

TOWN OF LUDLOW  
PLANNING BOARD  
488 CHAPIN STREET  
LUDLOW, MA 01056



ZONING BYLAWS

OCTOBER 4, 2021

\$15.00

ATTEST TRUE COPY

*Kim M. Batista*  
TOWN CLERK

## **TABLE OF CONTENTS**

<b>SECTION I:</b>	<b>AUTHORITY AND PURPOSE</b>	<b>1-1</b>
<b>SECTION II:</b>	<b>ZONING DISTRICTS</b>	<b>2-1</b>
<b>SECTION III:</b>	<b>GENERAL USE REGULATIONS</b>	
	General Regulations	<b>3-1</b>
	Fences	<b>3-1</b>
	Private Swimming Pools	<b>3-2</b>
	Mobile Homes	<b>3-2</b>
	Driveway Entry Permits	<b>3-3</b>
	Table of Principal Uses	<b>3-3</b>
	Prohibited Uses	<b>3-4</b>
	Accessory Use Regulations	<b>3-6</b>
	Non-conforming Use Regulations	<b>3-9</b>
	Sidewalks and Curbsings	<b>3-10</b>
<b>SECTION IV:</b>	<b>DIMENSIONAL AND DENSITY REGULATIONS</b>	
	General Dimensional Regulations	<b>4-1</b>
	Specific District Dimensional Requirements	<b>4-2</b>
	Planned Business Development	<b>4-3</b>
	Mill Redevelopment District (MRD) Bylaw	<b>4-7</b>
<b>SECTION V:</b>	<b>OVERLAY DISTRICT REGULATIONS</b>	
	Floodplain District Bylaw	<b>5-1</b>
	Business in the Agriculture Moderate Density Overlay District	<b>5-4</b>
	Aircraft Flight Regulations	<b>5-6</b>
	Water Supply Protection District	<b>5-6</b>
	East Street Revitalization Overlay District	<b>5-11</b>
	Smart Growth Overlay District	<b>5-13</b>
<b>SECTION VI:</b>	<b>SPECIAL LAND USE REGULATIONS</b>	
	Horses and/or Ponies	<b>6-1</b>
	Earth Removal	<b>6-1</b>
	Home Occupations	<b>6-3</b>
	Home Professional Offices	<b>6-5</b>
	Parking Requirements	<b>6-5</b>
	Sign Regulations	<b>6-9</b>
	Accessory Apartment Bylaw	<b>6-14</b>
	Wireless Communications Facilities	<b>6-17</b>
	Commercial Kennels	<b>6-19</b>
	Small Wind Energy Systems Bylaw	<b>6-20</b>
	Large-Scale, Ground-Mounted, Photovoltaic Systems	<b>6-27</b>
	Medical Marijuana Treatment Center/Dispensary	<b>6-33</b>
	Single Family Dwellings on Estate Lots	<b>6-33</b>

<b>SECTION VII:</b>	<b>LAND USE REVIEW METHODS</b>	
	Special Permits	7-1
	Site Plan Approval	7-4
	Stormwater Management	7-11
<b>SECTION VIII:</b>	<b>ADMINISTRATION</b>	
	Board of Appeals	8-1
	Enforcement	8-1
	Conditions of Construction	8-3
<b>SECTION IX:</b>	<b>REPEAL, VALIDITY, EFFECTIVE DATE</b>	9-1
<b>SECTION X:</b>	<b>DEFINITIONS</b>	10-1

**BACK OF BOOK: DIAGRAMS**

**TABLE 1 – TABLE OF PRINCIPAL USES**

**TABLE 2 – TABLE OF DIMENSIONAL REGULATIONS**

**TABLE 3 – REQUIRED LANDSCAPING**

**TABLE 4 – SIGNS**

**SECTION I: AUTHORITY AND PURPOSE**

**1.0 AUTHORITY**

The Town of Ludlow Zoning Bylaw is adopted under Chapter 40A of the General Laws (The Zoning Act) as amended.

**1.1 PURPOSE**

The purposes of this Bylaw are to promote the general welfare of the Town of Ludlow, to protect the health of its inhabitants, to encourage the most appropriate use of land within the Town, to increase the amenities of the Town, and to provide an adequate supply of light and air and reduce the hazard from fire by regulating the location, use, and height of buildings and the area of open spaces about them.

END OF SECTION 1

## SECTION II: ZONING DISTRICTS

### 2.0 CLASSIFICATION OF DISTRICTS

The Town of Ludlow is hereby divided into the following zoning districts:

<u>Type</u>	<u>Full Name</u>	<u>Short Name</u>
Residential Dist:	Residential A-1	RA-1
	Residential A	RA
	Residential B	RB
Business Dist:	Business A	
	Light Commercial Use	BA
	Business B	
	Heavy Commercial Use	BB
Agricultural Dist:	Agricultural	A
Industrial Dist:	Industrial A	IA
	Industrial C	IC
	(Industrial B removed STM 10/4/21)	
Overlay Dist:	Agriculture:	
	Moderate Density	AMD
	Aircraft Flight	AF
	Water Supply Protection	WSP
Mill Redevelopment Dist:	Mill Redevelopment District	MRD

### 2.1 ZONING MAP

The location and boundaries of zoning districts are hereby established as shown, defined and bounded on an eight-page zoning map originally prepared for the Town of Ludlow by Durkee-White-Towne & Chapdelaine, Civil Engineers and Land Surveyors, dated August, 1960 as amended. Said Zoning Map and amendments thereto as duly adopted shall be considered an integral part of this bylaw. (Amended 10/2/06)

### 2.2 ZONING MAP INTERPRETATION

For purposes of interpretation of the Zoning Map, the location of the boundary lines of the districts shown upon the Building Zone Map shall be determined as follows:

- 2.2.1 Zoning district boundaries which follow streets, railroads, or water courses shall be deemed to coincide with the mean center line thereof.

- 2.2.2 Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of the property, lot, or boundary lines is not indicated by means of figures, then the property or lot lines shall be the boundary lines.
- 2.2.3 Boundary lines located outside of street lines and shown approximately parallel thereto shall be parallel to such street lines. Dimensions between the zoning district boundary lines and streets shall be measured perpendicular to the sideline of such street.
- 2.2.4 Where a zoning district boundary, other than an overlay district boundary, divides a lot which was in single ownership on February 17, 1955, or upon the effective date of any amendment changing the boundaries of one of the zoning districts in which the lot or a portion of the lot lies, the regulations applicable to either zoning district may be extended to as much of the lot as lies within 30 feet of the adjacent zoning district boundary.
- 2.2.5 In all cases which are not covered by the other provisions of this Section, the location of boundary lines shall be determined by the distances in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or if none are given, then by the scale of said map.

END OF SECTION 2

## SECTION III: GENERAL USE REGULATIONS

### 3.0 GENERAL REGULATIONS

#### 3.0.1 Use of Buildings, Structures, and Land

For the purposes of this bylaw, any lawful building or structure or use of a building, structure, or land or part thereof, may be constructed, altered, enlarged, and used for any purpose which is not injurious, noxious, offensive or detrimental to a neighborhood and does not violate any section of this bylaw or any of the provisions of the Town of Ludlow in regard to health and safety to its inhabitants.

3.0.1.1 No foundation, building, or structure shall be erected or substantially altered without a building permit issued by the Building Inspector. A record of such applications, the survey and plans herein referred to, and action taken thereon, shall be kept on file in the office of the Building Inspector. (Added 4/10/95)

#### 3.0.2 Existing Uses Not Affected

This bylaw shall not apply to existing buildings or structures, nor to the existence of any building or structure or of land to the extent of that use at the time of the adoption of this bylaw.

#### 3.0.3 Obstruction at Street Intersections

Within that portion of any lot at a street intersection which lies between the street line joining parts on each street line, 25 feet from the intersection of such street lines, no fence, wall, temporary sign, hedge, shrubbery or other obstruction to vision in excess of three (3) feet in height above the adjacent level shall be permitted. See Diagram #3. (Amended STM 10/4/21)

#### 3.0.4 Fences

Fences shall not exceed four (4) feet in height across the front yard setback portion of any lot perimeter; shall comply with the provisions of Section 3.0.3 of the Zoning Bylaws; and shall not exceed six and one-half (6 ½) feet in height on the remainder of the lot perimeter. No fence more than one-quarter solid shall be erected across the front line, and closer to the street than the setback requirements of the primary building. All fences must be at least six (6) inches from any lot line and must be erected so that the less appealing or post side shall face inward, and chain link or cyclone fences shall have the barbs face down. A fence height greater than six and one-half (6 ½) feet may be permitted if authorized by the Board of Appeals after a Public Hearing. Shrubs and/or shrubbery shall not constitute the meaning of a fence for the purpose of this provision. (Amended 10/05/20 STM)

Fences located on land zoned Industrial A and C shall not exceed 6½ feet in height across the front yard setback portion of the lot; and no fence more than one-quarter solid shall be erected across the front line and closer to the street than the setback requirements of the primary building. Shall comply with the provisions of Section 3.0.3 of the Zoning Bylaw. (Added 10/3/11 & Amended STM 10/4/21)

- a. Shrubs Used for Screening/Fencing (added 10/6/03)

Shrubs used for screening/fencing shall not exceed three (3') feet in height across the front yard setback portion of any lot. No restriction on height on the remainder of the lot perimeter. Shrubs do not require a building permit.

All fences and shrubbery must comply with Section 3.0.3 Obstruction at Street Intersections, and Section 4.0.8 Corner Lots.

- b. Jersey Barriers are prohibited from being used as fences to divide property lines in all zoning districts. (Added 5/9/11)

### 3.0.5 **Private Swimming Pools**

As defined herein, private SWIMMING POOLS shall be permitted as accessory uses to residential dwellings provided they conform to the following standards:

- a. The location of a pool and its appurtenant structures on a lot shall conform to the minimum front, sides, and rear yard requirements of the respective zoning district, but in no case shall the pool be located nearer than ten (10) feet to any side or rear lot line. A pool must be located at least ten (10') from any and all structures. Exception: Pool Decks. (amended 10/6/03)
- b. All in-ground pools shall be enclosed by a fence at least four (4) feet high and of a type not readily climbed by children. Above-ground pools shall have a ladder that must comply with the Massachusetts building code. (Amended 5/9/11 & 5/14/12)
- c. The operation and maintenance of all pools shall comply with the Rules and Regulations of the Board of Health and the State Building Code.

### 3.0.6 **Mobile Homes**

Temporary mobile homes to be placed on the site of a residence which has been destroyed by fire or other natural holocaust for a period not to exceed twelve (12) months while the residence is being rebuilt. Any such mobile home shall be subject to the

provisions of the State Sanitary code.

3.0.7 **Dish Antennae on Residential Structures**

DELETED 10/6/03

3.0.8 **Off-Street Parking**

The parking spaces required and used in calculating the number of required parking spaces may not be located in the front yard requirements.

3.0.9 **Driveway Entry Permits**

Curb cuts/driveway entry permits shall be issued by the Department of Public Works (DPW) in accordance with the Department of Public Works (DPW) regulations. (amended 10/01/01)

3.0.10 **Dumpsters**

Storage of dumpsters on residential property for periods longer than 14 days is prohibited without a permit from the Board of Health.

3.1 **TABLE OF PRINCIPAL USES**

No land, structure, or building shall be used except for the purposes permitted in the district as set forth in this section unless otherwise permitted in this section. The restrictions and controls intended to regulate development in each district are set forth in Section 3.2.2, Table 1, Ludlow Table of Principal Uses:

Y	Yes – Use permitted by right
N	No – Use prohibited
SPPB	Use allowed by special permit from the Planning Board
PBS	Use allowed by permit from the Board of Selectmen
PBH	Use allowed by permit from the Board of Health
SPA	Use allowed by site plan approval given by the Planning Board

3.1.1 If any activity might be classified under more than one of the principal use definitions, the more specific definition shall determine whether the use is permitted. If the activity might be classified under equally specific definitions, it shall not be permitted unless both principal uses are permitted in the district.

3.1.2 Deleted 10/7/02.

3.1.3 Aircraft Flight Overlay District. To determine which uses are prohibited in the Aircraft Flight Overlay District, see Section 3.2.7.

3.1.4 To determine which uses are permitted in the Water Supply Protection District see Section 5.3 for a complete explanation.

## 3.2 **PROHIBITED USES**

3.2.1 Any use not specifically or generically listed herein or otherwise permitted in a district shall be deemed as prohibited. Any legal use of land or building is permitted in accordance with the requirements of this bylaw except those uses which are dangerous or detrimental to a neighborhood because of fire hazard, offensive noise, smoke, vibration, harmful radioactivity, electrical interference, dust, odor, fumes heat, glare, unsightliness, or other objectionable characteristics.

### **District-Specific Prohibited Uses**

3.2.2 **Table of Principal Uses** – See Table 1

3.2.3 Deleted 10/3/05

#### 3.2.3 **Prohibition on Marijuana Establishments (Added 11/6/17)**

In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, to include, without limitation, all marijuana cultivators, marijuana business location, any other types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Ludlow. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

#### 3.2.4 **Agricultural District**

- a. Dwellings of two or more units are prohibited, unless it is an Adult Care Facility. (Amended 10/3/11)
  1. Adult Care Facilities are allowed to be constructed in the Agricultural District provided that such a facility can connect to town sewer, town water, and gas services. Waivers of this requirement will only be considered, by the Planning Board, after appropriate departments including, but not limited to the DPW, Fire Department, Building Commissioner, and the Board of Health have been given a minimum of 14 days to review and comment on the waiver request.(Added 10/3/11)

b. Business uses other than those related to AGRICULTURE, HOME OCCUPATIONS (Section 6.2), PROFESSIONAL HOME OFFICE (Section 6.3), or uses allowed by right as described in the Table of Principal Uses, Section 3.2.2, Page 11, are prohibited.

### 3.2.5 **Business A Districts**

a. No building, structure, or land shall be used in whole or in part for fabricating, manufacturing, converting, altering, finishing, or assembling except as may be reasonably necessary in the uses to which such buildings, structures, or land are permitted as in the Table of Principal Uses, Section 3.2.2, Page 11.

b. **PARKING GARAGES** and **AUTO REPAIR GARAGES** which park, store, and/or repair more than fifteen (15) motor vehicles are prohibited. All storage and/or repair of motor vehicles, bodies and parts out of doors is prohibited except in emergencies.

c. **AUTO SALES LOTS** are prohibited in Business A and Business B districts. (Amended 5/14/01; 10/3/05)

### 3.2.6 **Industrial A , Industrial C, and Mill Redevelopment Districts** (Amended 5/9/11)

The manufacture and production of the following industrial uses are prohibited in Industrial A, Industrial C, and the Mill Redevelopment Districts:

- Acetylene gas, cyanide compound or oxygen manufacture
- Asphalt manufacture or refining
- Chlorine or bleaching powder manufacture
- Creosote manufacture
- Distillation of coal or wood
- Drop forge shop
- Explosives, fireworks or ammunition manufacture
- Fertilizer manufacture
- Fumigation plants
- Glue or size manufacture from fish or animal offal
- Gypsum, cement, plaster or plaster of paris manufacture
- Incineration or reduction of or dumping of offal, garbage, or refuse on a commercial basis  
(except where operated by the Town)
- Junk yard, junk storage, scrapping of autos and parts and the salvage thereof
- Linoleum manufacture
- Paint and lacquer manufacture
- Petroleum refining and the bulk storage of petroleum products
- Sewage disposal plant (except where controlled by the Town)
- Soap, tallow, grease or lard manufacture

- Slaughterhouse
- Sulfurous, sulfuric, nitric, or hydrochloric acid manufacture
- Tannery
- Tar or asphalt roofing manufacture
- Tar products manufacture
- All other enterprises or uses regarded as hazardous or offensive

3.2.7 **Aircraft Flight Overlay District (Rev. 4/11/94)**

The following uses are prohibited in the Aircraft Flight Overlay District:

- Adult Care Facilities (Amended 10/3/11) \*Schools
- Hospitals \*Day Care Centers
- Auditoriums \*Houses of Worship
- Concert Halls \*(Added 4/11/94 – See House Bill #4755))

3.3 **ACCESSORY USE REGULATIONS**

3.3.1 **General Accessory Regulations**

The following regulations shall apply to all districts:

a. **Research Facilities**

A special permit is required for uses accessory to activities permitted as a matter of right which are necessary in connection with scientific research or scientific development or related production. Such accessory uses do not have to be located on the same parcel as the principal use.

b. **Accessory Buildings**

(1) An accessory building attached to its principal building shall be considered an integral part of the principal building and as such shall be subject to the open space requirements applicable to the principal building. All accessory buildings over 200 square feet require a permit from the Building Department. (Amended 10/5/20)

(2) An unattached one-story building shall be placed no nearer than five (5) feet to a side lot line and five (5) feet to a rear lot line and a two-story unattached accessory building shall be placed no nearer than ten (10) feet to a side lot line and ten (10) feet to a rear lot line. (Revised 10/7/02 & 10/7/13)

(3) To promote health and safety, no garage buildings may be used as a permanent dwelling. (Amended 1/25/99 STM)

(4.) The total area for all unattached accessory structures in all residential (RA-1, RA, RB) and agricultural (A, AMD) districts is limited in size not to exceed fifty percent (50%) of the square footage for the principal structure. Square footage calculations for principal and accessory structures will include all levels, excluding basements. Accessory structures used for active farming are exempt. (Amended 10/3/11)

c. **Accessory Livestock Agriculture**

On land used for agriculture and livestock agriculture with five (5) or less acres, and with the approval of the Board of Health, the following uses are allowed and may be considered as accessory uses if the use is for the occupants only: the keeping of a small flock of poultry of not more than 25 birds, the keeping of saddle or riding horses (as outlined in Section X, Definitions), and other farm animals, excluding pigs.

d. **Smokehouses**

On land used other than for farms, the use of a **SMOKEHOUSE** may be permitted with the approval of the Board of Health and the Building Inspector, and as such may be considered as an accessory use, located seventy-five (75) or more feet from any street line and one hundred (100) or more feet from any dwelling. Such accessory use shall not include any activity conducted for gain.

e. **Deleted 10/3/05**

f. **Storage Trailers, Storage Boxes (with attached or unattached wheels), and all other Temporary Storage Accessory Structures including Office Trailers.** (Added 10/05/09)

Storage Trailers, Storage Boxes, or Portable Storage Containers and all other temporary storage accessory structures (“Temporary Storage facilities”) are only to be used as a temporary or emergency solution for short term usage during construction, reconstruction, or relocation of storage buildings, homes, and commercial buildings and on the conditions described in subparagraphs (1) through (5) below. The use is terminated upon final inspection of the building and a Certificate of Occupancy is issued.

Temporary Storage facilities are only permitted under the following conditions.

1. The Building Commissioner may authorize the temporary use of a Temporary Storage facility for storage following a fire or other calamity or during construction or major renovation of a structure or principal use by building permit. In no event shall the temporary use exceed twelve (12) consecutive months after the issuance of the permit, unless construction, reconstruction or renovation is delayed by seasonal or other considerations. In such instances, the Building Commissioner may authorize an extension of the temporary use or until the issuance of a Certificate of Occupancy, at which time the Temporary Storage facility shall be removed from the address or property.
2. A Temporary Storage facility, when being used following a fire or other calamity or during construction or major renovation of a structure or principal use, shall be located no closer than ten (10) feet to any property line. No Temporary Storage facility shall be permitted to be placed in any portion of a front yard of a residential/commercial property other than a driveway/parking lot or area agreed upon prior to the issuance of a building permit.
3. A Storage facility used for agricultural, educational, non-profit or religious purposes is subject to reasonable regulations of the Planning Board, in accordance with General Laws Chapter 40A, Section 3. Industrial and municipal uses are subject to site plan approval.
4. Portable Storage Containers are allowed for storage/moving purposes for 90 consecutive days. No permit required, and must be removed after occupancy is complete.
5. Office trailers and combination office/Temporary Storage facility are subject to site plan approval from the Planning Board and will need a building permit, electrical permit, a plumbing permit, and a permit from the Board of Health.

**g. Clothing Donation Receptacles** (Added 10/1/12 and Amended 10/05/20 STM)

Clothing donation receptacles are allowed through site plan approval from the Planning Board. See Table 1 Table of Principal Uses for allowed districts. Additionally, at the time of application, the following must be provided: a description of the receptacle, a graphic depiction of where the receptacle will be located, a schedule for emptying it, and written permission from the property owner. Clothing donation receptacles shall not be located in the front yard setbacks specified for the district in which they are located. The receptacle shall be placed no nearer than five (5) feet to a side lot line and five (5) feet to a rear lot line. The receptacle must not provide a visual distraction or safety hazard. There is a limit of two such receptacles per property. They must only accept articles of clothing and have clearly visible language discouraging illegal dumping. Contact information must be permanently affixed to the receptacle and must use at least two-inch

block letters. The receptacle must be properly maintained, with no visible damage, rust, holes, or graffiti. All clothing donation receptacles require a permit from the Building Department.

### 3.3.2 **DISTRICT SPECIFIC ACCESSORY USE REGULATIONS FOR ALL RESIDENTIAL DISTRICTS**

Accessory uses customarily incidental to any use permitted herein shall be allowed, provided that such accessory use shall not include any activity conducted for gain, except for charitable purpose. A private garage for three automobiles shall be considered as an accessory use, and if attached, may be located only in the side or rear yard and must comply with setback requirements. Only one such vehicle may be a commercial vehicle, and of not more than 10,000 pounds registered G.V.W. One recreational vehicle may be parked on a lot if not used or occupied for a dwelling or sleeping purposes, per setback requirements for accessory buildings, said recreational vehicle shall be stored in the side or rear yard. (Revised 10/06/08)

### 3.4 **NON-CONFORMING USE AND BUILDING REGULATIONS.**

3.4.1 A **NON-CONFORMING USE** is the use of any building or land lawfully occupied at the time of the adoption of this bylaw which does not conform to the requirements of the district in which it is located.

3.4.2 Any building, part of a building, or land which at the time of the adoption of this bylaw is being put to a **NON-CONFORMING USE** may be:

a. Continued in that use or a similar use provided such use has not been voluntarily discontinued for a period of two years. If a non-conforming use has not been used for a period of two years or more, it shall not be re-established and any future use shall be in conformity with this bylaw.

b. Enlarged in that use to twenty-five percent (25%) greater in volume or area than that which existed at that time of adoption of this bylaw, and to a greater extent when approved by the Board of Appeals, provided that such enlargement is not substantially more detrimental than the existing non-conforming use to the neighborhood. Limited to one (1) 25% increase. (Rev. 10/3/94)

c. Changes to a more restricted use, provided that when changed it shall not be returned to a less restricted use.

d. Rebuilt or restored at the same location and again used as previously, in the case of a building destroyed or damaged by fire, explosion or other catastrophe, provided that such rebuilding or restoring shall be commenced within twelve (12) months after such catastrophe; and further provided that the building as restored shall not exceed in volume or area the original non-conforming structure, by more than twenty-five percent (25%), unless approved by the Board of Appeals.

