRC shall constitute housing intended for persons of age fifty-five or over within the meaning of M.G.L. c151B, S4, 16 and 42 USC S3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in a Senior Residential Community shall each be owned and occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in a SRC, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

5333. Applicant Qualifications. The applicant for a Special Permit for a SRC shall be the owner of the tract proposed for such development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the development.

5334. Number of Dwelling Units Permitted. The maximum number of dwelling units in a SRC shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations for which district the parcel is located within, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% which is underwater land or wetland resource as defined in G.L. c. 131, s.40, or in the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of five (5) bedrooms shall be permitted. The number of bedrooms shall determine the number of units, pursuant to section 5336 below, with the maximum number of bedrooms in any unit being less than or equal to 3.

5335. Perimeter Buffer. A 100-foot wide buffer between a SRC and abutting properties is required around the entire SRC perimeter; provided, however, that access roads and pedestrian paths may cross the buffer at the discretion of the Planning Board, and the Planning Board may otherwise reduce the width of the buffer to no less than 50 feet at appropriate locations, taking into account the character or open space use of abutting properties or the existence or requirement of buffer thereon. The perimeter buffer shall remain in a natural state to preserve the visual character of the parcel being developed. The perimeter buffer may be included in Open space computations.

5336. Building and Dwelling Unit Requirements. The following requirements shall apply to all buildings and dwelling units in a Senior Residential Community:

- a. Dwelling units can be attached, or detached as single units, or a combination of these types.

b. Dwelling Units Per Building. No building shall contain more than four dwelling units.

c. Maximum Height. No building constructed in a SRC shall exceed 35 feet in height.

d. Maximum Number of Bedrooms. No dwelling unit constructed in a SRC shall contain more than three bedrooms. No more than ten percent (10%) of the total units in a SRC shall have fewer than two bedrooms.

5337. Accessory Buildings and Structures. In a SRC, accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures, garages, and other customary accessory structures. Accessory buildings and structures shall be shown on the Site Plan.

5338. Parking. Two parking spaces shall be provided for each dwelling unit (with the exception of one bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped.

5339. Private Roads. Roads and driveways within a SRC shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5339A. Other Facilities. All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5339B. Project Maintenance. In every SRC there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of internal roads and driveways, snow plowing, landscape maintenance, trash removal, utility services and maintenance and repair of other common

elements and facilities serving the residents, and the Town of Sudbury shall not be responsible therefor.

5339C. Wastewater Disposal. In every development wastewater disposal comply with the regulations of the Sudbury Board of Health, the Sudbury Water Resource Protection District and Wastewater Treatment Facilities Bylaws, and applicable Department of Environmental Protection regulations.

5340. Open Space. At least 25% of the upland area of the parcel shall be Open Space. No development, including clearing, primary or accessory structures, parking, wastewater disposal or stormwater management, shall take place within the 100-foot buffer area of any jurisdictional wetland, unless authorized by the Conservation Commission. Upon approval of the Conservation Commission, the buffer area may be reconfigured to provide better protection of resources on the site if such reconfiguration achieves a similar goal of resource protection; however, in no event shall the total area of the 100-foot buffer be reduced without compensation in an equal amount elsewhere on the site. The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5341. Ownership of Open Space. The open space shall be owned in common by the owners of the dwelling units in the SRC, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

5350. Design Criteria. All buildings in a SRC shall be designed (a) to have compatibility of style, building materials and colors with those in Sudbury, (b) to afford variations of facade and roof lines, and interior layouts of dwelling units, (c) so as not to have any dwelling unit extend under or over another dwelling unit in the same building and (d) to comply with requirements of law with respect to housing intended

for persons of age fifty-five and over. The Planning Board may utilize the skills of the Design Review Board, or may appoint a committee, to review the architectural details and styling of the buildings prior to approval of a SRC.

5351. Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from each other and all other structures in the development.

5360. Procedures. The procedure for issuance of a special permit for a Senior Residential Community shall be as follows:

5361. Application for Special Permit. Any person who desires a Special Permit for construction of a SRC shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.
- b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetlands Administration Bylaw.
- c. A SRC Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the

Sudbury Conservation Commission pursuant to the Sudbury Wetlands Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

d. A schedule of the stages or phases of development which the applicant proposes to construct the SRC, including dates.

e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

f. Plans showing proposed methods of stormwater management, including drainage calculations.

g. Plans showing proposed wastewater disposal facilities.

h. Sample copies of the condominium association or other legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and bylaws of the organization. All such documentation shall include a reference to the objectives of the Senior Residential Community and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

5362. Reports from Town Boards or Agencies - The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Engineering Department, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Highway Surveyor, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a

written report within 35 days of receipt of the application shall be deemed a lack of opposition.

5370. Planning Board Action. The Planning Board shall not grant a Special Permit for a SRC unless it shall, after holding a public hearing in accordance with requirements of Chapter 40A of the General Laws, find that: (i) the SRC complies with the purposes of the SRC bylaw as stated herein; (ii) the SRC is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the SRC; (iv) the SRC use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the SRC use would not cause undue traffic congestion in the immediate area; (vi) the SRC responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

5371. Special Permit Conditions. In order to implement a Special Permit for a SRC and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings in any stage or phase of the SRC (i) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (ii) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities, drainage and related services in such phase, and (iii) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

5372. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

5373. The Planning Board may in a Special Permit for a SRC set forth further requirements and conditions as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

5380. Enforcement. In accordance with the provisions of the General Laws, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this Section in equity or at law and to recover from the applicant, his successor or

approved assignee(s) all moneys that may be required to complete the development plan approved.

5381. The penalty provisions of these bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s) contractor(s), or any and all persons having an interest in the development site, including a mechanics lien, mortgage or attachments.

5382. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

5383. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the zoning bylaw.

5390. Rules, Regulations and Fees. The planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a SRC Special Permit. The Planning Board shall also specify the fees to be paid in connection with an application for Special Permit for a SRC, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction.

Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.

5400. INCENTIVE SENIOR DEVELOPMENT.

5410. Purpose. The purposes of the Incentive Senior Development Special Permit are to provide a more affordable means of housing for a maturing population; to provide a type of housing which reflects the senior population desire to reduce residents' burdens of property maintenance; which provides a type of development which reduces demands on municipal and educational services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.