3.5 **SIDEWALKS AND CURBING**

The Planning Board may require sidewalks and curbing of materials determined by the Planning Board in those circumstances where site plan approval is otherwise required.

END OF SECTION 3

## **SECTION IV: DIMENSIONAL AND DENSITY REGULATIONS**

### **4.0 GENERAL DIMENSIONAL REQUIREMENTS**

4.0.1 No building or structure in any district shall be located, constructed, changed, enlarged, or permitted, and no use of premises or land in any district shall be permitted which does not conform to the density and dimensional regulations as set forth herein.

4.0.2 **Reduction of Open Space:** No LOT on which is located any building used for residence purpose in any district shall be changed or reduced in area or shape so that it does not conform to the provisions of this bylaw. This does not apply in the case of a LOT, a portion of which is take for public use.

4.0.3 **Lots on Narrow Streets:** In case of LOTS fronting on a street less than 50 feet in width, the required FRONT YARD shall be increased by one-half the difference between fifty (50) feet and the actual width of the street.

4.0.4 **Lots of Less than the Required Width or Area:** On LOTS of less than the required width or area for the district in which they are located and which have been duly recorded by plan or deed, or assessed as separate parcels before the date of adoption of this bylaw, the LOT area and width requirements need not apply. Any LOT on which more than one house existed at the time, may be divided and sold to separate owners. See also M.G.L. Chapter 40A, Section 6. (Rev. 10/3/94)

4.0.5 Only one residence building may be erected hereafter on any one LOT, except as allowed in the Residence B and Agriculture: Moderate Density Districts.

4.0.6 Any new building LOT which has an on-site potable water supply and an on-site sewerage disposal system, shall have a minimum of one (1) acre in order to comply with Title V.(Amended 10/7/02)

4.0.7 **Front Yards:** With the exception of subdivisions, buildings or structures need to be located only as far back from the street as the average of the FRONT YARD depths of the buildings or structures nearest on either side and within the same block and district, or within five hundred (500) feet, whichever is the lesser distance.

4.0.8 **Corner Lots:** In any Residence District, Agriculture, or Agriculture Moderate Density District, the buildings or structures on LOTS having FRONTAGE on two streets may only be located as near to the street lines as the minimum FRONT YARD depths required on each street, except that the buildable width of such lot need not be reduced to less than twenty-six (26) feet. No accessory building on a corner LOT need be placed further from the street line than the FRONT YARD depth provisions for the district.

4.0.9 **Projections:** Nothing in this bylaw shall prevent the projection of steps, eaves, cornices, window sills, or belt courses into any required yard.

4.0.10 **Reduction of Required Open Space:** No yard, lot area, or other open space required for a building by this bylaw shall, during the existence of such building, be occupied by or counted as open space for another building. No lot or area shall be so reduced or diminished that the yards or other open space shall be smaller than prescribed by this bylaw.

4.0.11 **Height Provisions**

- a. All building heights must comply with the State Building Code. (Amended 10/2/06)
- b. A building in the Industrial C District shall not exceed the height standards of the Federal Aviation Administration regulations.
- c. **Exceptions:** The height provisions of this bylaw shall not apply to such structures as belfries, chimneys, flags, television or radio poles, windmills, silos, barns, elevator enclosures, water tanks, scenery lofts, bulkheads, and similar structures not used for residence purposes.
- d. Accessory buildings or structures, including private garages, shall not exceed seventeen (17) feet in height, for a one-story building. A two-story accessory building shall not exceed twenty-five (25) feet in height. (Amended 10/3/05)

4.0.12 **Buffer Strips**

Buffer strips are required for any parcel in a Business (BA, BB) or Industrial districts. See Table 3 for buffer strip standards.

- a. The Planning Board may require a buffer area in any Business District, Agriculture Moderate Density Overlay District, or Industrial District which abuts a residential lot. Said buffer area may not exceed twenty-five (25) feet or one-third (1/3) of the lot dimension abutting the residential area, whichever is smaller. (Added 10/97)

4.1 **SPECIFIC DISTRICT DIMENSIONAL REQUIREMENTS**

The following information relates to specific requirements which are not conveyed through the Table of Dimensional Regulations.

4.1.1 **Residence B District Requirements**

- a. Only 10 units per acre may be constructed and a multiple DWELLING shall contain no more than 20 units. The balance of the LOT not used for DWELLING or parking shall be suitably planned, landscaped (see Table 3) and maintained.

b. DELETED 5/8/06

c. A paved off-street parking space must be provided. The balance of the lot not used for buildings, driveways, recreation facilities, or parking space shall be suitably landscaped and maintained (see Table 3).

d. Garage space may be provided for the use of the occupants of the project for the storage of passenger vehicles only, either within the principal buildings or in accessory garage buildings.

e. The laying out and construction of access ways shall comply with the Subdivision Rules and Regulations in effect at the time.

4.1.2 **Business A and Business B District Dimension Requirements for Pre-Existing Non-Conforming Uses**

Side Yard: Ten (10) feet or within fifteen (15) feet of another building unless a party or fire wall is provided. (Revised 10/06/08)

4.1.3 **Deleted STM 10/04/21**

4.1.4 **Industrial C Districts**

Site plan showing on-site parking arrangements and driveway entrances must be approved by the Planning Board before a building permit can be issued.

4.2 Defeated at Town Meeting 10/3/94.(Creative Development & Common Drive)

4.3 **PLANNED BUSINESS DEVELOPMENT (Section added 10/3/94)**

Planned Business Developments shall be permitted in the Business A & Business B Districts only upon issuance of a special permit with site plan review from the special permit granting authority.

4.3.1 **General Description**

A Planned Business Development shall mean a development constructed on a lot or lots under single or consolidated ownership at the time of application, planned, developed, operated, and maintained as a single entity containing one or more structures to

accommodate retail or service uses. Planned Business Developments are permitted a reduction in the parking requirements contained in Section 6.4.2 of off-street parking regulations provided that the special permit and site plan review requirements of this bylaw are met as well as additional requirements herein specified.

#### 4.3.2 **Uses Allowed by Special Permit**

Uses permitted by special permit with site plan review in a Planned Business Development shall be limited to the following:

- a. Retail establishments selling principally convenience goods including but not limited to food, drugs, and proprietary goods;
- b. Retail establishments selling general merchandise, including but not limited to dry goods, apparel, and accessories, furniture and home equipment, small wares and hardware, and including discount and limited price variety stores;
- c. Eating and drinking places not including drive-in establishments;
- d. Drive-in eating establishments;
- e. Sales by vending machines as a principal use;
- f. Establishments selling new and/or used automobiles and trucks, new automobile tires and other accessories, aircraft, boats, motorcycles, and household trailers;
- g. Motel;
- h. Personal and consumer service establishment;
- i. Membership club;
- j. Professional and business offices and services;
- k. Automotive repair, automobile service station or garage (not including a junkyard or open storage of abandoned automobiles or other vehicles);
- l. Miscellaneous business repair services;
- m. Amusement and recreation service, outdoor;
- n. Amusement and recreation service, indoor.

### 4.3.3 **Dimensional**

- a. All uses in a Planned Business Development shall be in conformity with the dimensional and density regulations set forth in the Planned Business Development Table of Dimensional Regulations:

#### **PLANNED BUSINESS DEVELOPMENT TABLE OF DIMENSIONAL REGULATIONS**

<b><u>District</u></b>	<b><u>General Business</u></b>	<b><u>Industrial</u></b>
Minimum Lot Area Per Planned Business Development:	5 Acres	5 Acres
Minimum Lot Width:	120 Feet	140 Feet
Minimum Frontage:	120 Feet	140 Feet
Minimum Front Yard:	30 Feet	50 Feet
Minimum Side Yard:	25 Feet	25 Feet
Minimum Rear Yard:	30 Feet	30 Feet
Maximum Permitted Height:	30 Feet	30 Feet
Maximum Permitted Stories:	2 Stories	2 Stories
Maximum Building Coverage of Lot Based on Gross Floor Area:	50%	50%

- b. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by special permit of the board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section; the development shall be served by one common parking area, exit, and entrance.

- c. High-volume traffic generating uses, (uses that have a trip generation rate of 700 vehicles per day or more,) are restricted to a total of only twenty (20%) percent of the gross floor area of a building. These uses include, but are not limited to, fast-food restaurants, service stations, convenience markets, and automatic teller bank machines. Unless the applicant provides data from existing uses, the institute for Transportation Engineers' publication, Trip Generation shall be used to calculate the number of vehicle trips per day for proposed uses. Building permits for additional high-volume traffic generators will not be issued once the twenty (20%) percent threshold has been reached.

- d. The screening and buffer requirements for industrial or business districts apply to Planned Business Developments.

#### 4.3.4 **Additional Planned Business Development Requirements**

In addition to the special permit and site plan review requirements of this bylaw, the development must conform to the following:

- a. The development shall be served by a public water and sewer system.
- b. The development shall be served by one common parking area and by common exit and entrance areas.
- c. A reduction in parking space requirements is permitted for a Planned Business Development.

Reduction in parking space requirements shall not exceed more than ten (10%) percent of those required under normal application of requirements for the particular uses proposed.

- d. Except for the permitted parking space reduction, the Planned Business Development shall comply with the off-street parking and loading regulations contained in Section 6.4.2 of this bylaw. In addition, the development must comply with the following:

1. Parking areas shall be located to the side or rear of the structure. No parking shall be permitted within the required front yard of a structure.
2. Notwithstanding other screening and landscape requirements set forth elsewhere in the bylaw, all front and side yards shall be landscaped. Such landscaping shall include, but not necessarily be limited to, the planting of grass, ground cover, flower beds, shrubs, hedge, or trees. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance, and free of refuse and debris. All plantings shall be arranged and maintained so as not to obscure the vision of traffic.
3. Street frontages shall include shade trees and there shall be trees planted for every 30 feet of street frontage, using trees no less than 2.5 inch caliper at the time of installation. In the case of an uncleared site, existing vegetation can be preserved to achieve said objective.
4. When a parking lot is located adjacent to a public right-of-way, at least a 10-foot wide landscaped area between the right-of-way and the parking lot shall be provided. This area shall be landscaped with one shade or ornamental tree planted every forty (40) feet along the right-of-way.

5. For interior parking lot areas at least two (2%) of the gross area of the vehicular use area shall be landscaped. Developed areas shall be a minimum of nine (9) feet in width. One shade tree for every fifteen (15) parking spaces is required in parking lots of over 20 parking spaces.

6. Failure to maintain landscaping shall be grounds to revoke parking lot approval and the approval for the principal use which the parking lot serves.

7. Loading and unloading facilities shall be located in a manner so as not to be visible from the street frontage. In addition, such facilities shall be screened from public view from any side streets abutting the lot on which the building is located.

e. A traffic impact statement is required for all Planned Business Development.

#### 4.3.5 **Application for a Planned Business Development**

a. The applicant must comply with the application requirements of M.G.L. Chapter 40A, Section 9. Where the site plan constitutes a subdivision, the development shall be subject to Planning Board approval under the subdivision control law.

b. The applicant shall provide the Town with a performance guarantee if the development requires subdivision. The performance guarantee is subject to approval from the Planning Board and shall be in the form of (a) a Covenant covenanting that before any lot is built upon or conveyed, all roads and utilities shall be built and approved by the Planning Board, or (b) performance bond or surety. In the case of (b), the applicant shall complete all the required improvements at least nine (9) months prior to the expiration date of the financial performance guarantee so that the Town will have time to draw upon said funds and complete the unfinished work.

### **4.4 MILL REDEVELOPMENT DISTRICT (MRD) Bylaw. (Added 5/9/11)**

**Mill Redevelopment District.** Development contained on a single parcel or adjoining parcels that includes different and complimentary uses (both residential and non-residential) and which provide for a variety of residential and business activities throughout the day.

#### 4.4.1 **General Provisions**

a. The purpose of the Mill Redevelopment District ("MRD") is to provide for large-scale developments of at least 50 acres gross which are master-planned with flexibility within the bounds of a district and which require a minimum of three

separate permitted land uses situated in locations favorable to the accommodation of such developments. The district, while originally owned by one entity, may during development phases be subdivided into smaller lots for specific uses allowed within the district or for conveyance purposes. Consistent with this purpose, uses in a Mill Redevelopment District shall be subject to the following provisions, in addition to those contained elsewhere in this chapter.

- b. Development shall be guided by an approved District Comprehensive Plan and through the use of a streamlined site plan review process.
- c. By the use of the public review and planning powers, the provisions of this section are also intended to do the following:
  - 1. Help create major mixed-use areas in planned locations at appropriate densities, heights and mixtures of uses.
  - 2. Encourage the preservation and rehabilitation of structures of historic merit in the district.
  - 3. Encourage areas devoted primarily to pedestrians by separating pedestrian and vehicular circulation patterns and by requiring off-street parking spaces in accordance with this objective.
  - 4. Encourage flexibility in architectural design and building bulk, provided that the designs and building bulk shall be compatible and harmonious with adjoining development over the district as a whole.
  - 5. Make recreation areas more accessible to the district's residents and visitors.
  - 6. In a variety of ways, create environments conducive to a higher quality of life and environment for residents, businesses, employees and institutions in the Town of Ludlow, thereby promoting and protecting the public health, safety, convenience, order, prosperity and general welfare of the community both within and outside of the Mill Redevelopment District.
- d. All development activity within the MRD shall be subject to and conform with the applicable requirements of the Subdivision Control Law in effect in the Commonwealth of Massachusetts, Mass. G.L. Chapter 41 Sections 81(k) to 81(gg), inclusive, and the Ludlow Subdivision Rules and Regulations.

#### 4.4.2 **Authority**

The Planning Board shall act as the MRD Comprehensive Plan-Special Permit Granting Authority for any development proposal requiring a Special Permit subject to Section 7.0.2.

#### 4.4.3 **Allowable Uses**

The only uses allowed in the Mill Redevelopment District shall be those uses listed in the Table of Principal Uses Sections 3.2.2 and the following uses, which shall also be

allowed as a matter of right in the MRD, subject to the provisions of this Section 4.4 relating to Mill Redevelopment Districts and all other applicable provisions of the Zoning By-Law:

- a. Dwellings or multiple dwellings including multi-family. The number of dwelling units approved under the Comprehensive Plan shall be limited to 250 units, except that the Planning Board, in its discretion, may approve additional units provided that the Planning Board determines that to do so will not have an adverse impact, economic or otherwise, upon the neighborhood or upon the town.
- b. Community centers that may serve the social, religious, and recreational needs of residents and employees of the MRD and neighboring areas.
- c. Private trades, businesses, professional or technical schools or colleges or other educational institutions or uses.
- d. Artist's studio.
- e. Private or public theaters.
- f. Recreational buildings, fitness centers, indoor or outdoor athletic fields, or multi-purpose recreational uses.
- g. Parks or open spaces.
- h. Biotechnology Manufacturing Uses
- i. Outpatient or inpatient hospitals, rehabilitation hospitals, surgical centers or medical facilities.
- j. Nursing homes or congregate-care or life-care facilities.
- k. Medical office buildings, clinics or testing laboratories.
- l. Business, commercial or office buildings with or without dwellings above the first floor.
- m. Call centers, data centers, or uses dedicated to housing computers, computer servers, or telecommunications equipment including cellular telephone antennas.
- n. Research Facilities in the MRD District shall be exempt from the requirements of Section 3.3.1 (a).
- o. Ground mounted and rooftop mounted solar panel installations.

#### 4.4.4 **Multiple Uses in the Same Structure**

Within the MRD District there shall be no restriction on combining different categories of use within the same building other than those imposed by the State Building Code or other federal, state or local regulations other than the Zoning By-Law.

#### 4.4.5 **Open Space Requirements**

- a. Definition of Open Space.

For purposes of this Section 4.4, open space shall mean a portion of a lot or other area of land associated with or adjacent to a building or group of buildings in relation to which it serves to provide light and air, or scenic, recreational or similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building(s) with which it is associated, and at times to the general public, but may include a limited

proportion of space so located and treated as to enhance the amenity of development by providing landscaping features, screening or buffering for the occupants or neighbors or a general appearance of openness. Open space shall include parks, plazas, lawns, landscaped areas, decorative plantings, pedestrian ways, active and passive recreational areas, including playgrounds, swimming pools, and undisturbed woodlands. Streets, parking lots, driveways, service roads, loading areas, and areas normally inaccessible to pedestrian circulation beneath pedestrian bridges, decks or shopping bridges shall not be counted in determining required open space.

b. Mill Redevelopment District Public Open Space Requirement.

A minimum of 5% of the land area in an approved MRD Comprehensive Plan shall be reserved or designated as open space. No development shall be allowed which would reduce open space in an approved MRD Comprehensive Plan below 5% of the total land area.

#### 4.4.6 Comprehensive Plan Required

Each Comprehensive Plan for an MRD shall be approved pursuant to a Special Permit issued by the Planning Board as provided in Section 4.4.7 below. Any proposal for development or redevelopment of property under this Section shall require the submittal of an application for a Special Permit that constitutes approval of an MRD Comprehensive Plan. The application for approval of a Comprehensive Plan shall include the following elements:

- a. A narrative and graphic description of existing conditions including, at a minimum:
  1. Existing buildings and their uses.
  2. Natural and man-made site features.
  3. Utilities.
  4. Traffic and circulation patterns.
  5. Underground features such as tanks and soil conditions.
  
- b. A narrative and graphic description of the proposed development that meets the requirements set forth in this bylaw including the following:
  1. Buildings to be restored, rehabilitated, or constructed.
  2. Buildings to be removed.
  3. Proposed uses including the density or intensity of each proposed use.
  4. Proposed internal and external traffic and circulation patterns.
  5. Proposed parking needs, including provisions for shared parking between uses, if applicable.
  6. Proposed utilities including water, sewer, electrical and communications service, storm water, and solid waste containment and disposal.
  7. Proposed landscaping and signage features.
  8. Proposed open space.
  
- c. An analysis of impacts associated with the proposed development, including, at a

minimum:

1. A traffic study showing the impact of the proposed development on the surrounding area. The traffic study shall include existing and expected volumes at build-out, the expected directional distribution of vehicles to and from the site, and existing and expected levels of service at major intersections determined by the Planning Board to be impacted by the project. The traffic study counts and the mitigation measures required as part of an Environmental Impact Report (EIR) under the MEPA process associated with the proposed development will be deemed sufficient and acceptable for purposes of this impact analysis.
2. A wetlands and flood analysis showing the disposition of on-site storm water and its impacts on properties located downstream of the site. If a study was prepared as part of an EIR under the MEPA process, then the criteria under this section taken into combined account with the mitigation measures required under MEPA will be satisfied.
3. Impacts upon the delivery of public services, including schools, public safety, municipal utilities.
4. Impacts upon historic properties or districts, if any. If such a study was prepared as part of an Environmental Impact Report under the MEPA process, it shall be deemed as sufficient to satisfy this requirement.
5. Potential property taxes and other revenues that may be generated by the project.

#### 4.4.7 **Application Process and Requirements**

- (1) A Comprehensive Plan for a Mill Redevelopment District (MRD) shall be approved through the submission of an application for the issuance of a Special Permit by the Planning Board. The issuance of the Special Permit shall constitute the approval of the Comprehensive Plan for the MRD that is the subject of the application for a Special Permit.
- (2) For the purpose of streamlining the permitting process, the Planning Board shall follow the provisions of MGL C. 43D if applicable.
- (3) Prior to submittal of a formal application and to minimize expense and delay for the applicant, the Planning Board shall request the presentation of informal drawings of the Comprehensive Plan for the MRD at a regular meeting of the Board. The Board and the applicant may review such informal drawings, without prejudice, to identify potential areas of concern and agreement. This meeting shall not be advertised as a formal public hearing and no vote of Planning Board shall take place.

#### 4.4.8 **Review Criteria**

The Planning Board shall review and act upon an application for a Special Permit approving a Comprehensive Plan in accordance with Section 7.0.4 (Special Permit) of this Bylaw

#### 4.4.9 **Procedural Steps**

The Planning Board, in its discretion, may require that the applicant engage the services of consultants or professional engineers to review and provide opinions as to the adequacy of proposed infrastructure, systems, and mitigation measures presented by the applicant. The Planning Board shall maintain a list of qualified consultants or professional engineers whose work is acceptable and the actual consultant or professional engineer shall be selected from this list by the applicant. The consultant or professional engineer shall be provided with a detailed scope of services for the review by the Planning Board and shall submit a fixed fee for the services for approval by the Planning Board and the applicant. The applicant shall be responsible for the payment of the agreed upon fee at the time of delivery of the consultant's report. The Planning Board may accept or reject the opinion and advice of the consultant or professional engineer if it concludes that to do so is in the best interest of the town.

#### 4.4.10 **Site Plan Approval Process**

- a. Following the issuance of a Special Permit for a MRD Comprehensive Plan but prior to issuance of a building permit for each particular project in the Mill Redevelopment District that consists of the construction of a new structure, the project proponent shall receive site plan approval/disapproval from the Administrative Review Committee. The Administrative Review Committee shall have as its voting members the following:
  1. The Director of Public Works, and one member or designee of the Board of Public Works
  2. Building Commissioner, or designee
  3. Town Planner, or designee
  4. Two members or designees of the Planning Board
  5. Fire Chief, or designee
  6. Police Chief or designee
  7. One member or designee of the Conservation Commission
  8. One member or designee of the Historical Commission. (Added 10/5/15)

Designated members need not be standing members and may be designated based upon availability or specific expertise required for site plan review.

- b. A quorum for a meeting of the Administrative Review Committee shall be six members and approval of a site plan shall require the affirmative vote of a majority of those present. (Amended STM 10/4/21)
- c. A site plan submitted for review shall conform substantially to the MRD Comprehensive Plan approved by the Planning Board and shall only include Minor Variations as described in Section 4.4.14 below. Approval by the Administrative Review Committee is the only requirement for the site plan review. No public comment process is required when the site plan conforms substantially to the Comprehensive Plan. If the

Administrative Review Committee determines that a Major Change has occurred in the Comprehensive Plan, as described in Section 4.4.14 below, the provisions of Section 4.4.14 shall be applicable.

#### 4.4.11 **Required Site Plan Contents**

a. Copies of a site plan, in hard copy or electronic format, shall be submitted to the Administrative Review Committee at the office of the Town Planner, in numbers determined by the Committee. Within 15 calendar days of the submittal date the Committee shall review the plan. Within 21 days following the submittal of the plan the Committee shall meet to discuss the plan. Within 30 days of submittal of the plan the Committee shall render a decision on the site plan, in accordance with Section 4.4.13, unless the Committee and the applicant agree to extend the date of decision.

b. All plans submitted for site plan review under this section shall be prepared by qualified professionals, including a registered engineer, registered architect and/or registered landscape architect, and shall include the items and information required pursuant to Section 7.1.5. Instead of a registered land surveyor seal, a locus plan will need to be provided for each new site within the total site area.

#### 4.4.12 **Modifications to the Site Plan**

As part of its review process, the Administrative Review Committee may request that the applicant make changes to the proposed site plan to bring it into substantial conformance with the Master Plan, with only Minor Variations from the Comprehensive Plan as provided in Section 4.4.14 below.

#### 4.4.13 **Final Action**

The Administrative Review Committee's final action, in writing, shall consist of the following:

- (a) Approval of a site plan based upon a determination that the proposed project conforms substantially with the Comprehensive Plan, with only Minor Variations;
- (b) Approval of the site plan subject to any conditions imposed by the Administrative Review Committee. Any such conditions shall be limited to changes necessary to achieve substantial conformance with the Comprehensive Plan with only Minor Variations; or
- (c) Disapproval of the site plan based on a determination that the proposed project does not conform substantially with the Comprehensive Plan with only Minor Variations but instead either does not conform with the Comprehensive Plan or includes Major Changes.

The applicant shall be entitled to appeal the final action taken by the Administrative Review Committee on the proposed site plan to the Planning Board by filing notice of appeal with the Planning Board within ten (10) days following the issuance of the Administrative Review Committee's final written action with respect to the proposed site plan. The Planning Board shall

review and consider the proposed site plan and take final action on the appeal within thirty (30) days following any such appeal. Any action by the Planning Board shall be subject to further appeal to Hampden County Superior Court, provided that notice of appeal is filed with the Town Clerk within ten (10) days following the decision of the Planning Board that is being appealed from and an action is commenced in Hampden County Superior Court within twenty (20) days from the date of the decision of the Planning Board that is being appealed from.

#### 4.4.14 **Changes to the Comprehensive Plan**

- a. It is anticipated that during the course of the development of an MRD District pursuant to a Comprehensive Plan approved through the issuance of a Special Permit there will be changes to the Comprehensive Plan. Changes to an approved Master Plan shall be categorized as either Minor Variations or Major Changes.
- b. Minor Variations shall consist of the following:
  - (a) an increase of less than twenty (20%) percent in the total improved square footage in the Mill Redevelopment District;
  - (b) changes in particular uses in particular locations, provided that there is no overall change in the proposed use categories that are included in the MRD Comprehensive Plan; and
  - (c) a change in the size or location of any proposed use, roadway or driveway which, in the opinion of the Administrative Review Committee, does not have a significant impact on the project and will not require mitigation by the applicant.

No Planning Board action shall be required with respect to a Minor Variation identified by the Administrative Review Committee.

- c. Major Changes shall consist of the following:
  - (a) an increase of more than twenty (20%) percent in the total improved square footage in the Mill Redevelopment District;
  - (b) changes in proposed use categories or types that result in one or more uses not included as part of the existing Comprehensive Plan proposed for the MRD; or
  - (c) a change in the size or location of any proposed use, roadway or driveway which, in the opinion of the Administrative Review Committee, has a significant impact on the project and will require mitigation by the applicant.

Major Changes shall require the approval of the Planning Board pursuant to an amendment to the Special Permit issued by the Planning Board that constitutes approval of the Comprehensive Plan. Amendments to the Special Permit shall require a public hearing and shall be subject to all of the requirements for the issuance of a Special Permit that are set forth in this Bylaw.

#### 4.4.15 **Subdivision of Property**

Where there are established pre-existing buildings, as of the date of the approved Comprehensive Plan on the Mill Redevelopment property, the land on which they are located may be subdivided, allowing the pre-existing buildings to be placed on their own individual parcel. The newly created parcel is exempt from Table 2 Table of Dimensional Regulations, specifically the Mill Redevelopment District Dimensional Regulations. The only prerequisite would be to meet a 5 foot setback from newly established property lines. The 5 foot setback may be waived by the Planning Board with recommendation from the Building Commissioner. If a new building is to be constructed on a parcel with a pre-existing building the new building will need to meet the setbacks for the Mill Redevelopment District, unless waived by the Planning Board, on recommendation from the Building Commissioner. New parcels that have no pre-existing buildings will need to meet the Mill Redevelopment District Dimensional Regulations as set out in Table 2.

END OF SECTION 4

## SECTION V: OVERLAY DISTRICT REGULATIONS

Article #2: To see if the Town will vote to amend the Zoning Bylaws of the Town of Ludlow by adding the Floodplain District Bylaw to Section 5.0, as follows:

## SECTION V: OVERLAY DISTRICT REGULATIONS

### 5.0 FLOODPLAIN DISTRICT BYLAW (Amended 5/13/13)

#### 5.0.1 Purpose

The purpose of the Floodplain District is to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain and to preserve and maintain the groundwater table and water recharge areas within the floodplain.

5.0.2 **District Delineation:** The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Ludlow designated as Zone A and AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Ludlow are panel numbers 25013C0207E, 25013C0209E, 25013C0217E, 25013C0226E, 25013C0227E, 25013C0228E, 25013C0229E, 25013C0231E, 25013C0232E, 25013C0233E, 25013C0234E, 25013C0236E, 25013C0237E, 25013C0240E, 25013C0241E, 25013C0242E, and 25013C0245E dated July 16, 2013. 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 Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and the Department of Public Works. (Amended 5/13/13)

#### 5.0.3 Use Regulations:

The Floodplain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted as a right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations. **(Amended 5/13/13)**

#### 5.0.4 **Permitted Uses**

The following uses of low flood damage potential and causing no obstructions to flood flows shall be permitted provided they do not require structures, fill or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- b. Forestry and nursery uses.
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.
- d. Conservation of water, plants, wildlife.
- e. Wildlife management areas, foot, bicycle and/or horse paths.
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- g. Buildings lawfully existing prior to the adoption of these provisions.

#### 5.0.5 **Special Permits in Floodplain District** (Amended 5/13/13)

No structure or building shall be erected, constructed, substantially improved, reconstructed (except as provided in Section 5.0.3 above), or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a Special Permit is granted by the Planning Board. Said Board may issue a Special Permit hereunder (subject to other provisions of the bylaw – See Section 7.0) if the application is compliant with the following provisions:

- a. The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located.
- b. In accordance with M.G.L. Chapter 40A, Section 9, Special Permits may only be issued following a public hearing which must be held within 65 days after a Special Permit application is filed with the Special Permit Granting Authority.

The applicant shall also file a copy of the Special Permit application forthwith with the Town Clerk. The Special Permit Granting Authority shall take final action on an application for Special Permit within 90 days following the public hearing. Failure to do so shall constitute approval. A unanimous vote of a three-member board and a vote of at least 4 members of a five-member board is required.

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

d. The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.

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

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

g. All subdivision proposals must be designed to assure that:

- i) such proposals minimize flood damage;
- ii) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- iii) adequate drainage is provided to reduce exposure to flood hazards.

h. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

## 5.1 **BUSINESS IN THE AGRICULTURE: MODERATE DENSITY OVERLAY DISTRICT**

Special Permits for business uses in the AGRICULTURE: MODERATE DENSITY OVERLAY DISTRICT, if consistent with this bylaw in all other respects, shall be granted only if the Planning Board determines that the proposal's benefits to the Town or vicinity will outweigh any adverse effects, after consideration of the following:

### 5.1.1 **Location**

- a. The proposal will be located near uses which are similar to the proposed use or, if not, the nearby uses will be ones likely to benefit from rather than be damaged by having the proposed activity nearby.
- b. Public water supply will be available or will be made available without increased cost to the Town and serving this use at this location will pose no problems which are unusual.
- c. If the proposed project will employ more than 10 full-time people, then public sewer will be available or will be made available without increased cost to the Town and serving this use will pose no problems to the Town which are unusual.
- d. The proposal will not cause environmental stress from erosion, siltation, ground water or surface water contamination, or habitat disturbance on the site.

### 5.1.2 **Activity Type and Mix**

- a. The proposed activity will contribute to the diversity of services available to the Town.
- b. Any retail services will be designed to serve the Town's population rather than a larger region.
- c. The proposal will add little to traffic congestion, considering the location, the number of trips likely to be attracted, and any special access provisions committed (e.g. bike storage facilities, employee ridesharing) and uses with an average number of 100 trips generated per day per 1,000 square feet of gross floor area.
- d. The proposal will pose no environmental hazard because of use or storage of explosive, flammable, toxic, or radioactive materials.
- e. The proposal will not result in air pollution or excessive noise.

5.1.3 **Site Design**

- a. Scenic views from public ways and other developed properties will be considerately treated in the design of the site.
- b. Topographic change will be in keeping with the surrounding topography.
- c. Removal of existing trees or other important natural features will be avoided.
- d. Pedestrian movements within the site and to other places will be well provided for.
- e. Vehicular movement within the site will be safe and convenient, and arranged so as to not disturb abutting properties.
- f. Visibility of parking and service areas from public streets will be minimized through facility location and the use of topography and vegetation. (Amended 10/2/06)
- g. Potential disturbances such as noise, glare, and odors will be effectively confined to the premises through buffering or other means.
- h. Water quality will be protected through appropriate location and design of disposal facilities in relation to water bodies and site geology.
- i. One driveway per business shall be permitted as a matter of right. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed twenty-four (24) feet in width.
- j. The Planning Board may waive up to 25% of the required parking spaces under Section 6.4 PARKING REQUIREMENTS in the Agriculture Moderate Density District. (Added 10/1/18)

5.1.4 **Facility Design**

- a. Scenic views from public ways and other developed properties will be considerately treated in the design of the building(s).
- b. Primary exterior materials will match the appearance of materials commonly found on existing buildings within the Town.
- c. Domestic scale will be maintained in the building(s)' design through massing devices such as breaks in walls and roof planes and through the design of architectural features.

## 5.2 **AIRCRAFT FLIGHT REGULATIONS**

### 5.2.1 **Purpose**

The purpose of the Aircraft Flight Overlay District is to protect the public health, safety, and general welfare, and to protect human life and property from hazards of aircraft noise and accident potential created by the town's proximity to Westover Air Force Base.

### 5.2.2 **District Delineation**

The Aircraft Flight District is delineated on the Aircraft Flight Overlay District Map dated January 15, 1992.

### 5.2.3 **Use Regulations**

The Aircraft Flight Overlay District is established as an overlay district to all other districts. See Section 3.2.7 for prohibited uses.

## **LUDLOW WATER SUPPLY PROTECTION DISTRICT**

## 5.3 **WATER SUPPLY PROTECTION DISTRICT**

### 5.3.1 **Purpose of District**

To promote the health, safety, and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources. All activities must comply with 310 CMR 22.00 Drinking Water Regulations, and MGL Chapter 21G Water Management Act. (Amended 10/7/02)

### 5.3.2 **Definitions**

- a. **Groundwater:** All water found beneath the surface of the ground.
- b. **Watershed:** Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.
- c. **Leachable Wastes:** Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
- d. **Impervious Surfaces:** Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

- e. **Trucking Terminal:** Business which services or repairs commercial trucks which are not owned by the business.
- f. **Hazardous Waste:** A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.

### 5.3.3 **District Delineation**

- a. The Water Supply Protection District is herein established to include all lands within the Town of Ludlow lying within the watershed areas of the Springfield Reservoir and the Nash Hill Reservoir which now or may in the future provide public water supply. The map entitled "Ludlow Water Supply Protection District", Town of Ludlow, on file with the Town Clerk, delineates the boundaries of the district.
- b. Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located.

### 5.3.4 **Prohibited Uses**

- a. Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair, or which involve on-site disposal of process waste waters.
- b. Trucking terminals, bus terminals, car washes, motor vehicle gasoline sales, automotive service and repair shops.
- c. Solid waste landfills, dumps, auto recycling, junk and salvage yards, with the exception of the disposal of brush or stumps.
- d. Underground storage and/or transmission of petroleum products excluding liquefied petroleum gas.
- e. Outdoor storage of salt, de-icing materials, pesticides or herbicides.

- f. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichloroethane, or other household hazardous wastes. (See list of prohibited chemicals at Board of Health or Town Clerk's Office).
- g. New uncontained storage of manure, fertilizer, road de-icing, and sanding materials;
- h. New facilities that generate, treat, store or dispose of hazardous waste;
- i. New solid waste combustion or handling facilities;
- j. New sand and gravel excavation operations;
- k. New disposal of snow from outside Zone A that contains de-icing materials;
- l. New junk, salvage, or motor vehicle repair operations;
- m. New activities with greater than 15% impervious surface, 20% with artificial recharge or 2500 S.F.; and
- n. New commercial outdoor washing of vehicles, new commercial car washes.

### 5.3.5 **Restricted Uses**

- a. Excavation for removal of earth, sand, gravel, and other soils shall not extend closer than five (5) feet above the annual high groundwater table. A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
  - (1) Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.
  - (2) Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as by-products, shall be disposed of off-site to prevent damage to aquifer recharge characteristics.

- b. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.
- c. Salt storage areas shall be covered and be located on a paved surface, with berms to prevent run-off from leaving the site.
- d. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.
- e. Above-ground storage tanks for oil, gasoline, or other petroleum products shall be placed in a building, either in a concrete basement, or other indoor location on a diked, impermeable surface sufficient to contain the volume of the tank plus 10% to prevent spills or leaks from reaching groundwater.
- f. Installation of on-site sewage disposal systems shall not be installed in areas where soil percolation rates are faster than two minutes per inch without additional measures imposed by the Board of Health. (See Board of Health Regulations)

#### 5.3.6 **Drainage**

For commercial and industrial uses, to the extent feasible, run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s).

#### 5.3.7 **Special Permit Uses**

- a. Uses Allowed by Special Permit

The following uses may be allowed by Special Permit obtained from the Planning Board:

- (1) Commercial and industrial uses which are allowed in the Table of Uses;
- (2) Any enlargement, intensification, or alteration of an existing commercial or industrial use;
- (3) The rendering impervious of more than 20% of any single residential lot.

### 5.3.8 **Requirements for special permit in the Water Supply Protection District**

The applicant shall file six (6) copies of a site plan prepared by a qualified professional with the Planning Board. The site plan shall at a minimum include the following information where pertinent.

- a. A complete list of chemicals, pesticides, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- b. Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief, and Board of Health which shall include:
  - (1) 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.
  - (2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
  - (3) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass Department of Environmental Protection.
- c. Drainage recharge features and provisions to prevent loss of recharge.
- d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

### 5.3.9 **Additional procedures for Special Permit in the Water Supply Protection District**

- a. The Planning Board shall follow all special permit procedures contained in Section 5.1
- b. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 5.1 of this bylaw. The proposed use must:
  - (1) in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;

(2) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

c. The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

#### **5.3.10 Requires Buffer strip Along River and Stream Banks**

The following requirements shall apply to all uses allowed by right or by Special Permit:

a. A buffer strip extending one hundred (100) feet in width landward from the bank of all rivers and streams shall be required for all land within the Water Supply Protection District. If any lot existing at the time of adoption of this bylaw does not contain sufficient depth measured landward from the riverbank to provide a one hundred foot buffer strip, the buffer strip may be reduced to 50% of the available lot depth, measured landward from the river or stream bank.

b. The buffer strip shall include trees and shall be kept in a natural condition.

c. No buildings nor structures shall be erected, enlarged, altered or moved from within the buffer strip.

d. On-site waste water disposal systems shall be located no less than 150 feet from the normal high water mark of a river or stream.

#### **5.3.11 Non-conforming Use**

Non-conforming uses which were lawfully existing, begun, or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L. Ch. 40A, Section 6, provided that there is a finding by the Planning Board that such change does not increase the danger of surface or groundwater pollution from such use.

### **5.4 EAST STREET REVITALIZATION OVERLAY DISTRICT (Title amended 10/3/05)**

#### **5.4.1 Purpose:**

To encourage the preservation and revitalization of the East Street Corridor.

#### 5.4.2 **Definition of Area:**

The East Street Revitalization Zone is that portion of East Street running from its intersection with State Street to its intersection with King Street on its northerly side and Stevens Street on its southerly side. This district would include non-industrial parcels that abut East Street and lie partly or completely within 200 feet of East Street.

#### 5.4.3 **Deleted 10/3/05**

#### 5.4.4 **Allowed Uses:**

##### a. Residential:

- (1) Single or multi-family dwellings and accessory buildings as permitted in Residence B zones (including Home Occupations and Accessory Apartments with Special Permit Approval.) (Amended 10/3/05)
- (2) Combined business/residential structures incorporating only allowed commercial uses.

##### b. Commercial:

- (1) Commercial enterprises as permitted in Business A zones, subject to Site Plan Approval.
- (2) Certain other commercial enterprises as described in the following list of Permitted Uses, subject to Site Plan Approval.
- (3) Other commercial enterprises as listed: (Amended 10/3/05)

Apartments  
 Arcades/Billiard Halls  
 Athletic Clubs  
 Barber/Hair Styling/Personal Care Shops  
 Children's Care Facilities  
 Driving Schools  
 Food Preparation  
 Funeral Homes  
 Libraries/Museums  
 Offices  
 Open-Air Parking Facilities  
 Restaurants/Lounges/Cafés/Bars  
 Retail Shops  
 Services  
 Theaters

- c. Other
  - (1) Government Offices
  - (2) Business or Civic Organizations
  - (3) Schools, Churches, and other not for profit public facilities

**5.4.5 Prohibited Uses:**

- a. Hotels, Motels, Lodging
- b. Auto repair, auto sales, auto bodies, auto service stations.
- c. Transportation centers
- d. Veterinary/Pet Care Facilities

**SMART GROWTH OVERLAY DISTRICT BYLAW (Added 10/7/13)**

**SECTION 5.5 SMART GROWTH OVERLAY DISTRICT (SGOD)**

**5.5.1 PURPOSE**

The purposes of this Section 5.5 are:

1. To establish a Smart Growth Overlay District and encourage smart growth in accordance with the purposes of M.G. L. Chapter 40R;
2. To encourage new development close to existing infrastructure and services in order to protect open space and farmland in the outer reaches of the town;
3. To support private developers in their efforts to provide a range of safe, quality housing options for individuals and families of all ages and incomes;
4. To develop new homes which are consistent with the character of Ludlow's existing neighborhoods
5. To encourage development types as delineated in the 2011 Master Plan

**5.5.2 DEFINITIONS**

For purposes of this Section 5.5, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 5.5.2, or as set forth in the Plan Approval Authority Regulations. To the extent that there is any conflict between the definitions set forth in Section 5.5.2 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

***Affordable Homeownership Unit*** - an Affordable Housing unit required to be sold to an Eligible Household.

***Affordable Housing*** - housing that is affordable to and occupied by Eligible Households.

***Affordable Housing Restriction*** - a deed restriction of Affordable Housing meeting statutory requirements in M.G.L. Chapter 184, Section 31 and the requirements of Section 5.5.6.5 of this Bylaw.

***Affordable Rental Unit*** - an Affordable Housing unit required to be rented to an Eligible Household.

***Applicant*** – the individual or entity that submits a Project for Plan Approval.

***As-of-right*** - a use allowed under Section 5.5.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 5.5.9 through 5.5.13 shall be considered an as-of-right Project.

***Bicycle Parking Facilities*** - Bicycle racks or other provision for indoor or outdoor storage of bicycles. Storage must allow for the locking of bicycles to racks or inside storage containers.

***Department or DHCD*** - the Massachusetts Department of Housing and Community Development, or any successor agency.

***Design Standards*** – means provisions of Section 5.5.13 made applicable to Projects within the SGOD that are subject to the Plan Approval process.

***Eligible Household*** - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

***Enabling Laws*** - G.L. Chapter 40R and 760 CMR 59.00.

***Mixed-Use Development Project*** – a Project containing a mix of residential uses and non-residential uses, as allowed in Table 1, and subject to all applicable provisions of this Section 5.5.

***Monitoring Agent*** – the local housing authority or other qualified housing entity designated by the PAA pursuant to Section 5.5.6.2, to review and implement the Affordability requirements affecting Projects under Section 5.5.6.0.

***PAA Regulations*** – the rules and regulations of the PAA adopted pursuant to Section 5.5.9.3.

***Plan Approval*** - standards and procedures which all Plan Approval Projects in the SGOD must meet pursuant to Sections 5.5.9 through 5.5.13 and the Enabling Laws.

***Plan Approval Authority (PAA)*** - The local approval authority authorized under Section 5.5.9.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

**Project** - a Residential Project or Mixed-use Development Project undertaken within the SGOD in accordance with the requirements of this Section 5.5.

**Residential Project** - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 5.5.5.

**SGOD** – the Smart Growth Overlay District established in accordance with this Section 5.5.

**Zoning Bylaw** - the Zoning Bylaw of the Town of Ludlow.

### **5.5.3 OVERLAY DISTRICT**

**5.5.3.1 Establishment.** The Ludlow Smart Growth Overlay District, hereinafter referred to as the “SGOD,” is an overlay district having a land area of approximately 226 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map as set forth on the map entitled “Ludlow Smart Growth Overlay District, dated May 12, 2011, prepared by Pioneer Valley Planning Commission.” This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

**5.5.3.2 Sub-Districts.** The SGOD contains the following sub-districts:

- a. East Street Corridor Mixed Use Sub-District
- b. Riverside Mixed Use Sub-District
- c. Ludlow Mills Mixed Use Sub-District

### **5.5.4 APPLICABILITY OF SGOD**

**5.5.4.1 Applicability of SGOD.** An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section 5.5, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

**5.5.4.2 Underlying Zoning.** The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 5.5. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the

regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

**5.5.4.3 Administration, Enforcement, and Appeals.** The provisions of this Section 5.5 shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 5.5.9 through 5.5.13 shall be governed by the applicable provisions of M.G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 5.5 shall be governed by the applicable provisions of M. G. L. Chapter 40A.

**5.5.5 PERMITTED USES**

The restrictions and controls intended to regulate development in each district are set forth in Table 1 as follows:

- P** Use Permitted by Right in the District
- PA** Use Permitted with Plan Approval in the District from the Planning Board in accordance with Section 5.5.9
- N** Not permitted

All Projects in a SGOD must have a residential use. Retail, service, and manufacturing uses will not be permitted without a residential component.