5420. Applicability. The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of an Incentive Senior Development and accessory structures, in the following zoning districts: Single Residence "A", Single Residence "C", Limited Business, Village Business and Research District.

5430. Standards. The following standards shall apply to all Incentive Senior Developments:

5431. Tract Qualification. At the time of granting a special permit by the Planning Board, the property under consideration for an Incentive Senior Development shall be located on a contiguous parcel, not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. For parcels greater than 20 acres, parcels may be separated by a private or public way.

5432. Age Qualification. An Incentive Senior Development shall constitute housing intended for persons of age fifty-five (55) or over within the meaning of M.G.L. c151B, §4, ¶6 and 42 USC §3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in an Incentive Senior Development shall each be owned and occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/ occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in such a development, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

5433. Applicant Qualifications. The applicant for a Special Permit under the provisions of this section shall be the owner of the tract proposed for such Development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the Development.

5434. Number of Dwelling Units Permitted. The maximum number of dwelling units shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts, Limited Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% of land which is underwater land or wetland resource as defined in G.L. c. 131, s. 40 or in the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of 4 units shall be permitted to be constructed.

5435. Building and Dwelling Unit Requirements. The following requirements shall apply to all buildings and dwelling units in an Incentive Senior Development:

- a. Dwelling units can be attached or detached, or a combination of these types.
- b. No building shall contain more than four dwelling units.
- c. No dwelling unit constructed in an Incentive Senior Development shall contain more than two (2) bedrooms. No more than ten percent (10%) of the total units in an Incentive Senior Development shall have fewer than two bedrooms.
- d. Accessory Buildings and Structures. Accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis courts, cabanas, storage and maintenance structures, garages, and other customary accessory structures, however, any common facilities or structures must be constructed on land owned in common by the owners

of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners. Accessory buildings and structures shall be shown on the development plan, and may not be constructed within any minimum open space required herein.

e. **Interrelationship of Buildings.** The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from other structures in the development.

5436. **Parking.** Two parking spaces shall be provided for each dwelling unit (with the exception of one-bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped. The Planning Board may authorize a decrease in the number of parking spaces up to 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan.

5437. **Roadways.** Roads and driveways within the development shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5438. **Other Facilities.** All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5439. **Project Maintenance.** In every development there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of common elements and facilities owned by and serving the residents of the development, and the Town of Sudbury shall not be responsible therefore.

5439A. Wastewater Disposal. In every development wastewater disposal shall comply with the requirements of the Sudbury Board of Health, the Sudbury Water Resources and Wastewater Bylaws, and applicable Department of Environmental Protection regulations.

5440. Open Space. Open Space requirements shall be set forth according to the acreage of the parcel, as follows:

SIZE OF PARCEL	Minimum % OPEN SPACE REQUIRED
10-15 acres	17.5% of the upland area of the parcel
16-20 acres	20% of the upland area of the parcel
21-25 acres	22.5% of the upland area of the parcel
over 25 acres	25% of the upland area of the parcel

No development, including clearing, primary or accessory structures, parking, wastewater disposal or stormwater management, shall take place within the 100-foot buffer area of any jurisdictional wetland, unless authorized by the Conservation Commission. Upon approval of the Conservation Commission, the buffer area may be reconfigured to provide better protection of resources on the site if such reconfiguration achieves a similar goal of resource protection; however, in no event shall the total area of the 100-foot buffer be reduced without compensation in an equal amount elsewhere on the site.

The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5441. Ownership of Open Space. The open space shall be owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable

restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

5442. On smaller parcels where conveyance of the open space property is not valuable to the Town or a conservation organization, the required open space as calculated above may be left in the control of the owners of the dwelling units in the development without the granting of a conservation restriction or other perpetual easement, with a notation on the Plan that such property is not available for construction of any structures and removal of vegetation is prohibited.

5450. Price Restrictions. Units developed under this Bylaw shall be sold and resold at no more than 2 times the cost for the sale of 2 bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded in the cost per unit calculation.

5451. Enforcement of Sale and Resale Provisions. Original purchase and resale prices shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Sale and resale provisions shall be contained in applicable deed restrictions, covenants, contractual agreements such as limited equity provisions, condominium association Bylaws and/or other mechanisms to ensure compliance. Such restrictions shall not be permitted to be altered without consent of the Town of Sudbury. Annual reporting to the Planning Board is required for all units sold or resold.

5460. Procedures. The procedure for issuance of a special permit for an Incentive Senior Development shall be as follows:

5461. Application for Special Permit. Any person who desires a Special Permit for construction of an Incentive Senior Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.

b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetland Administration Bylaw.

c. A Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to the Sudbury Wetland Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

d. A schedule of the stages or phases of development in accordance with which the applicant proposes to construct the development, including dates.

e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

- f. Plans showing proposed methods of stormwater management, including drainage calculations.
- g. Plans showing proposed wastewater disposal facilities;
- h. Sample copies of the legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and Bylaws of the organization. All such documentation shall include a reference to the objectives of this Bylaw and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

5462. Reports from Town Boards or Agencies. The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Department of Public Works, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

5470. Planning Board Action. The Planning Board shall grant a Special Permit for an Incentive Senior Development if it finds, after holding a public hearing in accordance with requirements of G.L. c. 40A, that: (i) the development complies with the objectives of the Bylaw as stated herein; (ii) the development is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the development; (iv) the special permit use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the special permit use would not cause undue traffic congestion in the immediate area; (vi) the development plan responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

5471. Special Permit Conditions. In order to implement a Special Permit for an Incentive Senior Development and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings (a) the applicant shall have

submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (b) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities, drainage and related services in such phase, and (c) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

5472. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

5473. The Planning Board may set forth further requirements and conditions in the Special Permit as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

5480. Enforcement. In accordance with the provisions of the General Laws, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this Section in equity or at law and to recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the development plan approved.

5481. The penalty provisions of these Bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s), or any and all persons having an interest in the development site.

5482. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

5483. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his

agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the Zoning Bylaw.