Use regulations for the following Sub-Districts are detailed in Table 1:

- ES** East Street Corridor Mixed Use Sub-District
- RS** Riverside Mixed Use Sub-District
- LM** Ludlow Mills Mixed Use Sub-District

**Table 1: Table of Use Regulations**

Use Type	Standards and Conditions	ES	RS	LM
<b><u>RESIDENTIAL</u></b>				
Single Family Detached		N	N	N
Townhouse	Townhouses will be built on individual lots with zero side setback requirements.	PA	PA	N
Two and Three Family		N	PA	N
Multi-Family (over 4 units)		PA	PA	PA
Assisted Living		PA	N	PA
<b><u>BUSINESS**</u></b>				
Dining Establishments	Not including drive-in or drive-through restaurants	PA	PA	PA
Office Building		PA	PA	PA
Banks	Not including drive-in or drive-through banks	PA	PA	PA
Retail		PA	PA	PA
Services	Auto Body Shop, Auto Sales Lot and Auto Service Station and Repair Service are not permitted.	PA	PA	PA
<b><u>MIXED USE**</u></b>				
Neighborhood scale mixed use development projects, allowing two or more uses within the same building		PA	PA	N
Downtown scale mixed use development projects, allowing two or more uses within the same building		N	PA	PA
<b><u>INDUSTRIAL**</u></b>				
Light Manufacturing		N	N	PA
General Industrial Uses		N	N	PA
<b><u>GOVERNMENT, INSTITUTIONAL &amp; PUBLIC SERVICE</u></b>				
Religious		PA	PA	PA
Educational		PA	PA	PA
Parks, Playgrounds, Recreation & Community Centers		P	P	P
Municipal Government Buildings		PA	PA	PA

\*\* Not permitted unless within a Mixed-Use Development Project

**Additional notes:**

- All uses not specifically mentioned in Table 1 are prohibited.
- The total gross floor area devoted to non-residential uses within a mixed-use development project shall be less than 50 % of the total gross floor area of the Project.
- Neighborhood scale shall mean buildings with a maximum height of three (3) stories.
- Downtown scale shall mean a maximum height of five (5) stories.
- The minimum allowable As-of-right density requirements for residential uses specified in Section 5.5.7 shall apply to the residential portion of any Mixed-Use Development Project.

## **5.5.6 HOUSING AND HOUSING AFFORDABILITY**

**5.5.6.1 Number of Affordable Housing Units.** For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. Unless the PPA provides a waiver on the basis that the Project is not otherwise financially feasible, twenty-five percent (25%) of rental dwelling units constructed in a rental Project must be Affordable Rental Units. A Project shall not be segmented to evade the Affordability threshold set forth above.

**5.5.6.2 Monitoring Agent.** A Monitoring Agent which may be the local housing authority or other qualified housing entity shall be designated by the PAA. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conform to all requirements have been approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00 and are properly administered;
4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR. 59.00, and recorded with the Hampden County Registry of Deeds.

**5.5.6.3 Submission Requirements.** As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 5.5.9 through 5.5.13 (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1. Evidence that the Project complies with the cost and eligibility requirements of Section 5.5.6.4;
2. Project plans that demonstrate compliance with the requirements of Section 5.5.6.5; and
3. A form of Affordable Housing Restriction that satisfies the requirements of Section 5.5.6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

**5.5.6.4 Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households. If approved by DHCD, preference will be given to local residents.
2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any Building Permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Ludlow.

**5.5.6.5 Design and Construction.** Units of Affordable Housing shall be finished housing units. Unless otherwise approved by DHCD, under the 40R Program, units of Affordable Housing shall be dispersed proportionately throughout all residential unit types contained within the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all units in the

Project of which the Affordable Housing is part.

**5.5.6.6 Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is approved by DHCD for 40R purposes, recorded with Hampden County Registry of Deeds or Registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction which shall be no less than fifty years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;
4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
9. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the Town of Ludlow, in a form approved by Town Counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or

the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

11. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and
12. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

**5.5.6.7 Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

**5.5.6.8 Age Restrictions.** Nothing in this Section 5.5 shall permit the imposition of restrictions on age upon Projects throughout the entire SGOD. However, the PAA may, in its review of a submission under Section 5.5.6.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Units.

**5.5.6.9 Phasing.** For any Project that is approved and developed in phases in accordance with Section 5.5.9.4, unless otherwise approved by the Department, the proportion of Affordable Housing Units shall be at least 20 percent of all units constructed in each phase.

**5.5.6.10 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 5.5.6.0 shall not be waived.

## **5.5.7. DIMENSIONAL AND DENSITY REQUIREMENTS**

**5.5.7.1 Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGOD are as follows:

**Table 2: Dimensional and Density Requirements, East Street Corridor Mixed Use Sub-District**

Use	Maximum Height (stories)	Minimum Density (units per acre)
Townhouse	3	8
Multi-Family (over 4 units)	3	20
Assisted Living	3	20
Mixed Use- Neighborhood Scale	3	20

**Table 3: Dimensional and Density Requirements, Riverside Mixed Use Sub-District**

Use	Maximum Height (stories)	Minimum Density (units per acre)
Townhouse	3	8
Two and Three Family	3	12
Multi-Family (over 4 units)	5	20
Mixed Use – Neighborhood Scale	3	20
Mixed Use – Downtown Scale	5	20

**Table 4: Dimensional and Density Requirements, Ludlow Mills Mixed Use Sub-District**

Use	Maximum Height (stories)	Minimum Density (units per acre)
Multi-Family (over 4 units)	5	20
Assisted Living	5	20
Mixed Use - Downtown Scale	5	20

**5.5.7.2 Dimensional Waivers in Substantially Developed Sub-district.** The PAA may, in order to encourage the development of infill housing units on undeveloped lots within a Substantially Developed Sub-district, grant a waiver to the dimensional standards of Section 5.5.7.1, in accordance with Section 5.5.11.3.

## 5.5.8 **PARKING REQUIREMENTS**

The parking requirements applicable for Projects within the SGOD are as follows.

**5.5.8.1 Number of parking spaces.** Unless otherwise approved by the PAA, the following minimum numbers of off-street automobile parking spaces shall be provided by use, either in surface parking, within garages or other structures, [or on-street:], as well as the minimum numbers of bicycle parking:

<b>Use</b>	<b>Auto Parking Standards</b>	<b>Bicycle Parking Standards</b>
Single Family Dwellings	2 spaces per dwelling unit	None required
Duplex and Triplex	2 spaces per dwelling unit	None required
Multi-family units with one bedroom or efficiency units	1.5 spaces per unit	None required
Multi-family units with two or more bedrooms	2 spaces per unit	None required
Housing for the elderly	1 spaces per unit	1 bike space per 20 employees
Professional, Business, Insurance Offices and Banks	1 space per 300 s.f. of gross floor area exclusive of basements and garages used solely for utility and storage purposes	1 bike space per 10 code-requiring auto parking spaces
Retail Establishments, Services	1 space per 200 s.f. of gross floor area exclusive of basements and garages used solely for utility and storage purposes	1 bike space per 10 code-requiring auto parking spaces
Restaurants, Taverns, and other eating places	1 space per 4 seats	1 bike space per 10 code-requiring auto parking spaces
Medical and Dental Offices and Office Buildings	1 space per 300 s.f. of gross floor area exclusive of basements and garages used solely for utility and storage purposes	1 bike space per 20 code-requiring auto parking spaces
Light Manufacturing and General Industrial Uses	1 space per 2 employees of the two largest shifts combined and customarily employed on the premises	1 bike space per 50 code-requiring auto parking spaces
Religious	1 per 4 seating spaces	1 bike space per 12 code-requiring auto parking spaces

The PAA may require additional visitor auto and bicycle parking spaces if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in Sections 5.5.8.2 and 5.5.8.3 below.

**5.5.8.2 Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill automobile and bicycle parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

**5.5.8.3 Reduction in auto parking requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of automobile parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

1. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
2. The availability of public or commercial parking facilities in the vicinity of the use being served;
3. Shared use of off street parking spaces serving other uses having peak user demands at different times;
4. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
5. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
6. Such other factors as may be considered by the PAA.

**5.5.8.4 Location of Automobile Parking.** Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

**5.5.8.5 Bicycle Parking Standards.** Bicycle parking facilities shall be located in a convenient, highly visible and well lighted area to minimize theft and vandalism, generally within fifty (50) feet of a building entrance and within view of

pedestrian traffic and should be kept out of the public right of way. At a minimum, bicycle parking spaces shall be at least two (2) feet in width by six (6) feet in length to allow sufficient space between parked bicycles. A minimum five (5) foot wide aisle or space behind all required bicycle parking should be provided to allow room for bicycle maneuvering.

## **5.5.9 PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS**

**5.5.9.1 Plan Approval.** An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 5.5.9 through 5.5.13. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. Projects requiring Plan Approval are identified within Section 5.5.5 (Table 1).

**5.5.9.2 Plan Approval Authority (PAA).** The Planning Board, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

**5.5.9.3. PAA Regulations.** The PAA may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

**5.5.9.4 Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full build out of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 5.5.6.9.

## **5.5.10 PLAN APPROVAL PROCEDURES**

**5.5.10.1 Pre-application.** Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project build out and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGOD.

**5.5.10.2 Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 5.5.6, the application shall be accompanied by all materials required under Section 5.5.6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

**5.5.10.3 Filing.** An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

**5.5.10.4 Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Health, Conservation Commission, Safety Committee, Building Commissioner, Department of Public Works, the Ludlow Housing Authority (for any Project subject to the Affordability requirements of Section 5.5.6), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

**5.5.10.5 Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

**5.5.10.6 Peer Review.** The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after

the completion of such review, including any interest accrued, shall be returned to the applicant forthwith.

### **5.5.11 PLAN APPROVAL DECISIONS**

**5.5.11.1 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. The applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. The Project as described in the application meets all of the requirements and standards set forth in this Section 5.5 and the PAA Regulations, or a waiver has been granted there from; and
3. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 5.5.6, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 5.5, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**5.5.11.2 Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. The applicant has not submitted the required fees and information as set forth in the Regulations; or
2. The Project as described in the application does not meet all of the requirements and standards set forth in this Section 5.5 and the PAA Regulations, or that a requested waiver there from has not been granted; or
3. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

**5.5.11.3 Waivers.** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 5.5 (excluding Section 5.5.6, except where expressly permitted herein), including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 5.5.

**5.5.11.4 Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR

59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise approved by the Department, the proportion of Affordable units shall be at least 20 percent (20%) of all units constructed in each phase.

**5.5.11.5 Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the Hampden County Registry of Deeds and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

**5.5.11.6 Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

## **5.5.12 CHANGE IN PLANS AFTER APPROVAL BY PAA**

**5.5.12.1 Minor Change.** After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.

**5.5.12.2 Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a

minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 5.5.9 through 5.5.13.

### **5.5.13 DESIGN STANDARDS**

**5.5.13.1 Adoption and Amendment of Design Standards.** The PAA may adopt and amend, by simple majority vote, Design Standards which shall be applicable to all Projects subject to Plan Approval by the Plan Approval Authority. Such Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

**5.5.13.2 DHCD Approval.** After amending Design Standards, the PAA shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable cost to development Projects or unreasonably impair the economic feasibility of a development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a development Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

**5.5.14 SEVERABILITY.** If any provision of this Section 5.5 is found to be invalid by a court of competent jurisdiction, the remainder of Section 5.5 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 5.5 shall not affect the validity of the remainder of the Town's Zoning Bylaw.

END OF SECTION 5

## **SECTION VI: SPECIAL LAND USE REGULATIONS**

Section VI describes specific regulations that pertain to specific uses in specific districts. This section clarifies the conditions under which certain uses can be carried on.

### **6.0 HORSES AND/OR PONIES**

The keeping of HORSES and/or PONIES and a private stable, for personal use, are permitted under the following conditions:

6.0.1 The location of the stable is not less than one hundred twenty-five (125) feet from a street line and not less than fifty (50) feet from any side lot line and not less than fifty (50) feet from any rear lot line.

6.0.2 The minimum acreage required for a private stable shall be one acre of suitable land per horse or pony. Acreage for this purpose excludes all area used for any residential and accessory structures not intended for the purpose of the stable. (Amended 10/3/11)

6.0.3 Said animal or animals shall be kept under control by adequate fencing within the area specified. The fenced area shall be to the rear of the rear line of the dwelling of the owner or lessee except in cases where the frontage of the property is two hundred (200) feet or more on a public or private way.

6.0.4 Stables, corrals, and yards shall be properly drained and reasonably free from excessive odor, dust, and mud, so as not to create a nuisance or health hazard to the community or to surrounding property owners, from an air to drainage pollution standpoint.

6.0.5 Maintenance of the stable and property used in the keeping of horses and/or ponies shall conform to all regulations of the local Board of Health and State Health authorities.

### **6.1 EARTH REMOVAL**

6.1.1 In any zoning district, removal or addition of earth products from a lot shall require a Special Permit from the Board of Selectmen, and Site Plan Approval from the Planning Board. No mechanical separation will be permitted on site without a gravel bank permit.

#### **6.1.2 Application Requirements**

a. In addition to meeting the requirements of Section 7.0 SPECIAL PERMITS, all applicants for an earth removal special permit shall submit the following to the Board of Selectmen and the Planning Board:

- (1) The location of the proposed excavation.
  - (2) A full statement as to the purposes of the earth removal.
  - (3) A plan of the land involved showing all man-made features, property lines, and existing topography by ten-foot contours, plus proposed contours at ten-foot intervals showing the finish grade of the site after the completion of the proposed excavation project.
  - (4) The estimated quantity of material to be removed.
- b. The Board of Selectmen may also request the following information:
- (1) An erosion and sediment control plan.
  - (2) The amount and cost of proposed restoration materials.

### 6.1.3 **Standards of Operation**

The Board of Selectmen shall include the following conditions to be complied with when issuing a permit:

- a. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than three hundred (300) feet to such road.
- b. No excavation below the natural grade of any property boundary shall be permitted nearer than fifty (50) feet to such boundary.
- c. No slope created by the removal operation shall be finished at a grade in excess of the natural angle or repose of the materials.
- d. All excavated areas shall, upon completion of the operation, be covered with not less than four (4) inches of loam; brought to the finished grade and seeded in a satisfactory manner.
- e. Within the Floodplain District excavation of earth products shall be prohibited if such excavation will lower the level of the water table or will interfere with the natural flow pattern or reduce the flood storage capacity of a stream.
- f. No permit for earth products removal shall be issued if such removal will (1) endanger the general public health or safety; or (2) constitute a nuisance; or (3) result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration; or (4) result in traffic hazards in residential area or excessive congestion or physical damage on public ways.

g. A permit for any earth products removal may be issued for a period not exceeding five (5) years in duration. Upon reapplication for a permit, the Board of Selectmen may at its discretion, grant one or more extensions of said permit, each of which shall not exceed five (5) years duration.

h. In approving the issuance of such permit, the Board of Selectmen shall impose reasonable requirements which shall constitute a part of the permit and which may include: grading, seeding, and planting, fencing necessary for public safety, methods of removal, location and use of structures, hours of operation, routes of transportation of material removed, control of drainage and disposition of waste incident to the operation.

i. **Security**

The Board of Selectmen may require suitable bond or other security adequate to assure compliance with the provisions of this section.

6.1.4 **Earth Removal Exemptions**

No Special Permit shall be required for the following:

- a. Moving earth products within the limits of an individual property or series of contiguous properties of land in single ownership.
- b. Removal of earth products from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same.

6.2 **HOME OCCUPATIONS**

The Planning Board may authorize, by issue of a SPECIAL PERMIT and Site Plan Approval, the use of a portion of a DWELLING or building accessory thereto as the workroom of a resident artist, craftsman, beautician, dressmaker, milliner, photographer, cabinetmaker, skate sharpener, radio repairman or other person engaged in a customary home occupation, or as a place for incidental work and storage in connection with his off-premises trade by a resident builder, carpenter, electrician, painter, plumber or other artisan, resident tree surgeon, landscape gardener, or similar person. The criteria for issuance of said SPECIAL PERMIT is as follows:

6.2.1 Such use is clearly secondary to the use of a premises for dwelling purposes.

6.2.2 The use is pursued by a member of the family residing in the dwelling with no more than two non-resident employees.

6.2.3 No trading in merchandise is regularly conducted except for products made on the premises or of parts or other items customarily maintained in connection with, and incidental to, such merchandise.

6.2.4 No external change is made which alters the residential appearance of the building on the lot.

6.2.5 All operations, including incidental storage, are carried on within the principal or accessory building, and that there is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign or vehicle as hereinafter permitted).

6.2.6 The proposed accessory use would be suitably located in the neighborhood in which it is proposed. The use shall not be characterized by outward manifestations (such as traffic generation, noise, public service and utility demand, etc.) not unlike those dwelling units in the particular neighborhood in which the dwelling is located.

6.2.7 Only one vehicle parked on the property may be a commercial vehicle and of not more than 10,000 pounds G.V.W (Gross Vehicle Weight). In all, the total number of vehicles parked on the property during business hours should not exceed by more than two (2) the number of vehicles parked during non-business hours.

6.2.8 In Residence (RA-1, RA, RB) and Agriculture (A, AMD) districts, the use will be reasonably compatible with other uses permitted as of right in the same district and with adjoining uses.

6.2.9 The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles, or pedestrians.

6.2.10 Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation on the site and at the intersection with abutting streets.

6.2.11 The occupational use shall not occupy more than the equivalent of twenty-five percent (25%) of the total gross floor area of the residential structure plus other accessory structures housing the occupation or no more than 500 square feet of gross floor area, whichever is less.

6.2.12 In connection with a home occupation there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area and shall not be lighted.



<b>Units with two or more bedrooms</b>	2 spaces per unit
<b>Housing for the elderly (i.e. Dwellings designed for and occupied exclusively by persons 60 years of age and older.)</b>	1/2 space per unit
<b>Convalescent and Nursing Homes</b>	1 space per 4 beds
<b>Motels</b>	1 1/4 space per unit. (Note: any other permitted use associated with a motel shall be provided with additional parking accommodations as required herein.)
<b>Professional, Business, Insurance Offices and Banks</b>	1 Space per 300 S.F. of gross floor area exclusive of basements and garages used solely for utility and storage purposes.
<b>Retail Establishments, Service, Convenience and Repair Enterprises</b>	1 space per 200 S.F. of gross floor area exclusive of basements and garages used solely for utility and storage purposes.
<b>Restaurants, Taverns, and other eating places</b>	1 space per 4 seats
<b>Medical and Dental Offices and Office Buildings</b>	1 space per 300 S.F. of gross floor area exclusive of basements and garages used solely for utility and storage purposes.
<b>Industrial, Manufacturing, Warehouse, and Wholesale uses</b>	1 space per 2 employees of the two largest shifts combined and customarily employed on the premises
<b>Auditoriums, Theaters, Stadiums, and Arenas</b>	1 space per 4 seats

**Museums, Libraries**

1 space per 300 S.F. of gross floor area

**Auto Sales Lots:**

One space 9' X 18' for each licensed display unit. Additional parking shall be one parking space for each 5 display spaces with a minimum of 3 spaces for salesmen and customers. A front yard buffer display area shall have on its inner side, a fence or barrier at least eighteen inches (18") in height to allow no part of a vehicle within the buffer area. (Added 10/97)

**East Street Revitalization  
Overlay District and  
Non-Conforming Use Parking:  
(Added 5/9/11)**

Due to the non-conforming nature of the lots and buildings in the East Street Revitalization Overlay District and other non-conforming parcels and structures throughout town, the Planning Board may waive up to, but no more than 5 parking spaces.

**Municipal Recreational Park  
(Added 10/3/11)**

Parking spaces are as needed and are to be determined by the Planning Board, with input from relevant Boards, including but not limited to, the Recreation Commission, Board of Public Works, and the Safety Committee.

**Medical Marijuana  
Treatment Center/Dispensary:  
(Added 5/12/14)**

1 space per 200 S.F. of gross floor area exclusive of basements and garages used solely for utility and storage purposes.

b. Gross floor area shall mean the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

c. When the computation of required parking spaces results in the requirements of a fractional space, any fraction of one-half or more shall require one space.

d. Plans submitted to the Special Permit Granting Authority or the Building Inspector for uses exempted from the requirements of this section shall indicate required spaces and reasonable access thereto.

e. For proposed uses not listed in the parking guidelines an adequate number of parking spaces will need to be provided to accommodate visitors, staff, and the general public. Final determination of parking adequacy to be determined by the Planning Board, with input from the Board of Public Works and the Safety Committee. (Added STM 10/4/21)

#### 6.4.3 **Mixed Uses**

In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately. Parking spaces for one use shall not be considered as providing the required parking for any other use.

#### 6.4.4 **Curb Cut Permits**

a. A curb cut permit must be obtained from the Department of Public Works or the Engineering Department for all new or relocated driveways or parking lots.

b. The number of driveway entry permits allowed by right are as follows:

Single- family dwelling - one entry

Business Use in AMD district - one entry

Any other use - two entries

If an applicant wishes to modify the requirement, the applicant must obtain approval from the Department of Public Works.

#### 6.4.5 **Parking Area Location**

a. **Uses permitted within the Business A, Business B and Industrial A & C districts**

For uses permitted within the Business A, Business B and Industrial A & C districts, required off-street parking need not be provided on-site. Such parking may be provided on any parcel within a radius of 600 feet of any premises used for a purpose permitted within Business districts provided: (Amended 10/2/06 & STM 10/4/21))

(1) Any such parcel is not located within a Residential District;

(2) Such parcel is landscaped in accordance with the provisions of Table 3 of this bylaw.

b. **All other Districts** (Amended 10/2/06)

For uses permitted in all districts except the Business districts, motor vehicles parking accommodations shall be provided on the same lot or on an abutting lot

under common ownership and located in the same zoning district as the principal building as follows.

#### 6.4.6 **Parking Space**

- a. All parking and display spaces shall be 9' X 18' exclusive of maneuvering area and reasonable access.(Added 10/7/96)
- b. Deleted 10/7/02

#### 6.4.7 **Surfacing**

In all Business zones, all parking areas and driveways must be constructed of concrete or bituminous concrete. (Amended 10/7/02 & 10/1/12)

In all Industrial zones, all driveways and all visitor/employee parking areas must be constructed of concrete or bituminous concrete. Parking for equipment /heavy equipment and storage of equipment/heavy equipment is allowed on gravel surfaces. (Added 10/1/12)

In all other zoning districts, that portion of the driveway that lies within the public way shall be constructed in accordance with the Town of Ludlow Board of Public Works' "Regulations for Construction Within the Public Way" in effect at the time of construction.

### 6.5 **SIGN REGULATIONS**

#### 6.5.1 **Applicability**

The provisions of this section shall apply to the construction, erection, alteration, use, location, and maintenance of all signs located out-of-doors, or those signs affixed on any part of a building for the express purpose of being visible from the exterior of the building.

#### 6.5.2 **Definitions**

**Abandoned Sign:** any temporary sign which applied to an event more than seven days prior; any permanent sign for which the owner cannot be found, or which no longer has application to the property on which it is located.

**Accessory Sign:** a sign which does not identify a business, service, product, or activity; i.e. Open, Closed, Vacancy, Hours of Operation etc.

**A-Frame Sign:** see "Sandwich Sign."

**Animated Sign:** any sign which uses actual movement or the illusion of movement.

**Area of a Sign:** the area of a sign shall be calculated as the smallest rectangular area which completely encompasses all components of the sign, exclusive of its support(s); or the smallest circular area, whichever is greater. Area of sign having no significant third dimension and displaying information on two sides shall be considered as the area of a single side. Area of signs having a significant third dimension, as judged by the Sign Commissioner, and displaying information on two or more sides shall be calculated on a case-by-case basis.

**Awning Sign:** a sign attached to or printed upon the tile or fabric material supported by framing and which is attached to a building.

**Banner:** a flexible piece of cloth, plastic, or similar material, used for advertising attached at one or more points to a pole, staff, or other support.

**Changeable-copy Sign:** a sign that is designed so that characters, letters, plaques, or illustrations can be changed or rearranged without changing the design of the sign.

**Commercial #1 Sign:** any sign affixed to, suspended from, or incorporated as part of a building that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Commercial #2 Sign:** any sign that directly or indirectly names, advertises, or calls attention to a business, product, service, or commercial activity and is not a Commercial #1 marquee, residential, political, real estate, professional announcements, lodging, boarding and tourist, temporary, or directional or identification sign.

**Construction Sign:** a temporary sign identifying an architect, builder, contractor, subcontractor, material supplier, or other participant in the construction, alteration, or maintenance, currently being done on the property on which the sign is located.

**Direct/External Lighting:** illumination by means of a light source that is external to the sign being lit.

**Directional, Informational, or Safety Sign:** an on-premises sign which identifies the premises, the activity, or the business conducted upon such premises or which provides directions for the safe and efficient flow of traffic. Such signs include those marking entrances, exits, parking areas, loading areas, or other operational features of the premises.

**Door Sign or Window Sign:** any sign or poster placed inside a window or door and legible from a public way (with characters that exceed two and one-half inches (2 ½”) in height).

**Double-Faced Sign:** a sign lettered on both sides.

**Flashing Sign:** a sign which is illuminated by an intermittent or sequenced light source.

**Free-Standing Sign:** a self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer-type signs.

**Government Sign:** any sign erected and maintained by the government.

**Height of a Sign:** the vertical distance measured from the highest point of a sign to the ground level beneath the sign.

**Internal lighting (indirect lighting):** illumination by means of light sources contained within the body of the sign.

**Ladder Sign:** a sign with two (2) or more crosspieces serving as individual signs.

**Marquee Sign:** a roof-like structure, canopy, or mobile unit bearing a signboard with or without a scrolling message.

**Nonconforming Sign:** a sign which was erected legally but which does not comply with subsequently enacted regulations.

**Off Premises Sign:** a sign identifying a business or residential use, facility, or service which is not located on the premises where such activity is located.

**Political Sign:** a temporary sign associated with the elective process.

**Portable Sign:** any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, included but not limited to: signs designed to be transported by means of wheels; and signs converted to A- or T-frames; menu and sandwich board signs and balloons used as signs. Portable signs are temporary signs.

**Projecting Sign:** a sign which extends from a wall of a building.

**Real Estate Sign:** a temporary sign that advertises real property as being for sale, rent, or lease.

**Residential Sign:** signs for the identification of residential subdivision developments, townhouse developments, and multi-family developments; signs for institutional uses, including schools, churches, state and federal buildings, and utilities; and identification signs for farms, riding stables, and other agricultural or forestry uses.

**Roof Sign:** a sign which is located above, or projected above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

**Sandwich Sign:** a self supporting, double paneled, temporary sign, with panels that are not parallel but are connected along one (1) edge and separated along the opposite edge. If connected on a vertical edge, it is a V-Shaped sign. If connected at the top, it is an A-frame sign.

**Sign:** any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation use as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by means including intermittent or repeated motion or illumination.

**Sign Commissioner:** the person appointed by and accountable to the appointing authority and responsible for the enforcement of this Bylaw, currently the Building Commissioner/Inspector of Buildings.

**Special Event Sign:** a temporary sign advertising or pertaining to a civic, patriotic, educational, or other event.

**Subdivision Identification Sign:** a sign identifying a subdivision, condominium complex, or residential development under construction.

**Subdivision Lot Plan Sign:** a sign depicting the lot plan of a subdivision.

**Subsidiary Sign:** a lesser sized sign attached to another sign.

**Temporary Sign:** any sign, including its support structure, intended to be maintained for a continuous period of not more than three (3) months in any calendar year and is not permanently mounted. This includes portable signs.

**Wall Sign:** any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six (6) inches from the surface of that building.

### 6.5.3 **Permitted Signs**

Only signs which refer to a permitted use or an approved conditional use as set forth in Section III of the Ludlow bylaw are permitted, provided such signs conform to the provisions of this section.

### 6.5.4 **Prohibited Signs**

- a. Signs in excess of 100 square feet in area.
- b. Signs that constitute a hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.

- c. Signs that incorporate, or are lighted by, flashing or blinking lights, or are designed to attract attention by a change in light intensity or by repeated motion. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions of this bylaw.
- d. Any sign advertising or identifying a business or organization which is defunct or no longer located on the premises is not permitted.
- e. Portable signs are prohibited in the RA-1, RA, RB, A, or AMD districts.

**6.5.5 Placement Standards/Sign Height in All Districts**

- a. If affixed to, suspended from, or incorporated as part of a building, a sign cannot project more than twenty-four (24) inches over or into any building.
- b. If supported by or suspended from a pedestal, post or tree, a sign cannot project more than twenty-four (24) inches over or into any pedestrian or vehicular way customarily used by the public.
- c. No sign can project or extend more than six (6) feet above the eaves line or parapet of any building to which it is affixed.
- d. If free-standing, a sign cannot extend more than twelve (12) feet above ground level.
- e. No part of a free-standing sign is to be located closer than ten (10) feet to the property line within the front yard setback. The sign cannot interfere with the line-of-sight for traffic. This required dimension is reduced to five (5) feet for pre-existing, non-conforming parcels. **(Added 5/14/12)**

**6.5.6 Signs Allowed in Each Zoning District**

No sign shall be erected unless it is permitted by Table 4, Permitted Signs by Type and Zoning District:

- Y - Yes Sign Permitted
- N - No Sign Prohibited

**6.5.7 Non-Conforming and Temporary Signs**

- a. Signs legally existing at the time this bylaw is adopted may continue as non-conforming uses, and may be increased in size and height when approved by the Board of Appeals. (revised 4/10/95)

This provision shall not apply to billboards, signs and other advertising devices subject to the provisions of Sections 29 through 33, inclusive, of Chapter 93, and to Chapter 93D of the General Laws.

b. A directional or identification sign may be erected and maintained in any district where the Board of Appeals, acting under Section 7.0 finds that such a sign will serve the public convenience, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood.

c. Nothing herein shall affect provisions in existing bylaws relating to temporary signs permitted by the Selectmen, or posted by the Town or government.

d. The maximum size for temporary signs is eighteen (18) inches by twenty-four (24) inches. Temporary signs cannot be placed on town property or interfere with the line-of-sight for traffic. (Amended 10/6/14)

#### 6.5.8 **Permits**

a. Any sign over eighteen (18) inches by twenty-four (24) inches shall require a permit from the Building Commissioner. Excludes temporary signs. (Amended 10/1/12 & 10/6/14)

b. Applicants must provide a description of all existing signs on the premises as well as a scale drawing specifying dimensions, illumination materials and location on land or buildings for the proposed new sign(s).

c. The Building Inspector shall issue a permit for a sign when an application therefore has been made and the sign complies with all applicable regulations of the Town and the State Building Code. (Amended 10/2/06)

### 6.6 **ACCESSORY APARTMENT BYLAW (Added 10/4/93)**

6.6.1 Accessory Apartments shall be permitted in all residential districts, the agricultural district, and the agricultural moderate density district only upon issuance of a special permit from the Planning Board, as specified in Section 7.0 of this bylaw, and in accordance with the additional requirements specified herein.

#### 6.6.2 **General Description**

An accessory apartment shall mean a separate housekeeping unit, complete with its own sleeping, cooking, and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, but functions as a separate unit.

6.6.3 The Planning Board may authorize, under a special permit in all residential districts, the agricultural district, and the agricultural moderate density district, a use known as Accessory Apartment, Owner-occupied, single-family dwelling, provided that the following standards and criteria are met:

- a. The accessory apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.
- b. Only one apartment will be created within a single family home.
- c. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
- d. The additional unit shall be occupied only by a family member. For purposes of this article, family member shall be defined as one of the relatives of the home owner or spouse as follows: mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather and/or their spouses.
- e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be on the side or rear of the building. Any exterior changes made must conform with the single family character of the neighborhood.
- f. DELETED 1/25/99 STM
- g. The accessory apartment shall be clearly a subordinate part of the single family dwelling. It shall be no greater than eight hundred (800) square feet nor have more than (1) bedroom.
- h. There shall be provided at least two (2) off-street parking spaces for the principal dwelling unit, and at least one (1) off-street parking space for the accessory apartment. Parking spaces shall be located to the side or rear of the structure, and behind the front yard setback required for the zoning district.
- i. For dwellings to be served by on-site septic system, the owner must obtain a letter from the Board of Health that the existing sewage disposal system is adequate for the proposed accessory apartment, before a special permit can be obtained.
- j. DELETED 10/05/20 STM
- k. There shall be no lodgers in either the original dwelling unit or the accessory apartment.

1. The construction of any accessory apartment shall require a building permit.

#### 6.6.4 **Application Procedure**

- a. The procedure for the submission and approval of a special permit for an Accessory Apartment in owner-occupied, single family dwellings shall be the same as prescribed in the special permit section by the Planning Board, except that it shall include a notarized letter of application from the owner(s) stating that he/they will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of the legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Section 11 must be notified.
- b. A special permit shall be issued for a period of not greater than four (4) years. The special permit may be automatically renewed every four years upon receipt of proof of owner occupancy and occupancy by a family member, as defined in Section 6.6.3.d.

Approximately one month prior to the renewal date, the Planning Board shall send out a renewal form to be signed by the owner(s), notarized, and returned to the Planning Board for action by the Board. If the owner fails to return the renewal form, the board will presume there is no interest in renewal and revoke the Special Permit at that time. (Amended 1/25/99 STM)

- c. Upon receiving a special permit, the owner(s) must file on subject property a Declaration of Covenants at the Hampden County Registry of Deeds. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board and the Building Department.

#### 6.6.5 **Transfer of Ownership of a Dwelling with an Accessory Apartment**

- a. The temporary special permit for an accessory apartment in an owner-occupied, single-family dwelling shall terminate upon the sale of the property or transfer of the title of the dwelling, or removal from the dwelling by reason of health or death of the occupant of the accessory unit.
- b. The owner(s) of the altered dwelling will dismantle the cooking facilities for the accessory apartment and restore the dwelling to a single-family residence upon sale or transfer of title of the dwelling, or removal from the dwelling by reason of health or death of the occupant of the accessory unit, unless a new special permit is obtained within three (3) months after the happening of any of the above events.

c. The new owner(s) must apply for reapproval of a special permit for an accessory apartment in an owner-occupied, single-family dwelling and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units and the additional unit will be occupied by a family member as defined in Section 6.6.3 d. The notarized letter shall state that the original conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing from the Planning Board.

d. Upon receiving a special permit, the new owner(s) must file on the subject property, a Declaration of Covenant at the Hampden County Registry of Deeds. A time-stamped copy of the recorded Declaration of Covenant shall be provided to the Planning Board and the Building Department.

## **6.7 WIRELESS COMMUNICATIONS FACILITIES**

6.7.1 INTENT. The intent of this section is to regulate the siting and design of commercial and public utility-operated wireless communications facilities and to minimize any adverse impact that may be associated with facilities such as, but not limited to, cellular telecommunications towers.

6.7.2 TYPE. Wireless communications facilities may be either mounted on top of an existing building (roof-mounted), mounted adjacent to the side or rear of an existing building (side-mounted), mounted to the facade of an existing building (facade-mounted), or ground-mounted. An existing building must be used and occupied, except for buildings used in conjunction with the wireless communications facility. All facilities must conform to applicable rules and regulations set forth by the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) as well as any applicable Commonwealth of Massachusetts and municipal regulations.

### **6.7.3 DESIGN STANDARDS FOR FACILITIES (AMENDED 1/25/99 STM)**

Wireless communications facilities are subject to the requirements of the underlying zone and the following site design standards.

a. Height. Ground-mounted facilities shall not exceed the permitted height of the underlying zone. For roof-, side-, and facade-mounted facilities, the height of the facility shall not extend more than sixteen (16) feet above the existing roof line. In the case of an existing building height of sixteen (16) feet or less, the height of a roof- or facade-mounted facility shall not exceed the height of the existing building as defined in Table 2.

b. Facility Area. Any ground-mounted or side-mounted wireless communications facility and any accessory structures must be enclosed within a defined facility area. This area shall enclose all structures relative to the operation of the facility and shall not be less than three hundred(300) square feet.

c. Landscaping and fencing. the facility area, as defined by Section 6.7.3 b, shall be suitably landscaped and fenced. Acceptable fencing shall cover the perimeter area, except that portion of a side-mounted facility adjacent to the structure. Fencing shall be six feet (6') high. Fencing may be protective in nature, but shall not include a spun barbed wire design. A landscape buffer of evergreen shrubs or tree plantings shall be provided on the outside of the fenced area. The shrub or tree plantings shall mature to a height equivalent to the fence heights and be planted at a height of at least four feet (4') and planted no less than three feet (3') apart.

All landscape plantings must be continually maintained.

d. Setback. For side- and ground-mounted facilities, the following setbacks apply: 30% of tower height from a property line abutting a non-residential use and 200% of tower height from a property line abutting a residential use, and 120% from any roadway or sidewalk. In no case shall a ground-mounted or side-mounted facility built as an accessory use be allowed on any portion of the lot between a street and the principal building.

e. Co-location. Proposed side- or ground-mounted wireless communications facilities must demonstrate adequate engineering standards to provide for the co-location of two or more wireless communications carriers.

f. Signs. There shall be no sign associated with a facility.

A two feet by two feet (2'X2') identification sign with a "No Trespassing" or "In Case of Emergency" message is allowed for ground- or side-mounted facilities.

4. Facilities requiring a Special Permit. A Special Permit from the Special Permit Granting Authority is required when:

a. A wireless communications facility is proposed to exceed the height restrictions in Table 2. The special permit granting authority may review facilities up to a maximum height of 140' in Agriculture and Agriculture Moderate Density Overlay districts; and 200' in Industrial A, B, and C districts.

b. A side- or ground-mounted structure is proposed on a parcel with such a facility or for a parcel abutting a parcel with such a facility.

c. A ground-mounted facility is proposed.

5. Special Permit Review Criteria. The Special Permit Granting Authority, in reviewing a petition, shall consider the following criteria:
- a. The adequacy of protection from residential dwellings;
  - b. The adequacy of the setback or design of the facility to ensure the safety of persons or other property in the event of collapse;
  - c. Any adverse impact on other wireless communications facilities; and
  - d. The aesthetic quality of the facility, including the adequacy of screening and landscaping; and the adequacy of security for the facility.

The Special Permit Granting Authority may, but is not required to, waive the area, height, or setback restrictions. The Special Permit Granting Authority may only waive up to 30% of the area requirements in Residential zones. Any waiver request must be made in writing at the time of application with suitable documentation relative to site constraints or location difficulties.

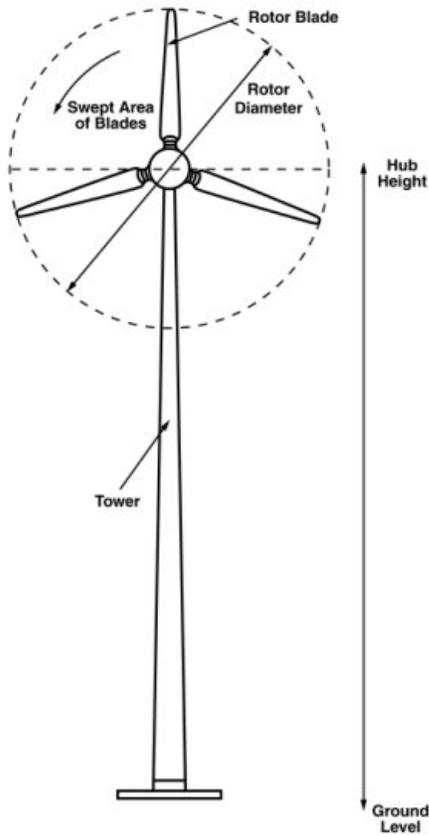
6. Discontinuance. Prior to the issuance of a Building Permit for a ground-mounted facility requiring a Special Permit, the applicant is required to post with the Town Treasurer, a bond or other form of financial security acceptable to said Treasurer in an amount set by the Building Inspector or his/her designee. The amount shall be suitable to cover the demolition of the facility in the event the Building Inspector condemns the facility or deems it vacant for more than a year. The Building Inspector shall give the applicant 45 days notice in advance of any demolition action. In the event that the posted amount does not cover the cost of demolition, the Building Inspector may place a lien on the property covering the difference in cost. (Added 4/14/97)

### **6.8 COMMERCIAL KENNELS: (added 10/4/10)**

A special permit and site plan approval may be issued for a commercial kennel by the Planning Board. The minimum acreage required shall be a parcel that consists of at least 10 acres. The facility shall be located not less than 150 feet from any street line and not less than 100 feet from any side or rear lot line. Maintenance of the facility shall conform to all regulations of the Board of Health and State Health authorities.

**6.9 SMALL WIND ENERGY SYSTEMS BYLAW: (added 5/9/11)**

**A. Purpose.** The purpose of this bylaw is to promote the safe, effective and efficient use of Small Wind Energy Systems installed to offset the on-site consumption of utility-supplied electricity.

**B. Small Wind Energy System Diagram**

### **C. General Requirements**

(1) Small Wind Energy Systems that are accessory to a principal residential, commercial or industrial use are permitted by right with Site Plan Approval by the Planning Board. However, roof- or building-mounted wind turbines that extend no higher than 10 feet above the highest point of the building's roof are allowed by right and do not require Planning Board review.

(2) No Small Wind Energy System, including roof- or building-mounted systems, shall be erected, constructed, installed or modified without obtaining a Building Permit from the Building Inspector.

(3) Meteorological towers shall be permitted under the same standards as a Small Wind Energy System, except that the requirements apply to a temporary structure. A permit for a temporary meteorological tower shall be valid for a maximum of 3 years after which an extension may be granted by the Planning Board.

(4) The construction and operation of all Small Wind Energy Systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications, and Federal Aviation Regulation (FAR) Part 77 requirements, including any necessary approvals for installations close to airports.

(5) All applicants must register with the FAA and fill out the appropriate forms on the following website: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>. The Federal Aviation Administration Office of Obstruction Evaluation / Airport Airspace Analysis (OE/AAA) is the final authority over objects that affect navigable airspace.

(6) All Small Wind Energy Systems are subject to the procedural requirements of the Ludlow Zoning Bylaws Section 7.1 Site Plan Approval.

(7) Small Wind Energy Systems are permitted in the Aircraft Flight Overlay District. However, proposals within the Aircraft Flight Overlay District shall be submitted by the Planning Board to the Westover Air Reserve Base in Chicopee for review and comment, as part of the Site Plan Approval process.

(8) Small Wind Energy Systems are not permitted in a Clear Zone (CZ) of the Westover Air Reserve Base. This Bylaw hereby incorporates Map 1 (from the Westover Joint Land Use Study), which indicates the Clear Zone (CZ) locations.

### **D. Siting Requirements**

(1) No part of the wind system, support structure, or the structure on which the rotor is located is to be located within a wetland area.

(2) Setbacks.

Wind turbines that are part of systems with a rated capacity up to 60 kW shall be set back a distance equal to the total height of the wind turbine plus 15 feet from all habitable structures on neighboring properties, as well as overhead utility lines and public road or right of ways.

Wind turbines that are part of systems with a rated capacity over 60 kW and up to 100 kW shall be set back at a distance equal to 1.5 times the total height of the wind turbine from all habitable structures on neighboring properties. Further, these turbines shall be set back from overhead utility lines and public road or right of ways at a distance equal to the total height of the wind turbine plus 15 feet.

The Planning Board may issue a waiver to reduce the minimum setback distance as appropriate based on site-specific considerations and written consent of any affected abutter(s).

**E. Design Standards**

(1) The wind generator and tower shall remain painted or finished in a nonreflective color or finish.

(2) Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the Small Wind Energy System, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

**F. Safety, Aesthetic and Environmental Standards**

(1) All Small Wind Energy Systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.

(2) Total wind turbine height shall be limited to 150 feet from existing grade.

(3) Small Wind Energy Systems shall be designed to prevent unauthorized access. Climbing access to the tower shall be limited by one of the following methods, or by an alternative method approved by the Planning Board: by placing climbing apparatus no lower than 10 feet from the ground, or by placing shielding over climbing apparatus or access, or by installation of a fence.

(4) The Small Wind Energy System and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality and Noise Regulations (310 CMR 7.10), or shall conform with the following provisions, whichever is more restrictive:

Noise may not:

- (a) Increase the broadband sound level by more than 10 dB(A) above ambient.
- (b) Produce a “pure tone” condition – when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria are measured at both the property line and the nearest inhabited structure on adjacent properties. Ambient is defined as a background-weighted sound level that is exceeded 90% of the time, as measured during equipment hours.

Failure to conform to this regulation may result in legal action from the town and may result in legal action from Mass DEP.

(5) That Planning Board shall determine that clearing of natural vegetation has been limited to that which is necessary for the construction, operation and maintenance of the Small Wind Energy System and is otherwise prescribed by applicable laws and regulations.

(6): Shadow/Flicker: Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses. **(Added 5/14/12)**

**G.** The applicant shall maintain the Small Wind Energy System in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures.

#### **H. Abandonment or Decommissioning.**

(1) Any Small Wind Energy System which has reached the end of its useful life or has been abandoned shall be removed.

(2) A Small Wind Energy System will be considered to be abandoned if it is not operated for a period of two years or if it is designated as a safety hazard by the Building Inspector. If this occurs, the Building Inspector shall issue a Notice of Abandonment, and the system owner will have 30 days to provide sufficient evidence that the system has not been abandoned, or that the safety hazard has been addressed. After 30 days from the issue of the Notice of Abandonment, if the issue is not resolved to the satisfaction of the Building Inspector, the town shall have the authority to enter the owner’s property and remove the system at the owner’s expense.