5490. Rules, Regulations and Fees. The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town Boards or Agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Special Permit under the provisions of this section. The Planning Board shall also specify the fees to be paid in connection with application for a Special Permit for an Incentive Senior Development, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.

5500. SINGLE ACCESSORY DWELLING UNITS IN RESIDENCE DISTRICTS.

5510. Purpose. The existing development patterns of the Town have resulted in conditions which make it difficult for our parents, our children, and persons of low and moderate income to find suitable housing within the Town. The special regulations contained in this section have been enacted for the purpose of permitting the creation of a limited number of housing units suitable for occupancy by such persons, while ensuring compliance with the local planning standards and policies concerned with land use, building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

5520. Conditions and Requirements. An owner or owners of a single family dwelling in Single Residence District "A", "C" or Wayside Inn Historic Preservation Zone may apply to the Board of Appeals for a Special Permit for the creation and occupancy of a single accessory dwelling unit in a detached single family dwelling. Such application shall be accompanied by the application fee established by the Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of

Health, (and the Historic Districts Commission, where applicable), the Board of Appeals may grant such Special Permit provided that each of the following conditions and requirements is met:

5521. Occupancy

- a. Such unit shall be occupied by not more than four persons related by blood, adoption or marriage to the family owning and residing in the principal dwelling; or
- b. Such unit shall be occupied by not more than two domestic employees of the family owning and residing in the principal dwelling; or
- c. Such unit shall be occupied by a low or moderate income family with income not to exceed 80% of the regional median household income established in the Local Initiative Program Guideline of the Executive Office of Communities and Development (as the same may be amended from time to time).

5522. The accessory dwelling unit shall be located within the single family dwelling or its attached accessory structures in substantially the same size as they existed on the day of adoption of this section or, for single family dwellings not in existence on such day of adoption, as they have existed for five years prior to the application for such Special Permit. Such status shall be verified in the records of the Building/Inspection Department. A single family dwelling shall be deemed to comply with the requirements of this subsection if any alteration or enlargement thereof subsequent to said day of adoption or within the said five year period does not increase the floor area of said dwelling, as hereinafter defined, by more than fifty (50) square feet. For dwellings in existence on the day of adoption which have been increased in floor area by more than fifty (50) square feet subsequent to the day of adoption, no special permit hereunder may be issued until after the expiration of five years from the last such alteration or enlargement. On request of the applicant, the Board of Appeals may waive all or a portion of any applicable five year period if it finds that such waiver will further the purposes of this section.

5523. The accessory dwelling unit shall be a use incidental to the single family dwelling, shall contain no more than 1,200 square feet, and shall occupy no more than 30% of the floor area of the single family dwelling and its attached accessory structures. Floor area is defined herein as the actual heated living area and does not include unfinished basements, attics, or storage spaces.

5524. There shall be no more than one single accessory dwelling unit per building lot.

5525. The owner of the dwelling in which the single accessory dwelling unit is created shall reside in the dwelling, either in the principal dwelling unit or the accessory dwelling unit. If the owner resides in the accessory dwelling unit, occupancy of the principal dwelling unit must be by persons satisfying the relationship or income criteria herein. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who hold title to the dwelling, and for whom the dwelling is the primary residence for voting purposes. If the lot on which the single accessory dwelling unit is to be located is owned by the Town of Sudbury, the owner-occupancy requirement of this subsection shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Sudbury.

5526. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the single accessory dwelling unit in accordance with all requirements of the Board of Health.

5527. The creation and occupancy of the single accessory dwelling unit shall not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

5528. Exterior appearance of a dwelling with a single accessory dwelling unit - The single accessory dwelling unit shall be designed so that the appearance of the structure remains that of a single family dwelling, subject further to the following conditions and requirements:

- a. All stairways to upper floors shall be enclosed within the exterior walls of the dwelling.
- b. There shall be no enlargements or extensions of the dwelling in connection with a single accessory dwelling unit except for minimal additions necessary to comply with building, safety or health codes, or the enclosure of an entryway or stairway.
- c. Any new exterior entrance shall be located on the side or in the rear of the dwelling.

5529. Off-Street Parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the single accessory dwelling unit. No parking spaces shall be located within the boundary of a street right of way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required parking.

5530. Special Provisions for Low or Moderate Income Units. In order to facilitate the creation of affordable housing units in Sudbury which will count toward the ten percent statutory goal (G.L. c. 40B, s. 20), all applicants for a special permit for a unit to be occupied by a low or moderate income family shall be furnished with copies of the regulations and guidelines of the Massachusetts Executive Office of Communities and Development for approval of such unit as an affordable housing unit for purposes of the statutory goal. Such regulations and guidelines shall include those of the Local Initiative Program and any other program designed to promote the creation of certifiable affordable housing units. After issuance of a Special Permit for a low or moderate income unit which is to be occupied and operated in accordance with any of such programs, the Board of Selectmen shall make application to the Department of Housing and Community Development for certification of the unit as an affordable housing unit includable in the Town's inventory of low and moderate income housing for the purposes of G.L. c. 40B. Such application may, at the discretion of the Board of Selectmen, be made prior to actual issuance of the Special Permit.

5540. Reports.

5541. In order to ensure compliance, the applicant shall obtain and submit to the Board of Appeals prior to the hearing, a written report of the Board of Health certifying that the conditions of this subsection have been met.

5542. Planning Board Report. In connection with an application for a Special Permit under this section, the applicant may consult with the Planning Board prior to the hearing and the Planning Board may submit in writing, prior to the hearing, its recommendations and report to the Board of Appeals.

5550. Number of Accessory Dwelling Units. The number of accessory dwelling units permitted under this bylaw shall not exceed five percent of the total number of single-family residences existing in the Town at the beginning of the year in which the application was filed.

5560. Duration of Special Permit.

5561. The Special Permit for an accessory dwelling unit occupied by persons related to the family owning and residing in the principal dwelling may be issued for the duration of such occupancy. Such permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy every four years consistent with the Special Permit. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.

5562. The Special Permit for a unit occupied by domestic help shall be issued for a period of two years. The permit shall automatically expire on the second anniversary of its issuance, unless extended for one or more additional two year periods upon the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals certifying occupancy consistent with the Special Permit and this subsection. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.