(3) Once a Small Wind Energy System has reached the end of its useful life or is designated as abandoned, the owner shall be required to immediately physically remove the installation. "Physically remove" shall include, but not be limited to:

Removal of Small Wind Energy System, any equipment shelters and security barriers from the subject property.

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

Restoring the location of the Small Wind Energy System to its natural condition, except that any landscaping and grading improvements shall remain.

## **I. Submission Requirements**

(1) Small Wind Energy System applications shall submit the required Site Plan Contents detailed under Section 7.1 Site Plan Approval, unless specific criteria are waived by the Planning Board, and shall also include:

A site plan with property lines and physical dimensions of the subject property within 2 times the total height from the tower location, or as specified under Section 7.1 Site Plan Approval, whichever is greater.

Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), color, and proposed lighting, if any.

Tower and foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts or direct from the turbine manufacturer with documentation of compliance with State Building Code. Elevation drawings shall be provided and shall show both tower and building heights.

A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the Massachusetts Electrical Code. This information is frequently supplied by the manufacturer.

A Determination from the FAA (Form 7460-3).

Evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

Proof of liability insurance for the facility in an amount and for the duration of time sufficient to cover loss or damage to persons and structures impacted by the failure of the Small Wind Energy System.

(2) Additional submission requirements may be requested by the Planning Board or Building Inspector, as necessary.

**J. Expiration (Amended 5/14/12)**

(1) Under the State Building Code, work must commence within twelve (12) months from the date a Building Permit is issued. However, a project proponent may request one twelve (12) month extension of the permit from the Building Commissioner. If the Small Wind Energy System is not installed and functioning within 24 months from the date the original permit is issued, further permit extensions may be granted by the Planning Board.

(2) All permits issued pursuant to this bylaw shall expire if The Small Wind Energy System is abandoned.

**K. Violations (Amended 5/14/12)**

It is unlawful for any person to construct, install, or operate a Small Wind Energy System that is not in compliance with this bylaw or with any condition contained in a permit issued pursuant to this bylaw.

**L. Administration, Fees and Enforcement (Amended 5/14/12)**

(1) Once an application is submitted, the Planning Board will have 90 days to review the site plan. If approved, the Building Commissioner will then have 30 days to either deny or approve the building permit. This bylaw shall be administered and enforced by the Building Commissioner or another official as designated.

(2) If necessary the town may hire outside consultants, paid for by the applicant, to review all plans, in accordance with M.G.L. Ch. 44 Sec. 53G.

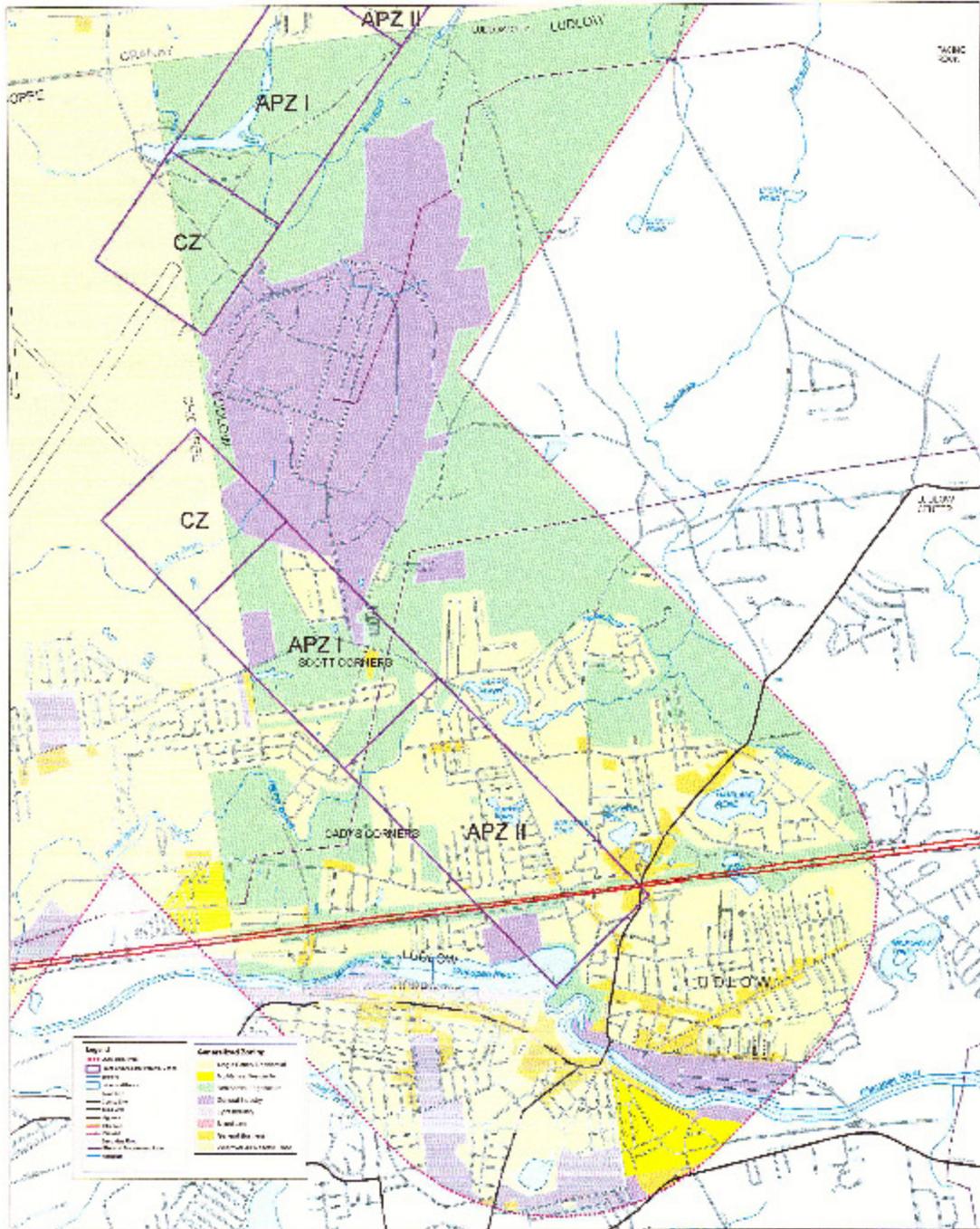
(3) The Building Commissioner may enter any property for which a Building Permit has been issued under this bylaw to conduct an inspection to determine whether the conditions stated in the permit have been met.

**M. Penalties**

Any person who fails to comply with any provision of this bylaw or a Building Permit issued pursuant to this bylaw shall be subject to enforcement and penalties as allowed by applicable law.

**N. Severability**

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.



Westover Joint Land Use Study  
Ludlow Generalized  
Municipal Zoning Districts

©



## **6.10 LARGE-SCALE, GROUND-MOUNTED, PHOTOVOLTAIC SYSTEMS**

**(Added 5/14/12)**

### **6.10.1 Purpose**

The purpose of this subsection of the Zoning Bylaw is to establish appropriate criteria and standards for the placement, design, construction, operation, monitoring, modification, removal and/or repair of new large-scale, ground-mounted, photovoltaic systems. These standards will address public safety, minimize impacts on scenic, natural and historic resources and provide adequate financial assurance for the eventual decommissioning of such systems.

### **6.10.2 Applicability**

This section applies to large-scale ground-mounted photovoltaic systems proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of existing systems or related equipment. Building-mounted photovoltaic systems and small-scale, ground-mounted photovoltaic systems are exempt from the provisions under this bylaw but shall comply with the building code and require a building permit.

### **6.10.3 Location**

Large-scale, ground-mounted, photovoltaic systems shall be allowed in the districts identified in Table 1: Ludlow Table of Principal Uses. Large-scale, ground-mounted, photovoltaic systems shall be allowed in the Aircraft Flight Overlay District provided they conform to all applicable rules and regulations set forth by the Federal Aviation Administration (FAA).

### **6.10.4 General Requirements for Site Plan Review and Approval**

Large-scale, ground-mounted, photovoltaic systems shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

The construction and operation of all large-scale, ground-mounted, photovoltaic systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a large-scale, ground-mounted, photovoltaic system shall be constructed in accordance with the Building Code.

All applications for Site Plan Approval must comply with Section 7.1 – Site Plan Approval. In addition, the following documents are required specifically for large-scale, ground-mounted, photovoltaic systems:

- (a) Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter.
- (b) Contact information for the proposed system installer.
- (c) Contact information and signature of the project proponent, as well as all co-proponents, if any, and all property owners.
- (d) Contact information and signature of agents representing the project proponent, if any.
- (e) Contact information for the person(s) responsible for public inquiries throughout the life of the system.
- (f) Blueprints of the photovoltaic system showing the proposed layout of the system and proposed shading from nearby structures, natural features and landscaping.
- (g) One or three lined electrical diagrams detailing the photovoltaic system, any associated components, and electrical interconnection methods, with all National Electric Code compliant disconnects and overcurrent devices.
- (h) All plans and maps associated with large-scale, ground-mounted, photovoltaic systems shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
- (i) Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed photovoltaic system.
- (j) An operation and maintenance plan which shall include measures for maintaining safe access to the system, storm water controls, and general procedures for operational maintenance of the system.
- (k) Proof of liability insurance.
- (l) Description of financial surety that satisfies Section 6.10.9(c).
- (m) Utility Notification. No large-scale, ground-mounted, photovoltaic system shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the system is to be located has been informed of the owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

### 6.10.5 Design Standards

(a) **Dimensional and Density Requirements**

All construction shall comply with the yard, space, and height requirements of the zoning district(s) in which the system is located as per Table 2: Table of Dimensional Regulations. In cases where the parcel abuts residential zones, park land, or conservation land, the setback shall be a minimum of 50 feet, unless waived by the Site Plan Review Authority.

(b) **Lighting**

Lighting of the large-scale, ground-mounted, photovoltaic system and any appurtenant structures shall be directed downward and inward and shall incorporate full cut off fixtures to reduce light pollution. Lighting shall be limited to that which is required for safety and operational purposes, and shall be shielded from abutting properties.

(c) **Signage**

An identification sign shall be no larger than two feet by two feet, shall identify the owner and provide a 24-hour emergency contact phone number. The sign shall be made visible from a right of way where the property has frontage. Large-scale, ground-mounted, photovoltaic systems shall not be used for displaying any advertising except for identification of the manufacturer or operator of the system. All signs require a Building Permit and will comply with the signage provisions in Ludlow's Zoning Bylaws.

(d) **Utility Connections**

Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the large-scale, ground-mounted, photovoltaic installation underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(e) **Appurtenant Structures**

All appurtenant structures to large-scale, ground-mounted, photovoltaic systems shall comply with Table 2: Table of Dimensional Regulations. In the case that the parcel abuts residential zones, park land or conservation land the setback shall be a minimum of 50 feet, unless waived by the Site Plan Review Authority.

Structures shall be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts. All appurtenant structures shall have a Landscape Plan. Vegetative screening shall reach a mature form to effectively screen the installation within five years of installation.

### **6.10.6 Safety and Environmental Standards**

(a) **Emergency Services**

The large-scale, ground-mounted, photovoltaic system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the large-scale, ground-mounted, photovoltaic system shall be clearly marked.

(b) **Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale, ground-mounted photovoltaic system or otherwise prescribed by applicable laws, regulations, and bylaws. Large-scale, ground-mounted, photovoltaic systems shall be installed on water-permeable surfaces, as approved by the Site Plan Review Authority during site plan review.

(c) **Landscaped Buffer Strip**

A landscaped buffer strip is intended to provide, within five years of installation, a visual barrier between the large-scale, ground-mounted, photovoltaic system and neighboring properties. Except for vehicular and pedestrian passways and permitted signs, these areas shall be used only for an interplanting of deciduous or evergreen trees, shrubs and other vegetative ground cover that can appropriately create a visual barrier.

The buffer must provide coverage as outlined by Table 3: Required Landscaping. Where considered appropriate in the judgment of the Site Plan Review Authority, walls and fences may be used in addition to or in lieu of plantings.

A planting plan showing the types, sizes and locations of material to be used shall be subject to the approval of the Site Plan Review Authority.

The Site Plan Review Authority may waive the requirements of the visual barrier where it deems it advisable.

### **6.10.7 Waivers**

(a) The Site Plan Review Authority may waive strict compliance with any requirement of this bylaw, or the rules and regulations promulgated hereunder, where:

1. Such action is allowed by federal, state and local statutes and/or regulations;
2. Is in the public interest;
3. Is not inconsistent with the purpose and intent of this by-law.

(b) Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the

waiver request and demonstrating that strict application of the by-laws does not further the purposes or objectives of this by-law and why it is believed that the waiver meets the criteria in section 6.10.7(a).

(c) All waiver requests shall be discussed at the public hearing for the project.

(d) If in the Site Plan Review Authority's opinion, additional time or information is

required for review of a waiver request, the Site Plan Review Authority may continue the hearing to a date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

### **6.10.8 Monitoring and Maintenance**

(a) **Installation Conditions**

The large-scale, ground-mounted, photovoltaic system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to: painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Site Plan Review Authority, Safety Committee, Emergency Services, and Department of Public Works. The owner or operator shall be responsible for the cost of maintaining the large-scale, ground-mounted, photovoltaic system and any access road(s) unless accepted as a public way.

(b) **Modification Conditions**

Any material modifications to a large-scale, ground-mounted, photovoltaic system made after issuance of the building permit shall require approval by the Site Plan Review Authority. Maintenance and repairs will not require Site Plan Review Authority approval.

### **6.10.9 Abandonment or Decommissioning**

(a) **Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a large-scale, ground-mounted, photovoltaic system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale, ground-mounted, photovoltaic system fails to remove the installation in accordance with the requirements of this section within one hundred and fifty (150) days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation utilizing the surety provided in section 6.10.9(c). If such funds are insufficient, any additional costs will be the responsibility of the system's owner.

**(b) Removal Requirements**

Any large-scale, ground-mounted, photovoltaic system which has reached the end of its useful life or has been abandoned consistent with Section 6.10.9(a) of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

- i. Physical removal of the large-scale, ground-mounted, photovoltaic system and all related structures, equipment, security barriers and transmission lines from the site.
- ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- iii. Stabilization or re-vegetation of the site as necessary to minimize erosion.
- iv. Return of land area to conditions prior to development.

**(c) Financial Surety**

The owner or operator of a proposed large-scale, ground-mounted, photovoltaic project shall provide a form of surety through an escrow account or bond, as determined by the Town Treasurer, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape. The surety account or bond will be managed by the Town Treasurer's office.

The amount of the financial surety will be determined to be reasonable by the Site Plan Review Authority, but in no event to exceed one hundred and twenty five (125%) percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally or state owned facilities. The project owner or operator shall submit a fully detailed and inclusive estimate for all costs associated with removal to the Site Plan Review Authority for review. This estimate must be prepared by a qualified engineer.

The amount shall include a mechanism for calculating increased removal costs due to inflation and other causes over the life of the system. Such surety will not be required for municipally- or state-owned facilities.

**6.11 Medical Marijuana Treatment Center/Dispensary: (Added 5/12/14)**

Medical Marijuana Treatment Center/Dispensary: A non-profit facility or location that has been registered by the Department of Public Health where medical marijuana is grown, processed and/or made available to a qualifying patient or a personal caregiver, provided that:

- 6.11.1 A medical marijuana treatment center/dispensary shall not be located within 1,000 feet of an elementary school, middle school, high school, church, public library, day care, public park or where children commonly congregate in existence at the time of enactment of the zoning bylaw amendment establishing this use.
- 6.11.2 All medical marijuana treatment centers/dispensaries need to provide a letter from the police and fire department that the centers/dispensaries meet all standards of security, fire code and public safety.
- 6.11.3 Medical marijuana treatment centers/dispensaries are allowed through site plan approval and a special permit from the Planning Board in the Industrial A and Industrial C zoning district.
- 6.11.4 A traffic study will be required.

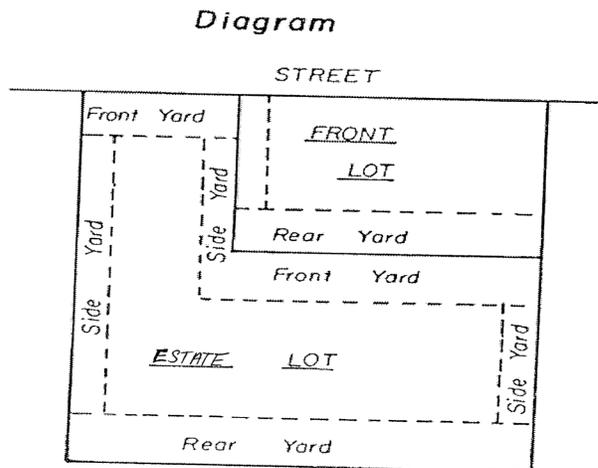
**6.12 SINGLE-FAMILY DWELLINGS ON ESTATE LOTS (Added 10/6/14)**

The purpose of this regulation is to allow for the creation of lots for single-family dwelling units only, with less than the required frontage, in exchange for increased square footage, for the purpose of preservation of open space and decreasing density in given areas.

Single-family dwellings on estate lots shall be permitted in the Agriculture and Residential A districts only upon the issuance of a Special Permit from the Planning Board as specified in Section 7.0 of this bylaw, and in accordance with the additional requirement specified herein, unless waived by the Planning Board.

- 1. No more than two consecutive estate lots shall be located on a public way.
- 2. The estate lot(s) shall have a minimum street frontage of not less than 50 feet and access width of not less than 50 feet from the front lot line to the principal structure. The front lot shall meet all the zoning dimensional requirements normally required in the district.
- 3. An estate lot(s) shall be double the minimum lot area normally required for that district inclusive of the access strip.
- 4. An access strip that is accessible having a maximum length not exceeding four hundred (400) feet.

5. The width of the lot where the principal building is to be constructed shall be equal to or exceed the distance normally required for street frontage in the district.
6. Front, rear and side yards must equal or exceed those normally required in the district.
7. The Planning Board may require that there be maintained or kept a naturally occurring or a planted vegetated buffer strip between estate lot(s) and adjacent lots to provide effective visual screening between the buildings at grade level.
8. The estate lot entrance/driveway shall be clearly designated with a house number sign. Mailboxes shall not suffice.
9. The driveway is to be located, constructed, and maintained a distance of no closer than ten (10) feet to any abutting property line.
10. Plan submitted shall include the statement, " Lot (fill in the Lot #) is an Estate Lot; building is permitted only in accordance with the Special Permit Estate Lot provisions of the Ludlow Zoning Bylaw."
11. Estate Lot Example:



## **SECTION VII: LAND USE REVIEW METHODS**

### 7.0 **Special Permits**

Special Permits are requested for certain uses, structures, or conditions as specified in Section 3.2.2, Table of Principal Uses.

#### 7.0.1 **Purpose**

Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic, utility systems, and the character of the Town, among other things. The Special Permit review process is intended to insure a harmonious relationship between proposed development and its surroundings, and insure that proposals are consistent with the purpose and intent of this bylaw.

#### 7.0.2 **Special Permit Granting Authority**

The Planning Board shall have those special permit granting authorities as specified in Section 3.2.2 Table of Principal Uses.

#### 7.0.3 **Special Permit Procedures**

Special permits may be issued by Special Permit Granting Authorities (SPGAs) in accordance with Massachusetts General Laws, Chapter 40A, Section 9, and with the following regulations:

##### a. **Public Hearing**

Special Permits may only be issued following a public hearing which must be held within sixty-five (65) days after a Special Permit application is filed with the Special Permit Granting Authority. The applicant shall also file a copy of the Special Permit application forthwith with the Town Clerk. The Special Permit Granting Authority shall take final action on an application for Special Permit within ninety (90) days following the public hearing. Failure to do so shall constitute approval. A unanimous vote of a three-member board and a vote of at least four (4) members of a five-member board is required.

##### b. **Application procedures**

(1) All applications for Special Permits shall be made in writing on forms furnished by the Planning Board Clerk and located in the Planning Board office and shall be accompanied by a site plan, when required, in accordance with Section 3.1 Table of Principal Uses. Any application fees and publication fees shall be paid by the applicant.

(2) Misrepresentation of any of the required plan items shall be cause to revoke a Special Permit.

(3) No Special Permit shall authorize a use expressly prohibited by these Zoning Bylaws.

c. **Rules and Regulations**

The Special Permit Granting Authority shall adopt and from time-to-time, amend rules and regulations relative to the issuance of such permits, and shall file a copy of said rules and regulations in the office of the Town Clerk.

7.0.4 **Special Permit Criteria**

Special Permits may only be issued after the Special Permit Granting Authority makes a finding that the proposed use is in harmony with the general purposes and intent of this bylaw, meets the specific regulations for the zoning district in which the use is located, and complies with the specific regulations listed below. The Special Permit Granting Authority may condition the Special Permit, including safeguards and limitations on time or use.

The Special Permit Granting Authority may grant a Special Permit authorized by this bylaw if said Board finds, when applicable, that:

- a. The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority;
- b. The proposal is compatible with existing uses and other uses permitted by right in the same district;
- c. The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibrations, lights, or visually offensive structures and accessories;
- d. The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians;
- e. Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
- f. The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;

- g. The proposal ensures that it is in conformance with the sign regulations of the bylaw. (See Section 6.5)
- h. The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, or improvements;
- i. The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
- j. The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
- k. The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow;
- l. The proposal is in general harmony with the general purpose and intent of this bylaw;
- m. The proposed use complies with any and all additional Special Permit criteria or special use regulations imposed on individual uses in Section VI of this bylaw.

#### 7.0.5 **Expiration**

A Special Permit shall lapse within one year if substantial use thereof has not commenced except for good cause or in the case of a Special Permit construction if construction has not begun within such time period without good cause. Included within the one year time limit shall be the time required to pursue or await the determination of an appeal as specified in Section 17 of M.G.L. Chapter 40A.

#### 7.0.6 **Special Permit - Scientific Research/Development Accessory Use**

Special Permits for 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 only be granted after the Planning Board makes a finding that the proposed accessory use does not substantially derogate from the public good.

## 7.1 **SITE PLAN APPROVAL**

### 7.1.1 **General Purpose**

To accomplish the purposes set forth in Section I of this bylaw as to the specific goals of facilitating traffic channelization and control, assuring adequate drainage of surface water, protecting the environment, property values, abutting properties and visual

amenities, and to facilitate the administration of the Section, no permit for the construction, exterior alteration, relocation, occupancy or change in use of any building, structure or premises, shall be granted until the provisions of this bylaw have been fulfilled. Upon the fulfillment of the Site Plan Approval criteria, a Plan Approval will be issued by the Planning Board to the Building Inspector.

### 7.1.2 **Projects Requiring Site Plan Approval**

Within all districts, no special permit or building permit shall be issued and no application for such permits shall be accepted for any of the following uses:

- a. The construction or occupancy of a new building;
- b. Additions over twenty-five percent (25%) to the gross floor area of an existing building;
- c. Any exterior alteration, addition, occupancy, or change in use of an existing construction or premises whose site sketch did not receive the Town of Ludlow Planning Board waiver;

\*\*Unless a site plan has been endorsed by the Planning Board after consultation with other boards, including but not limited to the following: Fire Department, Department of Public Works, Building Office and/or Town Engineer, Conservation Commission, and Board of Health.

### 7.1.3 **Exemption From Site Plan Approval**

Site plan approval shall not be required for:

- a. The construction or enlargement of any single family dwelling; or
- b. any building used exclusively for agriculture, horticulture, or floriculture.
- c. No site plan approval shall be required in those instances where a lawful use change is proposed, and no physical changes (other than signs) will occur to the site or building exterior, and where no new or additional requirements of the Zoning Bylaw must be met for the proposed use.

In the above case (c. only) the Planning Board will only require a "Change of Occupancy" application with the application fee in force at the time.(Added 10/7/96)

#### 7.1.4 **Applications For Site Plan Approval**

- a. Each application for Site Plan Approval shall be submitted to the Planning Board by the current owner of record, accompanied by the original or reproducible Mylar and ten (10) sets of prints.
- b. The Planning Board shall obtain with each submission a deposit sufficient to cover any expenses connected with a public hearing, public notification, and review of plans.

#### 7.1.5 **Required Site Plan Contents**

All site plans shall be prepared by a person or persons registered under the Massachusetts General Laws of the Commonwealth of Massachusetts to practice architecture and/or engineering, and land surveying and shall show the seals of the architect and/or engineer, and land surveyor. All site plans shall be on standard 24" X 36" sheets at a scale of 1 inch equals 40 feet, with additional narrative as necessary: (Amended 1/25/99 STM)

All site plans shall also include the property owner's names, date of plan, and scale of plan; and a space for endorsement by the Planning Board (3" X 5") (Added 10/2/06)

- a. Provision for adequate drainage of surface water from paved areas. Use of landscaped areas to provide such drainage in order to relieve storm drainage systems is encouraged. The piping for the storm water drainage systems shall be designed using the ten (10) year storm curve for parking area drains and the twenty-five (25) year storm curve for culverts over existing natural waterways and retention areas.
- b. Existing and proposed vegetation. Such vegetation shall be indicated by:
  - (1) Type and location (whether woods, brush, shrubs, etc.)
  - (2) Number of plants (if appropriate)
- c. Existing natural features such as wetlands, rock outcroppings, slopes, hills, etc.
- d. Pedestrian facilities, if any, including walks, plazas, benches, etc.
- e. 1. Parking spaces and circulation area for automobiles as well as the location of landscaped areas within them. Existing and proposed curb cuts shall be indicated together with approval for such cuts from the appropriate town or state

agency. The number of spaces shall be in accordance with Section 6.4.2 of the bylaw

e. 2. All parking areas shall be paved and noted on the site plan as either “paved” or “to be paved,” with the type of pavement to be used. “See Section 6.4.7 Surfacing for any exemptions that may apply.” (Amended 10/1/12)

e. 3. Area where deliveries will be made on site. (Revised 10/06/08)

f. Existing and proposed fencing to be used to buffer abutting residential dwellings and/or districts from the intended development (if appropriate). Section 3.0.4 of this bylaw.

g. Existing natural features and vegetation to be retained shall be so indicated. Due regard shall be shown for all existing vegetation and natural features which, if preserved, will add attractiveness and value to the development.

h. The location and type of monumentation at all property corners shall be shown and maintained.

i. Existing and proposed elevations and contours. The contour interval shall be two (2) feet or any interval which adequately depicts the grading.

j. All existing and proposed utilities, and to include utilities with easements. (Revised 10/06/08)

k. All site plans required herein shall display names of all abutters.

l. All existing and proposed sidewalks and curbings.

m. Landscaping Requirements

(1) Required landscaping shall be provided as set forth in Table 3.

(2) Buffer strips required by Table 3 shall be reserved exclusively for plantings, pedestrian facilities such as benches and walkways, required fences, necessary traffic control signs and those free-standing signs which conform to the requirements of Section 6.5. of this bylaw. (Amended STM 10/4/21)

n. The plan shall also include a chart showing the following information:

(1) Area of lot.

(2) Area and size of building.

(3) Maximum area of building to be used for selling, offices, business, industrial, or other uses, if applicable.

- (4) Maximum number of employees, where applicable.
- (5) Maximum seating capacity, where applicable.
- (6) Maximum sleeping capacity, where applicable.
- (7) Number of parking spaces required for the intended use, based on Section 6.4.
- (8) Number of parking spaces existing at the site (including street parking adjacent to site).
- (9) Number of trees and/or shrubs.
- (10) Number of trees and/or shrubs shown on plan.

o. **Additional Requirements: (Added 10/4/10 & Amended 5/14/12)** All site plans need to have the following information unless waived by the Planning Board: (1.) Lighting Plan with Luminaire Schedule, prepared by an engineer. (2.) Elevations showing the front, rear and sides of the building design. (3.) Signage design with dimensions and locations. (4.) Area where snow will be stored. (5.) Traffic Study.

#### 7.1.6 **Procedures for Site Plan Approval**

a. The Planning Board shall request recommendations from the Fire Department, Department of Public Works, Safety Committee, Building Official, and/or Town Engineer, Conservation Commission, and Board of Health. The Planning Board secretary shall date the plans and distribute the plans to the listed town officials. The site plan shall be revised to show those recommendations which are approved by the Planning Board.

Failure of other Boards to make recommendations within twenty-one (21) days of the referral of the application will be deemed to be a lack of opposition.

b. A public hearing shall be held within sixty-five (65) days, from the date of filing of such plans. After due consideration of the recommendations received, the Board shall take final action within 90 days from the time of hearing. The Planning Board's final action, in writing, shall consist of either:(Amended 10/2/95)

- (1) Approval of the site plan based on a determination that the proposed project will constitute a suitable development and is in compliance with the standards set forth in this bylaw.

- (2) Disapproval of the site plan based on a determination that the proposed project does not meet the standards for review set forth in this bylaw; or
  - (3) Approval of the project subject to any conditions, modifications, and restrictions.
- c. The period of review for a Special Permit requiring Site Plan Approval shall be the same as any other special permit and shall conform to the requirements of Chapter 40A, Section 9, "Special Permits." Specifically, a joint public hearing to address the Special Permit application and Site Plan Approval application shall be held within sixty-five (65) days of the filing of a special permit application with the Planning Board or Board of Appeals. The Planning Board shall then have 90 days following the public hearing in which to act.(Amended 10/2/95)
- d. If the approving Board fails to take action within the time frame detailed in 7.1.6, sections b and c, approval shall be deemed granted following the procedures for constructive approval of Special Permits in Section 9, Chapter 40A, of the General Laws. (Added 5/10/10)

**7.1.7 Site Plan Approval Waiver**

a. **Projects That May Seek to Waive Site Plan Approval**

- (1) No permit for any of the following uses and no others shall be granted by the Town of Ludlow Building Inspector until a determination is made by the Town of Ludlow Planning Board that the change involved will not create an additional parking or traffic problem and/or site hazard;
- (2) The exterior alteration, addition, occupancy, or change in use of any existing construction or premises; and/or
- (3) Any new construction that constitutes less than twenty-five percent (25%) of the gross floor area of an individual existing building.

b. **Applications for Site Plan Approval Waiver**

Each application for Site Plan Approval Waiver shall be submitted to the Planning Board, accompanied by a site sketch prepared by the applicant

c. **Required Site Sketch Contents**

Site sketches shall be prepared by the applicant at a scale of 1 inch equals 40 feet, with additional narrative as necessary:

- (1) A sketch of the lot with all buildings on said lot including dimensions and the lot's location.
- (2) The area where cars are parked on the property and/or street.
- (3) Name of owner and/or applicant.
- (4) A table containing the following information:
  - (i) Area of Lot.
  - (ii) Area and size of buildings.
  - (iii) Number of parking spaces required for the intended use, based on Section 6.4
  - (iv) Number of parking spaces existing at the site (including street parking adjacent to site).
- (5) For non-residential uses the additional information is necessary:
  - (i) Maximum area of building to be used for selling, offices, business, industrial, or other uses.
  - (ii) Maximum number of employees, where applicable.
  - (iii) Maximum seating capacity, where applicable.
  - (iv) Maximum sleeping capacity, where applicable.
- (6) For two-family dwellings, the additional information is necessary:
  - (i) The area of the lot.
  - (ii) The area and size of the building.
  - (iii) Location of parking spaces.
  - (iv) Landscaping plans.
  - (v) Existing natural features.

d. **Procedures for Site Plan Approval Waiver.**

(1) A public hearing shall be scheduled within sixty-five (65) days, excluding weekends and legal holidays, of the date the sketch was submitted. The Board shall take final action within ninety (90) days from the time of the hearing. The Planning Board's final action, in writing, shall consist of either: (Amended 10/97)

(i) Approval of the site sketch and waiver of the need for a registered site plan submission based on the determination that the proposed project will not create additional parking or traffic problems and/or site hazard;

(ii) Disapproval of the site sketch and waiver based on the determination that the proposed project will create additional parking or traffic problems and/or site hazard; or

(iii) Approval of the site sketch and waiver subject to any conditions, modifications, and restrictions, which will ensure that the project will not create additional parking or traffic problems and/or site hazard.

(2) A vote of four to five members of the Planning Board is necessary to waive the need for a registered site plan, public hearing, and/or the request for recommendations from the Fire Department, Safety

Committee, Building Official, Department of Public Works, and/or Town Engineers, Conservation Commission, and Board of Health and public hearing. For other projects, a majority vote of the Planning Board is necessary.(Amended 10/97)

(3) If the Planning Board fails to waive the site plan approval requirements and/or disapproves the site sketch and waiver, procedures shall then be followed on the basis of Site Plan Approval (Sections 7.1.2 - 7.1.6)

## 7.2 **STORMWATER MANAGEMENT BYLAW**

### **A. Purpose, Authority and Administration**

#### 1. Purpose

a. The purpose of this bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Ludlow by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.

b. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of

Ludlow's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

c. Limit the harmful impacts of soil erosion and sedimentation. Said impacts include, but are not limited to impairing water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater, contamination of drinking water supplies, alterations or destruction of aquatic and wildlife habitats, cause flooding, and overload and/or clog municipal storm drainage systems.

d. This bylaw has the following objectives:

(1) Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;

(2) Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;

(3) Minimize the volume and rate of stormwater which is discharged to rivers, streams reservoirs, lakes and combined sewers that flows from any site during and following development;

(4) Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;

(5) Provide for the recharge of groundwater aquifers and maintain the base flow of streams;

- (6) Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
- (7) To prohibit connections and unauthorized discharges to the MS4;
- (8) To require the removal of all such illicit connections;
- (9) Maintain or reduce pre-development runoff characteristics after development to the extent feasible;
- (10) Minimize damage to public and private property from flooding;
- (11) Ensure that these management controls are properly maintained.

## 2. Authority and Administration

The Board of Public Works shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board of Public Works may be delegated in writing by the Board of Public Works to its employees or agents.

### **B. Definitions**

The following definitions describe the meaning of the terms used in this bylaw;

**Adverse impact** means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**Alterations of Drainage Characteristics** is any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**Authorized Enforcement Agency** is the Board of Public Works its employees or agents designated to enforce this bylaw.

**Best Management Practices (BMP)** are structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be nonstructural practices that reduce pollutants at their source. BMPs are described in a stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) and MA DEP's Erosion Control and Sediment Guidelines for Urban and Suburban Areas (March 1997, as updated or amended).

**The Board** means the Town of Ludlow Board of Public Works.

**Clean Water Act** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**Construction activity** is disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

**Clearing** is any activity that removes the vegetative surface cover.

**Design storm** is a rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

**Detention** is the temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides gravity settling of pollutants.

**Development** is the modification of land to accommodate a new use or expansion of use, usually involving construction.

**Discharge of Pollutants** means the addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**Disturbance of Land** is any land clearing, grading, bulldozing, digging or similar activities.

**Drainage Area** means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

**Drywell** is similar to an infiltration trench but smaller with inflow from a pipe; commonly covered with soil and used for drainage areas of less than one acre such as roadside inlets and rooftops runoff.

**Easement** means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

**Flow attenuation** means prolonging the flow time of runoff to reduce the peak discharge.

**Groundwater** means all water beneath the surface of the ground.

**Hydrology model** may include one of the following:

- TR-20, a watershed hydrology model developed by the natural Resources Conservation Service that is used to route a design storm hydrograph through a pond;
- TR-55, or Technical Release 55, *Urban Hydrology for Small Watersheds* is a publication developed by the Natural Resources Conservation Service to calculate stormwater runoff and an aid in designing detention basins;
- Hydro cad.

**Illicit Connection** means a surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw

**Illicit Discharge** means direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section D. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section D of this bylaw.

**Impervious surfaces** are areas such as pavement or rooftops, which prevent the infiltration of water into the soil.

**Infiltration** is the downward movement of water from the surface to the permeable subsoil.

**Infiltration trench** is a subsurface stormwater management facility constructed to introduce stormwater to subsoil and trap/remove both suspended solids and particulate pollutants. Trenches are not intended to trap coarse sediments.

**Massachusetts Stormwater Management Policy** is the Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System** means the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Ludlow.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Permit Discharge Permit** is a permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**Non-Storm Water Discharge** means discharge to the municipal storm drain system not composed entirely of stormwater.

**Operation and Maintenance Plan** is a plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

**Outstanding Resource Waters (ORWs)** means waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**Outfall** is the terminus of a storm drain or other stormwater structure where the contents are released.

**Peak discharge** is the maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

**Permeable soils** are soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

**Person** is any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

**Point Source** means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**Process Wastewater** is water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**Redevelopment** means development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**Retention** is the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

**Runoff** means rainfall, snowmelt, or irrigation water flowing over the ground surface.

**Recharge**: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**Start of construction** is the first land-disturbing activity associated with a development, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements; footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

**Stormwater Management Plan** is a plan required as part of the application for a Stormwater Management Permit. See Section F, part 8.

**Stormwater** means storm water runoff, snow melt runoff, and surface water runoff and drainage.

**Surface Water Discharge Permit** is a permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**Swale** is a natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

**TSS** means Total Suspended Solids.

**Uncontaminated** means water containing no pollutants.

**Watercourse** means a natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**Wastewater** means any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**C. Applicability**

1. This bylaw shall apply to flows entering the municipally owned storm drainage system
2. This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the municipal separate storm sewer system. Except as authorized by the Department of Public Works or its agent, hereafter known as “The Board”, in a Stormwater Management Permit or as otherwise provided in this bylaw, no person shall perform any activity that results in disturbance of an acre or more of land. Prior to the issuance of any Special Permit or Site Plan Approval or development permit for any proposed development listed below, a Stormwater Management Permit, or a waiver of the requirement for Stormwater Management Permit, must be approved by the Department of Public Works. No person shall, on or after the effective date of the bylaw, initiate any land clearing, land grading, earth moving or development activities without first complying with this bylaw. The following uses and activities shall require submittal of drainage reports, plans, construction drawings, specifications and as-constructed information in conformance with the requirements of this bylaw:
  - a. Multi-family residential developments involving four or more housing units;
  - b. Any new commercial, industrial, and institutional structures under the same ownership, with at least 5,000 square feet of gross floor area, and/or 10,000 square feet of impervious surface, or that requires 10 or more parking spaces.
  - c. Redevelopment or additions to existing commercial, industrial, and institutional uses which result in an additional impervious surface area or gross floor area of greater than 5,000 square feet, or which results in an increase of 10 or more parking spaces.
  - d. Subdivisions and construction activities of any kind disturbing greater than one acre.
  - e. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.

**D. Exemptions**

1. To prevent the adverse impacts of stormwater runoff, the Department of Public Works has developed a set of performance standards that must be met at new development sites. These standards apply to construction activities as described under Section C.2. The following activities may be exempt from these stormwater performance standards:

- a. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resource Conservation Service;
- b. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Environmental Management;
- c. Additions or modifications to existing single family structures;
- d. Developments that do not disturb more than one acre of land, provided that they are not part of a larger common development plan; and
- e. Repairs to any stormwater treatment system deemed necessary by the Ludlow Planning Board or Department of Public Works.
- f. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Ludlow Planning Board or Department of Public Works.

**E. Stormwater Design Manual**

1. A stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) is hereby incorporated by reference as part of this bylaw, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this bylaw.

2. This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience, at the discretion of the Massachusetts Department of Environmental Protection or supplemented by the Ludlow Planning Board. Storm water treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

## **F. Stormwater Management Permit Procedures and Requirements**

No land owner or land operator shall receive any of the building, grading, or other land development permits required for land disturbance activities, and no land owner shall commence land disturbance activities, without approval of a Stormwater Management Permit from the Department of Public Works and meeting the requirements of this bylaw.

### **1. Application Requirements**

**A.** Application for approval of a Stormwater Management Permit shall include the following:

1. A stormwater management plan or an application for waiver shall be submitted to the Department of Public Works for review and a approval for any proposed development specified in Section C.2. Two copies of the application and stormwater management plan shall be submitted, and clearly labeled. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The plan shall serve as the basis for all subsequent construction.
2. An erosion and sediment control plan, which shall contain sufficient information to describe the nature and purpose of the proposed development.
3. An ongoing maintenance agreement.
4. A non-refundable permit review fee. See separate fee schedule.

The applicant may request, and the Department of Public Works may grant, a waiver from any information requirements or fee it judges to be unnecessary to the review of a particular plan.

### **B. Application for Waiver of Stormwater Permit**

1. Each Application for Waiver of Stormwater Permit shall be submitted to the Department of Public Works accompanied by 2 copies of a site plan prepared by a registered land surveyor and registered professional engineer.
2. Approval of the Application for Waiver of the Stormwater Permit will be endorsed on the application.

3. If the Department of Public Works denies the Application for Waiver of Stormwater Permit, the procedure for Application for Stormwater Permit must be followed.

4. The waiver may be rescinded by the Department of Public Works or its designates upon the recommendation of the DPW Director, Town Engineer, Building Inspector, or Conservation Commission if during construction it is found that construction activities generates intolerable circumstances affecting the municipal stormwater system, adjacent properties, or adjacent water bodies. This issuance of any waiver may only be granted for sites disturbing less than one acre, which are not part of a greater development that disturb more than one acre and do not affect the municipal stormwater system or flow into territorial waters of the United States.

2. Procedures for Review and Approval of Stormwater Permits

a. The procedures for review and approval of stormwater management plans shall be consistent with Section F Part 4 Criteria for Review of Stormwater Management Permits and Section F Part 5 Department of Public Works Action, as appropriate to the use.

b. The Department of Public Works shall have seven days from the receipt of the application to review for administrative completeness.

c. The Department of Public Works shall take final action within twenty-one (21) days of the receipt of a completed application unless such time is extended by agreement between the applicant and the Department of Public Works. The twenty-one (21) days shall include the seven day administrative completeness review period for applications found to be complete.

3. Criteria for Review of Stormwater Permits

In addition to other criteria used by the Department of Public Works in making permit decisions, for the uses specified in this bylaw, the Department of Public Works must also find that the Stormwater Management Plan submitted with the permit application meets the following criteria:

a. The Stormwater Management Plan and the Erosion and Sediment Control Plan are consistent with the Purposes and Objectives of this bylaw in Section A;

b. The Stormwater Management Plan meets the performance

Standards described in Section H;

c. The Erosion and Sediment Control plan must meet the Design Requirements in Section I.

4. Board Action

The Department of Public Works action, rendered in writing, shall consist of either:

a. Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the purposes in Section A and the standards in Section F and will adequately protect the water resources of the community and is in compliance with the requirement set forth in this bylaw;

b. Approval of the Stormwater management Permit Application subject to any conditions, modifications or restrictions required by the Board which will ensure that the project meets the purposes in Section A and the standards in Section F and adequately protects water resources set forth in this bylaw;

c. Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan as submitted does not meet the purposes in Section A and the standards in Section H or adequately protect water resources as set forth in this bylaw.

Failure of the Department of Public Works to take final action upon an application within the time specified above shall be deemed to be approval of said application and shall authorize the applicant to proceed in accordance with the plans filed unless such time is extended by agreement between the applicant and the Department of Public Works.

5. Inspections

No plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the Department of Public Works or other agents designated by the Department of Public Works for scheduling the following inspections:

a. **Initial inspection** – prior to approval of any plan;

b. **Erosion Control inspections** – after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan.

- c. **Bury inspection** – prior to backfilling of any underground drainage or stormwater conveyance structures;
- d. **Final inspection** – when all work including construction of stormwater managements facilities and landscaping have been completed.

The Department of Public Works or other agents shall inspect the work and either approve it or notify the Department of Public Works and applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. The applicant shall promptly correct any portion of the work which does not comply or the applicant will be subject to the bonding provisions of Section K or the penalty provisions of Section L. The Town may conduct additional inspections as needed to ensure effective control of erosion and sedimentation during all phases of construction.

#### 6. Right of Entry for Inspection

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system or sanitary sewer, the filing of an application shall be deemed as the property owner's permission to the Town of Ludlow for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection.

#### 7. Application Review Fees

The fee for review of any Stormwater Permit application shall be based on the amount of land to be disturbed at the site and the fee structure established by the Board of Public Works.

#### 8. Stormwater Management & Erosion Control Plan

##### A. Plan Requirements

The application for a Stormwater Management Permit shall consist of submittal of a Stormwater Management and Erosion Control Plan, prepared by a Professional Engineer licensed by the Commonwealth of Massachusetts, which meets the design requirements provided by this bylaw. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources; and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in this bylaw and the DEP Stormwater Management Handbook Volumes I and II. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and

development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan shall be as follows:

1. A locus map;
2. The existing zoning and land use at the site;
3. The proposed land use;
4. The location(s) of existing and proposed easements;
5. The location of existing and proposed utilities;
6. The site's existing and proposed topography with contours at two foot intervals;
7. The existing site hydrology;
8. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
9. A delineation of 100-year flood plains, if applicable;
10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
12. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths;
13. A description and drawings of all components of the proposed drainage system including:
  - (a) locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
  - (b) all measures for the detention, retention or infiltration of water;
  - (c) all measures for the protection of water quality;

- (d) the structural details for all components of the proposed drainage systems and stormwater management facilities;
- (e) notes on drawings specifying materials to be used, construction specifications, and typicals;
- (f) Typical hydrology with supporting calculations;
- (g) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
- (h) A description of construction and waste materials expected to be stored on-site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (i) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization; and
- (j) A maintenance schedule for the period of construction.