5563. The Special Permit for a unit occupied by a low or moderate income family shall be issued for a period of two years. The permit shall automatically expire on the second anniversary of its issuance unless extended for one or more additional two year periods upon the filing by the owner(s) of a sworn affidavit and income verification of the present occupants of the accessory dwelling unit with the Town Clerk, with a copy to the Board of Appeals certifying occupancy consistent with the Special Permit. The Special Permit for a low or moderate income unit which is approved as an affordable housing unit under one of the programs identified herein shall be for a period of five years, and shall be renewable in accordance with the foregoing procedure.

5570. Other Requirements.

5571. No Separate Conveyance. The ownership of the accessory dwelling unit shall not be conveyed or otherwise transferred separately from the principal dwelling.

5572. Removal of Separate Facilities. The Building Inspector may, in addition to other remedies, order removal of the separate kitchen facilities, equipment or fixtures that were made or installed to create such unit, if the unlawful use of such unit is discovered.

5573. Revocation. A Special Permit granted hereunder may be revoked by the Board of Appeals for violation of the terms thereof or occupancy of the accessory dwelling unit in violation of the Special Permit or the Zoning Bylaw.

5574. Provision of Information. The applicant for a Special Permit shall file with the Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

5575. Except as provided herein, all requirements of Single Residence Districts apply as provided in this Zoning Bylaw.

5580. Rules and Regulations. The Board of Appeals may adopt, and from time to time amend, Rules and Regulations to implement the provisions of this subsection, and shall file a copy of said Rules and Regulations with the Town Clerk.

ARTICLE 6000. PROCEDURES.

6100. BOARD OF APPEALS.

6110. Establishment. The Board of Selectmen shall appoint a Board of Appeals of five members, each for a term of five years. Vacancies shall be filled by the Board of Selectmen by appointment for the balance of the term in which the vacancy occurs. Associate members, to fill vacancies caused by unavoidable absence, inability to act or conflict of interest on the part of a member, shall be appointed by the Board of Selectmen annually for a term of one year.

6120. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this Bylaw.

6130. Variances. Variances shall be granted by the Board of Appeals only upon its written determination that all the following conditions are met and in accordance with M.G.L. Chapter 40A, section 10, as amended from time to time:

6131. There must be special conditions relating to the soil conditions, shape, or topography of the land or structures thereon, and especially affecting the land or structures, but not affecting generally the zoning district in which the land is located.

6132. There must be a substantial hardship to the owner, financial or otherwise, if the provisions of the ordinance or Bylaw were to be literally enforced.

6133. There must be no substantial detriment to the public good if the variance is granted.

6134. Granting the variance must not nullify or substantially derogate from the intent of purpose of the ordinance or Bylaw.

6140. Use Variances. A use variance may be granted provided the statutory variance requirements enumerated in section 6130 are met, only on lots that conform to one or more of the following conditions:

6141. Expiration of the time limit specified for a previously granted use variance;

6142. Existence prior to January 1, 1978, of uses of the same general classification as the use variance applied for, on lots adjoining the lot in question on both sides, or, if the lot in question is a corner lot, on both sides and the rear;

6143. Existence on the lot in question of a lawful use of such nuisance characteristics as to render unreasonable any conforming use of the lot in question; and

6144. Existence on the lot in question of a lawful structure or structures in good repair and of appearance compatible with its vicinity which can reasonably be maintained as a visual and taxable asset only if some nonconformity of use is permitted.

The use variance shall be granted only if the Board of Appeals makes all of the findings required by the Special Permit Criteria in section 6220, in addition to the findings required by statute for a variance in section 6130, and subject to all of the following limitations:

6145. The extent of the use nonconformity as to floor space, bulk, number of occupants or other relevant measure shall be no greater than the minimum necessary to provide relief from the statutory hardship;

6146. The operation of the use nonconformity as to hours, noise, level of activity or other relevant way shall be so restricted as to assure compatibility with conforming uses in the vicinity; and

6147. If the use is authorized under Sections 6142 or 6143 above by the prior existence of adjoining nonconformities or incompatibilities:

- a. the use nonconformity on the lot in question shall be permitted no further from such prior adjoining conditions as the width of the lot or 100 feet, whichever is less; and
- b. the use nonconformity shall be terminated within one year of the time when such adjoining conditions have been terminated, except that the Board of Appeals may grant a special permit for a further delay of not more than five years.

6150. Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

6160. Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

6200. SPECIAL PERMITS.

6210. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

6220. Criteria. Unless otherwise specifically provided to the contrary, the Board of Appeals shall, before granting special permits, find that in its judgment all the following conditions are met:

- a. That the use is in harmony with the general purpose and intent of the bylaw;
- b. That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district;
- c. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- d. That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of

lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances;

- e. That the proposed use would not cause undue traffic congestion in the immediate area.

6230. Procedures. An application for a special permit shall be made in accordance with the rules and regulations of the Special Permit Granting Authority.

6240. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

6250. Plans. An applicant for a special permit shall submit a plan in substantial conformance with the rules and regulations of the Special Permit Granting Authority.

6260. Regulations. The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

6270. Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

6280. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 12 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

6300. SITE PLAN REVIEW.

6310. Applicability. The following types of activities and uses require site plan review by the Board of Selectmen:

6311. Construction or exterior expansion of, or change of use within, a municipal, institutional, exempt, commercial, or industrial structure involving more than 500 square feet;

6312. Construction or expansion of a parking lot for a municipal, institutional, exempt, commercial, or industrial structure or purpose;

6313. Construction or expansion of loading or vehicular service including driveways giving access thereto for any municipal, institutional, exempt, commercial or industrial structure or purpose;

6314. Substantial alteration to areas for parking, loading or vehicular access, including a change in the layout or location of parking spaces, an increase in pavement area or any relocation, addition or change in driveways. Resurfacing shall not be construed as a substantial alteration unless it involves a change of surface material.

6315. Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan, or work pursuant to an earth removal permit.

6320. Interpretation. Change in use means a change in part or all of an existing building or lot from one of the use categories listed in the chart below to another. Uses not included in the following chart shall be deemed to be included in the most nearly comparable use category. However, in a mixed or multi-use building, change or rearrangement of uses that does not result in an increase of required parking or loading spaces according to the Table of Parking Requirements in section 3100, hereof, shall not be construed as a change in use. For a use not included in said Table of Parking Requirements, the requirement for the most nearly comparable use appearing in the Table of Parking Requirements shall apply.

CLASSIFICATION OF USES

Educational	Repair Shop & Building Trade
Religious	Veterinary and Kennel
Philanthropic	Financial & Business Office
Medical Center & Nursing Home	Medical Center & Laboratory
Lodge and Club	Auto Service Station
Hotel and Motel	Auto Body Shop
Retail Store	Vehicular Dealership
Personal Service Shop	Warehouse
Restaurant	Storage Yard
Indoor Recreation	Manufacturing, Packaging, Processing, Testing

Outdoor Recreation	Laboratory Research & Development
Funeral Home	Professional Office

6330. Procedures. Applications for site plan approval shall be in accordance with the Rules and Regulations of the Board of Selectmen. The Board of Selectmen shall review and act upon the site plan, with such conditions as may be deemed appropriate, within one hundred-twenty (120) days of its receipt, but after a public hearing has been held, and notify the applicant of its decision. A unanimous vote of the Board of Selectmen shall be required and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Board of Selectmen, unless 120 days lapse from the date of the submittal of the complete site plan without action by the Board of Selectmen.

6331. Application for Building Permit. An application for a building permit to perform work as set forth in Section 6310 shall be accompanied by an approved site plan.

6332. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 6310 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 6310 shall contain the following condition:

The work described herein requires the approval of a site plan by the Sudbury Board of Selectmen pursuant to Section 6300 of the Zoning Bylaw. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

6333. Where the Board of Selectmen approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Board of Selectmen shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

6334. The time limits set forth herein may be extended by mutual consent of the Board of Selectmen and the applicant.

6335. Minor deviations from an approved site plan, as determined by the Board of Selectmen, shall be permitted without formal modification thereof.

6340. Rules, Regulations and Fees. The Board of Selectmen shall adopt, and from time to time amend, rules and regulations not inconsistent with the provisions of this Section or G.L. c. 40A or other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Board of Selectmen shall request written reports, and the procedure for submission and approval of a site plan. Such Rules and Regulations form an integral part of this Section.

6350. Application. Any person seeking site plan approval shall submit a written application therefor to the Board of Selectmen. Each such application shall be accompanied by the following:

6351. A written statement detailing the proposed use, the extent of the building coverage and open space, drainage calculations and calculations of the volume of earth to be removed.

6352. Site Plan(s) prepared by a Registered Professional Engineer or Registered Land Surveyor, as appropriate to the data, showing all lot lines and setbacks, zoning district boundaries including flood plain; all wetlands and wetland buffer zones; all areas designated as open space; all existing and proposed topography at one foot intervals; buildings, structures, signs with location and size; parking and loading spaces; the limits of all paving and open storage areas and facilities for sewage, waste disposal and drainage. The Site Plan shall include that portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which this site plan approval is sought.

6353. A Landscape Plan(s) shall be prepared by a Registered Landscape Architect in all cases where the plan(s) specifies a proposed facility of 10,000 square feet or more of gross floor area, or a facility requiring 40 or more parking spaces. In any case, a Landscape Plan shall show the limits of work, the existing tree line and all proposed landscape features and improvements including walks, planting areas with size and type of stock for each shrub or tree; walls, fences, outdoor lighting and existing and proposed contours of the land at two foot intervals.

6354. A Building Plan(s) and Elevations shall be prepared by a Registered Architect in all cases where the plan specifies a facility of 35,000 cubic feet or more of gross volume. In any case a Building Plan(s) shall show the front elevation of the building and its height; and floor plan(s) for the building(s)

showing the layout of each floor with a tabular summary of the gross floor area used to calculate the required parking and the proposed uses to be conducted on each floor. An architectural rendering of the appearance of the proposed new or altered structures, showing front and side features as they will appear from the public way or private access, shall also be submitted.

6355. Signs and outdoor advertising features shall be subject to the regulations of Section 3200, Signs and Advertising Devices. Such signs shall be reviewed as an integral element in the design and planning of all developments.

6356. Such other information as the Board may reasonably require including special studies or reports, such as traffic or hydrological impact studies.

6360. Reports from Town Boards or Agencies. The Board of Selectmen shall transmit forthwith a copy of the application and plan(s) to the Planning Board, Board of Health, Conservation Commission, Design Review Board, Town Engineer, Building Inspector, Fire Chief and such other boards, departments or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Board of Selectmen and to the applicant prior to the scheduled hearing on the site plan.

6370. Minor Site Plan. The Board of Selectmen may, upon written request of the applicant, waive any of the technical requirements of this Section 6300, including the requirement for a public hearing, where the project involves relatively simple development plans or constitutes a minor site plan. Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Board of Selectmen shall aggregate the gross floor area of new construction permitted within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 6350; provided, however, that the scale of the site plan may as agreed upon with the Board of Selectmen, need not be prepared by a professional, and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

6380. Approval. Site Plan approval shall be granted upon determination by the Board of Selectmen that the plan meets the following objectives. The Board of Selectmen may impose reasonable conditions at the expense of the applicant, including performance

guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

6381. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

6382. Maximize pedestrian and vehicular safety both on the site and egressing from it;

6383. Minimize obstruction of scenic views from publicly accessible locations;

6384. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

6385. Minimize glare from headlights and other light sources from the site onto other properties;

6386. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;

6387. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances; and

6388. Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping.

6389. No Certificate of Occupancy shall be issued by the Building Inspector until the site has been developed in compliance with the approved site plan, unless completion is delayed by seasonal considerations. In such instances, the Building Inspector may issue a temporary occupancy permit and shall require sufficient security to insure full compliance within six months.

6390. Special Provisions in Village Business Districts. In reviewing a site plan within the Village Business District, the Board of Selectmen shall require the following: a) pedestrian circulation shall be safe and easy between all abutting properties, as well as within an individual property; b) all new structures and alterations to existing structures shall be respectful of the scale and visual character of the existing neighborhood; and c) all plans shall be reviewed by the Design Review Board, in a public hearing.

6390A. Lapse and Appeal. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board of Selectmen upon the written request of the applicant. An appeal of any decision of the Board of Selectmen made pursuant to this section 6300 shall be taken in accordance with the provisions of G.L. c. 40A, s. 17.

6400. PLANNING BOARD ASSOCIATE MEMBER.

A majority of the Planning Board shall appoint one (1) individual as an associate member of the Planning Board for applications where the Planning Board acts as a Special Permit Granting Authority. An Associate Member shall be appointed every two (2) years by the Planning Board. In the event of a vacancy in the position of Associate Member, the position shall be filled in the same manner as in the case of the original appointment. The Chairman of the Planning Board may require such Associate Member to be in attendance at special permit hearings, and may designate such Associate Member to sit on the Board in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

6500. DESIGN REVIEW BOARD.

6510. Establishment and Membership. A Design Review Board is hereby established. Said Design Review Board shall consist of five (5) members who shall be appointed by the Planning Board in the manner prescribed herein. Members of the Design Review Board shall include, where possible in order of preference, an architect, a landscape architect, a resident from within or near the Business District and a graphics designer. Members shall serve for three years or until their successors are appointed.

6520. Organization. The Design Review Board shall elect from among its members a Chairman, Vice-Chairman and shall arrange for the services of a Secretary and such

other officers or employees as is deemed necessary. Each officer shall serve for a term of one (1) year. The Design Review Board shall adopt rules and guidelines as are considered necessary to the conduct of its responsibilities which shall be a matter of public record. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine.

6530. Proceedings. The Board shall keep records of its proceedings showing the vote of each member on every question, of the fact of their absence or failure to vote, and the final decision of the Board. Records shall also be kept of all plans, photographs and any other documents pertaining to each case, as well as all examinations, findings, determinations, and any other official action, including all reasons for all decisions and conditions prescribed; and all such items shall be a matter of public record. Decisions of the Design Review Board shall be by a simple majority and no final action shall be taken without the concurrence of at least three members.

6540. Duties and Procedures. Whether or not requested by the applicant, the Design Review Board shall review all applications for building permits, special permits or variances for all proposals for non-residential uses if involving new construction, exterior alteration, or a sign larger than six square feet. An extra copy of all usual submittals required for such proposals shall be provided through the Inspector of Buildings. The Design Review Board review shall preferably be done in consultation with the applicant and their designer. The Design Review Board shall make an advisory report in writing to the applicant and as follows. Lack of a report from the Design Review Board shall not be sufficient reason to delay action on a proposal which otherwise could be acted upon by the Building Inspector, Special Permit Granting Authority, or Board of Appeals.

6541. For signs and building permits. A report to the Building Inspector regarding any changes to which the applicant has voluntarily agreed.

6542. For special permits. To the Special Permit Granting Authority regarding effect of the amenity on the neighborhood.

6543. For variances. To the Board of Appeals regarding possible detriment to the public good or derogation from the intent or purpose of the bylaw.

6600. AMENDMENTS.

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

6700. SEPARABILITY.

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

ARTICLE 7000. DEFINITIONS

In this bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.

Access driveway: The travel lane that allows motor vehicles ingress from the street and egress from the site and includes the area between the sideline of the street to the area within the lot where the access driveway is no longer within the minimum parking area setback required in section 3100 and to the perimeter of the parking lot.

Accessory building: An accessory building is one located on the same lot with the main building, detached or attached, and is subordinate and customarily incidental to the use of the main building.

Accessory use: An accessory use is one located on the same lot with (or in) the main building or use and which is subordinate and customarily incidental to the use of the main building or land.

Adult day care facility: A building or structure where care, protection, and supervision are provided, on a regular schedule, to adults over the age of 18.

Agricultural use, nonexempt: Agricultural use of property not exempted by G.L. c. 40A, s. 3.

Alteration: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Animal clinic or hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic or hospital use.

Animal Feedlot: A plot of land on which 25 livestock or more per acre are fed on a regular basis.

Aquifer: An area of permeable deposits of rock or soil, containing significant amounts of potentially recoverable potable water.

Assisted care facility: A structure or structures containing dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by Chapter 19D of the General Laws.

Banner: A fabric panel, flown from a staff, which displays informational graphics or functions as a decoration.

Boarding house: A dwelling or part thereof in which lodging is provided by the owner to not more than five (5) boarders. Where more than two (2) unrelated individuals rent a portion of a dwelling, it shall be considered a boarding house.

Building: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building coverage: Building coverage shall be determined by dividing the total area of all buildings on a lot, including carports and canopies, whether or not such carports or canopies are part of a building, by the total lot area.

Building height in feet: Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the ridge or highest point of the roof.

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Child Care Facility: A child care facility, as that term is defined in G.L. c. 40A, s. 3.

Commercial recreation, indoor: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Indoor commercial recreation shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers or places of assembly conducted for or not for profit.

Commercial recreation, outdoor: Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this Bylaw.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Demolition: Removal of a building or structure by any means whatsoever.

Dog Kennel: An establishment in which more than three (3) dogs are housed, groomed, bred, boarded, trained or sold.

Driveway, interior: A travel lane located within the perimeter of a parking lot which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the access driveway.

Dwelling: A building for human habitation, which shall not include a trailer or other mobile living unit. Single and two family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively. A multi-family dwelling shall be one designed for and occupied by three (3) or more families.

Dwelling unit: A room or group of rooms forming a habitable unit for one family, with facilities used, or intended to be used, for living, sleeping, cooking, eating, and sanitation.

Dwelling unit, single accessory: A second dwelling unit located within a structure constructed as a detached single family dwelling, or its attached accessory structures, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the appearance of the structure as a one family dwelling.

Earth removal: Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

Educational use, nonexempt: Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

Erect: To build, construct, reconstruct, alter, enlarge, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overland, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Family: A person or number of persons occupying a dwelling unit and living as a single housekeeping unit, provided that a group of six or more persons shall not be deemed a family unless at least half of them are related by blood, marriage or adoption, including wards of the state.

Family day care: Any private residence which on a regular basis receives for temporary custody and care during part or all of the day, children under seven (7) years of age or children under sixteen (16) years of age if such children have special needs.

Farm stand, nonexempt: Facility for the sale of produce, and other edible farm products, flowers, fireplace wood, preserves, dairy and similar products on property not exempted by G.L. c. 40A, s. 3, provided however that the products have been produced by the owner of the land on which the facility is located.

Flag: An official governmental symbol constructed of fabric.

Floor area, gross: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces.

Funeral home: Facility for the conducting of funerals and related activities such as embalming.

G.L.: Massachusetts General Laws.

Groundwater: All the water found beneath the surface of the ground. In this bylaw the term refers to the subsurface water present in aquifers and recharge area.

Hazardous waste: A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed.

Home occupation: Any occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

Impervious surface: Material covering the ground, including but not limited to macadam, concrete, pavement and buildings, that does not allow surface water to penetrate into the soil.

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 conversion. Any article or material which, unaltered or unchanged and without further reconditioning can not be used for its original purpose as readily as when new shall be considered junk.

Junkyard or automobile graveyard: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

Leachable wastes: Waste materials, including, but not limited to, solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing pollutants to the surrounding environment.

Light manufacturing: Fabrication, assembly, processing, finishing work or packaging.

Lot: An area of land, undivided by any street, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) A deed recorded in Middlesex County South District Registry of Deeds, or 2) A certificate of title issued by the Land Court and registered in the Land Court section of such Registry or 3) Title of record disclosed by any and all pertinent public documents.

Lot area: Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which the lot abuts, even if fee to such street is in the owner of the lot; provided, however, when computing minimum lot area for any lot laid out and submitted for approval by the Planning Board, in accordance with G.L. c. 41 as of the effective date of this bylaw, no land designed for surface collection of storm water or drainage waters (i.e., detention, retention, infiltration ponds or basins, etc.) and no more than twenty-five percent (25%) of the minimum required lot size in any district which is underwater land or wetland resource area as defined in G.L. c. 131, s. 40 or the Sudbury Wetlands Administration Bylaw shall be used in the computation. The above limitation on calculated "lot area" shall not be applied in determining maximum building coverage, maximum floor area ratio or any open space requirement set forth herein.

Lot, corner: A lot with two (2) or more sides abutting upon streets. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the lot frontage by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street.

Lot frontage: The uninterrupted linear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in street line, and in the case of a corner lot shall extend to the point of intersection of the sideline of the rights-of-way. The legal right and physical ability to cross this line must exist. For purposes of calculation, the frontage length at the intersection of two streets is to be measured to the point of intersection of the two tangents. The point of intersection of the tangents at the intersection of two streets is considered to have frontage on each street.

Lot line: A line dividing one lot from another, or from a street or any public place.

Lot line, rear: A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the frontage street. Where, because of irregular lot shape, the building inspector and the lot owner cannot agree as to whether a lot line is a side or a rear line, it shall be considered a rear line.

Major commercial project: Any commercial or industrial building or combination of buildings containing more than 20,000 gross square feet which is a Permitted Use or a Special Permit Use in a specific zoning district pursuant to section 2230, Table of Principal Use Regulations (Appendix A).

Maneuvering aisle: A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

Medical center or clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Mining of Land: The removal or relocation of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock.

Motel or hotel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking

facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor vehicle body repair: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts.

Motor vehicle general repair: Premises for the servicing and repair of autos, but not to include fuel sales.

Motor vehicle light service: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Municipal purposes: Use of any building, facility or area owned or leased by and operated by the Town for the general use and welfare of the Town, its inhabitants or businesses located within the Town.

Non-conforming use or structure: Any use or structure which is lawfully in existence or lawfully begun, but which does not conform to the most recent, effective zoning regulations for the district in which such use or structure exists.

Nursing or convalescent home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Open Space: Open space areas shall be those areas of a lot which, except as provided by this bylaw, are to remain unbuilt and which shall not be used for parking, storage or display.

Parking garage: A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

Parking stall, length of line: The dimension of the stall measured parallel to the angle of parking.

Parking stall, width: The linear dimension measured across the stall and parallel to the maneuvering aisle.

Personal service establishment: Collection station for laundry or dry cleaning, frozen food locker, hand or self-service laundry, photographic studio, or repair shop for wearing apparel or accessories; personal service shops of a barber, hairdresser, manicurist, shoe shiner; shops for custom work by a dressmaker, furrier, interior decorator, milliner, or tailor; shops for custom work by a cabinet maker, job printer, repairer of household appliances or furnishings, shoemaker, upholsterer, or woodworker.

Pollutant: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, which is or may be discharged, drained or otherwise introduced into any surface or subsurface disposal or conveyance system, or waters of the Commonwealth.

Process liquids: Liquids used in cooling, cleaning or in manufacturing processes which contract raw materials, products, wastes or machinery and which because of that contact may contain pollutants as defined herein.

Radioactive materials: Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection Against Radiation) or any other applicable provisions of federal or state law or regulation.

Recorded Lots: Lawfully laid out lots are governed and protected under the provisions of G.L. Chapter 40A, section 6.

Residential care facility: The provision of assisted living and/or independent living arrangements to persons 55 years or older in one or more buildings.

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food restaurants."

Restaurant, fast-food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Retail: A facility selling goods but not specifically listed in the Table of Principal Use Regulations.

Signs and Advertising Devices: Any symbol (other than religious), design or device used to draw attention to identify or advertise any place of business, product, activity or person.

Sign, awning: That part of a fabric-covered roof-like structure, projecting from a building and providing shelter from the weather, which serves as a sign or advertising device.

Sign, direct illumination: Illumination of a sign by light sources outside the sign and shining against the face of the sign, including so called silhouette lighting.

Sign display area: The total surface area of a sign. The display area of an individual letter sign or irregular shaped sign shall be the area of the smallest triangle or rectangle into which the letters or shape will fit. Where sign faces are placed back to back and face in opposite directions, the display area shall be defined as the area of one face of the design.

Sign erection: Any constructing, re-lettering, extending, altering, changing or moving of a sign other than re-lettering, repainting, repairing and maintaining.

Sign, freestanding: Any and every sign that is erected on the land.

Sign, projecting: Any sign which is attached to a building and is not parallel to the wall to which it is attached. A sign in contact with the ground is not a projecting sign.

Sign, self-illuminated: Illumination of any type coming from within a sign, or from lights or tubes which comprise any part of the design or lettering of a sign, not including so called silhouette lighting.

Sign, wall: A sign securely fixed parallel to the face of a building wall.

Solid wastes: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, combustion residues, garbage, scrap materials, junk, inert fill material, demolition debris, construction wastes and refuse.

Story: That portion of a building contained between any floor and the floor or roof next above it, not including either the lowest portion so contained if more than one-half of

such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

Story, half: A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

Street: A street shall be 1) an improved public way laid out by the Town of Sudbury, or the Middlesex County Commissioners or the Commonwealth of Massachusetts; or 2) a way which the Sudbury Town Clerk certifies is maintained by public authority and used as a public way; or 3) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law; or 4) a way in existence as of January 1, 1954 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. A public or private way shall not be deemed to be a street as to any lot of land that does not have rights of access to and passage over said way.

Street frontage: A street which provides the required frontage for a building. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal building on the lot is numbered on such frontage street.

Street line: The boundary of a street right-of-way or layout.

Structure: A combination of materials assembled to give support or shelter, such as buildings, towers, masts, sheds, roofed storage areas, mechanical equipment, swimming pools, signs, fences; but not including septic tanks and septic systems, and accessory facilities associated with the provision of utilities such as drains, wells, transformers and telephone poles.

Structure, height in feet of: Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire structure to the highest extension of any part of the structure.

Structure, temporary: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of

the intensity schedule of section 2600 and shall receive a permit from the building inspector.

Toxic or hazardous materials: Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, environmental quality, or to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, pathogenic or infectious wastes, solvents, thinners and other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency under any of the following laws: (1) Toxic Substances Control Act 15 U.S.C. s.2601 et seq.; (2) Federal Insecticide, Fungicide and Rodenticide Act 7 U.S.C. s.136 et seq.; (3) Resource Conservation and Recovery Act of 1976 42 U.S.C. s 6901 et seq.; (4) Comprehensive Environmental Response, Compensation and Liability Act of 1980 42 U.S.C. s.9601 et seq.; and (5) Federal Water Pollution Control Act 33 U.S.C. s.1251 et seq. and all substances defined as Toxic or Hazardous under G.L. c. 21C and c .21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

Warehouse: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

Wireless services: "Personal wireless facilities" referenced in Section 704 of the Telecommunications Act of 1996. These include, but are not limited to, all commercial mobile services which are for-profit, are available to the public or a substantial portion of the public, and provide subscribers with the ability to access or receive calls from the public switched telephone network or other similar services, and the transceivers, antenna structures and other types of installations used for the provision of personal wireless services. Common examples include personal communications services (PCS), cellular radio mobile service, paging services, unlicensed wireless services, and common carrier wireless exchange access services.

Yard: An open space on a lot unoccupied by a building or structure or such parts thereof; provided, however, that cornices, or eaves not exceeding eighteen inches in width, steps, unroofed porches, window sills, slanted bulkheads, fences, gates or security stations, yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. The minimum required yard shall be a strip of land of uniform depth required by this bylaw measured from the lot or street line and adjacent thereto.

Yard, front: A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building, as measured perpendicular to nearest street or way line. The depth of a front yard shall be the minimum distance between the building and front lot line.

Yard, rear: A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.

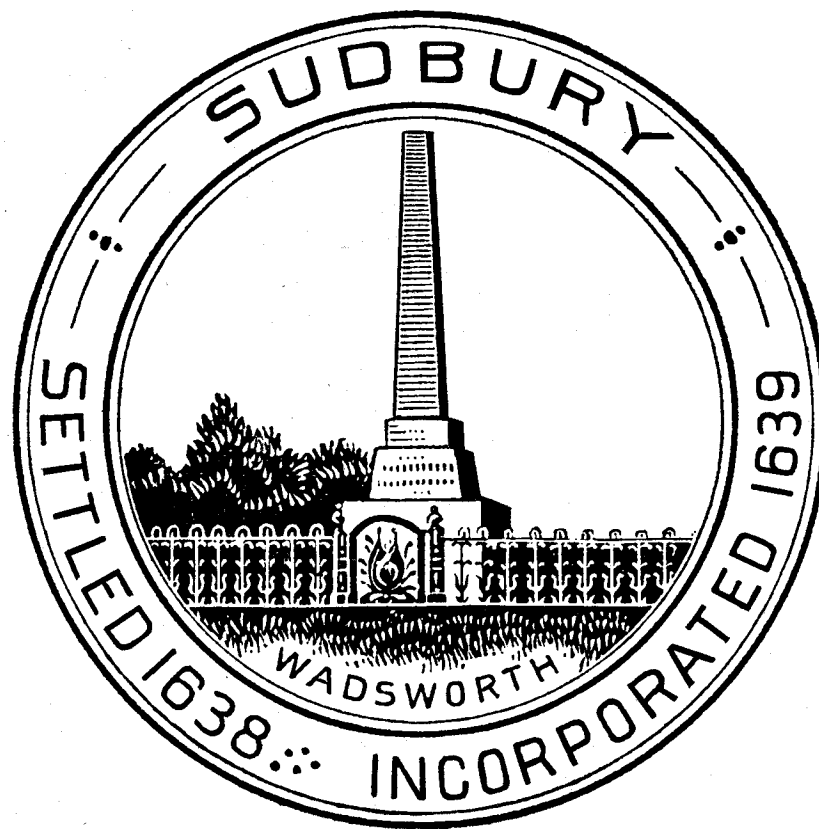
Yard, side: A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and side lot line.

Zone I: The protective radius required around a public water supply well or well field, measured as a 400 foot radius from the well.

Zone II (Aquifer Contribution Zone): That area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated.

Zone III (Aquifer Recharge Zone): The land area beyond the area of Zone II from which surface water and ground water drain into Zone II.

**ZONING BYLAW
ARTICLE IX
2001**



**TOWN OF SUDBURY
MASSACHUSETTS**