B. Specific Design Criteria

Additional policy, criteria, and information including specifications and design standards may be found in the Stormwater Design Manual.

1. Infiltration systems

- (a) Infiltration systems shall be equipped with clean stone and or filter fabric adjacent to the soil or other sediment removal mechanisms;
- (b) Infiltration systems greater than three feet deep shall be located at least 10 feet from basement walls;
- (c) Due to the potential for groundwater contamination from dry wells, they shall not be an acceptable method for management runoff containing pollutants;
- (d) Infiltration systems designed to handle runoff from

commercial or industrial impervious parking areas shall be a minimum of 100 feet from any drinking water supply well;

(e) Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface;

(f) Infiltration basins shall be constructed with a three foot minimum separation between the bottom of the structure and the seasonal high groundwater elevation, as determined by a certified soil evaluator; and

(g) Provisions shall be made for safe overflow passage, in the event of a storm which exceeds the capacity of an infiltration system.

2. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

3. The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.

4. The Department of Public Works shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of stormwater management plans.

5. The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall have a 4:1 slope to a depth of two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of detention and retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation. All detention and retention basins must be fenced in.

6. Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.

7. All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage “best management practices” that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving water bodies or storm drains, and shall include a list of such chemicals in the application.

8. Runoff from parking lots shall be treated by oil and water separators or other controls to remove oil and sediment;

9. The basis design criteria methodologies, and construction specifications, subject to the approval the Planning Board and Town Engineer, shall be those generally found in the most current edition of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) and in MA DEP’s Erosion Control and Sediment Guidelines for Urban and Suburban Areas (March 1997, as updated or amended).

C. Design Requirements for Erosion and Sediment Control Plan

1. The design requirements of the Erosion and Sediment Control Plan are:

- a. Minimize total area of disturbance
- b. Sequence activities to minimize simultaneous areas of disturbance
- c. Minimize peak rate of runoff in accordance with the MA DEP Stormwater Policy
- d. Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control
- e. Divert uncontaminated water around disturbed areas
- f. Maximize groundwater recharge

- g. Install and maintain all erosion and sediment control measures in accordance with the manufacturer's specifications and good engineering practices.
- h. Prevent off-site transport of sediment from the time of initial site disturbance forward
- i. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, materials, borrow areas, or other areas used solely by the permitted project are considered a part of the project)
- j. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control
- k. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species.
- l. Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.
- m. Properly manage on-site construction and waste materials.
- n. Prevent off-site vehicle tracking of sediments.

10. Stormwater Management-Performance Standards

A. Minimum Control Requirements

Projects must meet the standards of the Massachusetts Stormwater Management Policy. These standards are:

- 1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
- 2. Stormwater management systems must be designed so that

post-development peak discharge rates do not exceed pre-development peak discharge rates.

3. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.

4. For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:

- (a) Suitable nonstructural practices for source control and pollution prevention are implemented;
- (b) Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
- (c) Stormwater management BMPs are maintained as designed.

5. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.

6. Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Stormwater management Volume I: Stormwater Policy Handbook). Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.

7. Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable.

However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.

8. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
9. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.

When the proposed discharge may have an impact upon a sensitive receptor, including water bodies and wetlands, storm sewers and/or combined sewers, the Department of Public Works may require an increase in these minimum requirements, based on existing water quality conditions and/or stormwater system capacity.

B. Stormwater Management Measures

1. Stormwater management measures shall be required to satisfy the minimum control requirements and shall be according to the following order of preference:
  - (a) Infiltration, flow attenuation, and pollutant removal of runoff on-site to existing areas with grass, trees, and similar vegetation and through the use of open vegetated swales and natural depressions;
  - (b) Use of stormwater on-site to replace water used in industrial processes or for irrigation;
  - (c) Stormwater detention structures for the temporary storage of runoff which is designed so as not to create a permanent pool of water; and
  - (d) Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
  - (e) Retention and evaporation of stormwater on rooftops or in parking lots.
2. Infiltration practices shall be utilized to reduce runoff volume increases. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each practice based on site conditions.
3. Best Management Practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into a storm drainage system or water body.

4. All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.

5. The designed release rate of any stormwater structure shall be modified if any increase in flooding or stream channel erosion would result at a downstream dam, highway, structure, or normal point of restricted stream flow.

## **G Discharges to the Municipal Storm Drain System**

### **1. Illicit Discharges**

No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

### **2. Illicit Connections**

No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

### **3. Obstruction of Municipal Storm Drain System**

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from The Department of Public Works.

### **4. Exemptions**

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- a. Discharge or flow resulting from fire fighting activities;
- b. Waterline flushing;
- c. Flow from potable water sources;
- d. Springs;

- e. Natural flow from riparian habitats and wetlands;
- f. Diverted stream flow;
- g. Rising groundwater;
- h. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- i. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems, such as dewatering excavations for foundations or pipelines), crawl space pumps, or air conditioning condensation;
- j. Discharge from landscape irrigation or lawn watering;
- k. Water from individual residential car washing and temporary fund-raising car wash events;
- l. Discharge from dechlorinated swimming pool water provided the water is allowed to stand for one week prior to draining or tested for chlorine levels with a pool test kit prior to draining (less than one ppm chlorine) and the pool is drained in such a way as not to cause a nuisance;
- m. Discharges from street sweepers of minor amounts of water during operation;
- n. Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
- o. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- p. Discharge for which advanced written approval is received from the Department of Public Works as necessary to protect public health, safety, welfare or the environment.

**H. Emergency Suspension of Storm Drainage System Access**

- 1. The Department of Public Works, Board of Health, Conservation Commission,

Fire Department, Police Department or Building Department may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

2. Any person discharging to a municipal storm drain system in violation of this Bylaw may have their municipal storm drain system access terminated if such a termination would abate or reduce an illicit discharge. The Department of Public Works will notify a violator of the proposed termination of municipal storm drain access. The violator may petition the Department of Public Works for reconsideration and hearing. A person commits an offense if the person reinstates municipal storm drain system access to premises terminated pursuant to this section, without prior approval from the Department of Public Works.

#### **I. Notification of Spills**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Town of Ludlow Fire, Police, Health, and Public Works Departments. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **J. Maintenance**

### **1. Operation, Maintenance and Inspection Agreement**

- a. Prior to issuance of any building permit for which stormwater management is required, the Department of Public Works shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the town or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

1. The name(s) of the owner(s) for all components of the system.
2. Maintenance agreements that specify:
  - a. The names and addresses of the person(s) responsible for operation and maintenance.
  - b. The person(s) responsible for financing maintenance and emergency repairs.
  - c. A maintenance schedule for all drainage structures, including swales and ponds.
  - d. A list of easements with the purpose and location of each.
  - e. The signature(s) of the owner(s).
3. Stormwater management easements as necessary for:
  - a. Access for facility inspections and maintenance.
  - b. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - c. Direct maintenance access by heavy equipment to structures requiring regular cleanout.

4. Stormwater management easement requirements:

a. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

b. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Town.

c. Easements shall be recorded with the Registry of Deeds prior to issuance of a Certificate of Completion.

5. Changes to Operation and Maintenance Plans:

a. The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.

b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Planning Board and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.

b. Prior to the release of the bond and/or granting certificate of occupancy, this agreement shall be recorded by the applicant and/or owner in the land records of the Registry of Deeds.

c. The agreement shall also provide that if after notice by the Town Engineer to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within thirty days, the Department of Public Works may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties.

**2. Maintenance Responsibility**

a. The owner of the property on which work has been done pursuant to this bylaw for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

b. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

c. Records of installation and maintenance shall be maintained by the property owner and shall be made available to Town officials by request. These records shall be stored by the property owner for a period of five years.

d. Failure to maintain practices any stormwater management facility shall be subject to the enforcement and penalties identified in Section L herein.

#### **K. Performance Bond**

The Department of Public Works shall require from the developer a surety or cash bond, or other means of security acceptable to the Department of Public Works prior to the issuance of any building permit for the construction of all uses and activities listed in Section C of this bylaw requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work

specified in the approved stormwater management plan, compliance with all of the provisions of this bylaw and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town Engineer, submission of "As-built" plans, and certification of completion by the Department of Public Works of the stormwater management facilities being in compliance with the approved plan and the provisions of this bylaw and proof that the operation and maintenance agreement has been recorded in land records at the Registry of Deeds.

#### **L. Enforcement and Penalties**

##### 1. Authority

The Department of Public Works or an authorized agent of the Department of Public Works shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

##### 2. Violations

A. Any development activity, as specified in Section C of this bylaw, that has commenced or is conducted contrary to this bylaw may be restrained by injunction or otherwise abated in a manner provided by law.

B. The Department of Public Works or an authorized agent of the Department of Public Works may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

### 3. Notice of Violation

When the Department of Public Works determines that an activity is not being carried out in accordance with the requirements of this Bylaw it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- a. The name and address of the owner applicant;
- b. The address when available or the description of the building, structure, or land upon which the violation is occurring;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to bring the development activity into compliance with this bylaw and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

### 3. Stop Work Orders

Persons receiving a notice of violations will be required to halt all construction activities. This “stop work order” will be in effect until the Department of Public Works confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this bylaw.

#### 4. Orders

A. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Ludlow may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

B. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Ludlow, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department of Public Works within thirty (30) days of receipt of the notification of the costs incurred.

C. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Department of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs be recovered by the Town through the procedure specified in M.G.L. Chapter 40, Section 58.

#### 4. Criminal and Civil Penalties

Any person who violates any provision of this bylaw, valid regulation, or the terms or conditions in any permit or order prescribed or issued there under, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues, or subject to a civil penalty which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.

#### 5. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town of Ludlow may elect to utilize the non-criminal disposition procedure set forth in Ludlow's Town Bylaws. The Department of Public Works shall be the enforcing entity. The penalty for the first violation shall be \$100.00. The penalty for the second violation shall be \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6. Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Department of Public Works take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**L Transitional Provisions**

Residential property owners shall comply with this Sections G of this bylaw on such a schedule set forth by the Board of Public Works compliance order, but such property owners shall in no case have more than six months from the effective date of the Bylaw to comply with its provisions, unless good cause is shown for the failure to comply with the bylaw during that period.

**M. Severability**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

END OF SECTION 7

## **SECTION VIII: ADMINISTRATION**

### **8.0 BOARD OF APPEALS**

8.0.1 There shall be a Board of Appeals to consist of five (5) members to be appointed by the Selectmen for terms of such length that the terms of one appointee will expire each year.

8.0.2 There shall be three (3) associate members of the Board of Appeals, to be appointed by the Board of Selectmen for a term of such length that the term of one associate will expire each year.

8.0.3 The Board of Appeals shall have the power, after public hearing for which notice has been given by publication and posting as provided in Section 11 of Chapter 40A of the General Laws and by mailing to all parties in interest, to grant upon appeal or upon petition with respect to particular land or structures, a variance from the terms of the applicable zoning ordinance or bylaw where such permit granting authority specifically find that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw. Except where local ordinances or bylaws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located provided, however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

8.0.4 The permit granting authority may impose conditions, safeguards, and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards, or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner, or any owner.

8.0.5 If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to this section.

### **8.1 ENFORCEMENT**

8.1.1 This bylaw and any amendments thereto, shall be enforced by the Building Inspector. He shall issue no permit for the erection or alteration of any building or part thereof, plans and specifications and intended use of which are not in all respects in

conformity with the provisions of this bylaw. With each application for a permit to build or alter, there shall be filed a plan showing the lot and the location of a building thereon.

8.1.2 No building shall be occupied until a Certificate of Occupancy has been issued by the Building Inspector where required.

8.1.3 The Building Inspector shall issue a cease and desist order on any work in progress or on the use of the premises, either of which are in violation of the provisions of this bylaw.

8.1.4 Construction or operations under a building or Special Permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of six (6) months after issuance of the permit and in the cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

8.1.5 **PENALTIES**

a. **Non-Criminal Disposition/Violations**

Any violation of the provisions of this bylaw, the conditions of a permit granted under this bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this bylaw, shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. Each day such violation continues shall be deemed a separate offense.

In addition to the procedures for enforcement as described above, the provisions of this bylaw, the conditions of a permit granted under this bylaw, or any decisions rendered by the Zoning Board of Appeals, or Planning Board under this bylaw, may be enforced, by the Building Commissioner, by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

b. **Criminal Disposition/Violations**

Persons violating any of the provisions of this bylaw shall be fined not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) for each offense. Each day that such violation continues shall constitute a separate offense.

8.2 **CONDITIONS OF CONSTRUCTION**

8.2.1 To accomplish the purposes set forth in Section I of this bylaw as well as the specific goals of this paragraph, no building permit for the construction of new dwellings shall be issued until a plot plan showing that all property corners are bounded or pinned, existing and proposed grading, proposed building location, and all utilities certified by a person or persons registered under the General Laws of the Commonwealth of Massachusetts to practice architecture, engineering and/or land surveying has been submitted to the Building Official as part of the application for said building permit and approved in writing by him.

8.2.2 In the case of additions to existing structures or the construction of accessory buildings, a plot plan will not be required unless, in the opinion of the Inspector of Buildings, there may be a conflict in property line locations.

If a Plot Plan is required, the plot plan shall be prepared by a Registered Professional Engineer and/or a Registered Land Surveyor and submitted to the Building Official as part of the application for a building permit.

END OF SECTION 8

**SECTION IX: REPEAL, VALIDITY, EFFECTIVE DATE**

9.0 **REPEAL**

All bylaws or parts of bylaws heretofore passed, inconsistent herewith, are hereby repealed.

9.1 **VALIDITY**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

9.2 **EFFECTIVE DATE**

The effective date of the adoption of this bylaw or any amendment to this bylaw shall be the date on which the adoption or amendment was voted upon by the town meeting, if this bylaw or any amendments are subsequently approved by the Attorney General and if this bylaw or any amendments to this bylaw are published in a town bulletin or pamphlet and posting has been made or publication in a newspaper has been completed in accordance with M.G.L.

END OF SECTION 9

## **SECTION X: DEFINITIONS**

The words defined in this section shall be capitalized through the bylaw. Where a defined word has not been capitalized, it is intended that the meaning of the word be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. In this bylaw the word "lot" includes "plot"; the word "building" includes "structure"; the word "occupied" includes "designed, arranged, or intended to be occupied"; and the word "uses" includes "designed, arranged or intended to be used."

**ABANDONED SIGN:** Any temporary sign which applies to an event more than seven days prior; any permanent sign for which the owner cannot be found, or which no longer has application to the property on which it is located. (Added 10/2/06)

**ABUTTING LOT:** Any lot or position of a lot that adjoins the lot in question or is located across a road or street.

**ACCESSORY APARTMENT:** A separate dwelling unit located in a building originally constructed as a single family residence, provided that such separate dwelling unit has been established pursuant to the provisions of 6.6.3 of this ordinance. (Added 10/4/93)

**ACCESSORY LIVESTOCK AGRICULTURE:** The keeping of farm animals on land used other than for farming for the use of the occupants only.

**ACCESSORY SIGN:** A sign which does not identify a business, service, product or activity; i.e. Open, Closed, Vacancy, Hours of Operation etc.(Added 10/2/06)

**ACCESSORY STRUCTURE:** A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

**ADULT CARE FACILITIES:** Any of the various types of development designed to provide some form of assisted living to elderly adults, the disabled, or chronically ill. This includes Adult Day Care Facilities, Assisted Living Residences, Congregate Living Facilities, Continuing Care Retirement Communities, Custodial Care Facilities, Elderly Housing, Group Care Facilities, Hospices, Independent Living Facilities, Long-term Care Facilities, Nursing Homes, Convalescent Homes and similar developments, as well as medical offices and other ancillary facilities appropriate to the principal use. These terms may be used interchangeably for the purpose of this bylaw. (Added 10/3/11)

**ADULT BOOKSTORE:** An establishment having no greater than 20% of its stock in trade: books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 Chapter 272 Massachusetts General Laws.(Added 10/7/96)

**ADULT MOTION PICTURE THEATER:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or

sexual excitement as defined in Section 31, Chapter 272 Massachusetts General Laws.(Added 10/7/96)

**ADULT PARAPHERNALIA STORE:** An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Section 31, Chapter 272 Massachusetts General Laws.(Added 10/7/96)

**ADULT ENTERTAINMENT BUSINESS:** An establishment or business presenting performances involving nudity as defined by Massachusetts General Laws Chapter 272 Section 31.(Added 10/7/96)

**ADULT VIDEO STORE:** An establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31, Chapter 272 Massachusetts General Laws.(Added 10/7/96)

**ADVERSE IMPACT:** means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation. (Added 10/2/06)

**A-FRAME SIGN:** SEE Sandwich Sign (**Prohibited**) and V-Shaped sign. (Added 10/2/06)

**AGRICULTURE:** Agriculture, floriculture, and horticulture, excluding the keeping of farm animals.

**AGRICULTURE, LIVESTOCK:** The keeping of farm animals, including horses and ponies, for commercial use.

**AGRICULTURE, MODERATE DENSITY OVERLAY DISTRICT:** A zoning district that allows a greater range of uses than is allowed within the Agriculture District. The overlay district is defined as all areas within the underlying Agriculture District that are **measured from the mean center line of the street to a point 1000 feet from the sewer line that was in existence on July 1, 1991.**

**AIRCRAFT FLIGHT OVERLAY DISTRICT:** District which is in the Ludlow Aircraft Flight Overlay Map dated January 15, 1992.

**ALTERATIONS OF DRAINAGE CHARACTERISTICS** is any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area. (Added 10/2/06)

**ANIMATED SIGN:** any sign which uses actual movement or the illusion of movement.  
**Prohibited.** (Added 10/2/06)

**APARTMENT:** a dwelling unit in a multi-family dwelling or in a mixed-use building. (Added STM 10/04/21)

**APPURTENANT STRUCTURES:** Adjacent or accessory structures. (Added 5/14/12)

**AREA OF SIGN:** the area of a sign shall be calculated as the smallest rectangular area which completely encompasses all components of the sign, exclusive of its support(s); or the smallest circular area, whichever is greater. Area of sign having no significant third dimension and displaying information on two sides shall be considered as the area of a single side. Area of signs having a significant third dimension, as judged by the Building Commissioner, and displaying information on two or more sides shall be calculated on a case-by-case basis. (Added 10/2/06)

**AS-OF-RIGHT SITING:** As-of-Right Siting shall mean that development may proceed without the need for a special permit. As-of-right development shall be subject to Site Plan Approval by the Site Plan Review Authority to determine conformance with the zoning bylaw. (Added 5/14/12)

**ASSISTED LIVING FACILITY:** An entity which provides room and board and where the operator provides a minimum of two meals a day and assistance with activities of daily living for three or more elderly or disabled residents, as defined and licensed, or as may be defined and licensed in the future by Massachusetts General Laws. (Added 10/2/06)

**AUTHORIZED ENFORCEMENT AGENCY** is the Board of Public Works its employees or agents designated to enforce this bylaw. (Added 10/2/06)

**AUTO BODY SHOP:** A structure where motor vehicle bodies and frames are repaired.

**AUTO REPAIR GARAGE:**A structure, or part thereof, where repairs, other than to body and frame, are made.

**AUTO SALES LOT:** A structure and surrounding lot where motor vehicles are on display for sale and serviced.

**AUTO SERVICE STATION:** A building, or part thereof, whose chief activity is the selling of gasoline, oil, and related products for motor vehicles or the provision of lubricating service or general auto repair.

**AUTOMATED TELLER MACHINCE (ATM):** an automated device that performs banking or financial functions. (Added 5/13/13)

**AUTOMATED VENDING KIOSK:** a machine which dispenses retail and consumer products after the consumer inserts currency or credit into the machine. This does not include machines that are solely for the purpose of food and beverage. (Added 5/13/13)

**AWNING SIGN:** A sign attached to or printed upon the tile or fabric material supported by framing and which is attached to a building. (Added 10/2/06)

**BANNER:** A flexible piece of cloth, plastic, or similar material, used for advertising attached at one or more points to a pole, staff, or other support. (Added 10/2/06)

**BEAUTY SALON BOOTH RENTAL:** occupancy of a booth in a beauty salon. A booth rental is also applicable to the following professions; hairstylist, barber, massage therapist, nail technician, colorist, acupuncturist, and any other profession associated with the cosmetology field. (Added 5/13/13)

**BEST MANAGEMENT PRACTICES (BMP)** are structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be nonstructural practices that reduce pollutants at their source. BMPs are described in a stormwater design manual, Stormwater management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) and MA DEP's Erosion Control and Sediment Guidelines for Urban and Suburban Areas (March 1997, as updated or amended). (Added 10/2/06)

**BOARD, THE** means the Town of Ludlow Board of Public Works. (Added 10/2/06)

**BOARDER:** The same as "Lodger".

**BOARDING HOUSE:** The renting of rooms or the furnishing of table board for more than four persons in a dwelling either occupied as a private residence or used exclusively as a boarding house.

**BREWERY:** a large scale facility, licensed under the relevant state and federal statutes, with a capacity of producing more than fifteen thousand (15,000) barrels, (a barrel being equivalent to thirty-one (31) gallons per year), where malt, wine, or hard cider beverages are produced and packaged for retail or wholesale distribution, which may include a tap room, where beverages produced on the premises may be sold and consumed. (Added 10/3/16)

**BREW PUB:** a restaurant, licensed under the relevant state and federal statutes, to produce and sell beer and/or ale at the location and whose primary business is the sale and preparation of food to be consumed on the premises. (Added 10/3/16)

**BUILDING LINE:** The line of the face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include steps.

**BUILDING-MOUNTED PHOTOVOLTAIC SYSTEM:** A photovoltaic installation that is structurally mounted on a building's footprint. (Added 5/14/12)

**BUILDING PERMIT:** A construction permit issued by an authorized building commissioner; the building permit evidences that the project is consistent with state and federal building codes as well as the zoning bylaw. (Added 5/14/12)

**BUFFER AREA:** Land used to visibly separate a lot zoned Business, Agriculture Moderate Density Overlay, or Industrial from a residential lot.(Added 10/97)

**BUFFER STRIP:** Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

**BUILDING COVERAGE:** The percentage which the ground floor of all buildings on the lot bears to the area of the lot. Structures below the finished lot grade shall not be included in building coverage.

**CHANGE OF USE:** Any use which substantially differs from the previous use of a building or land.

**CHANGEABLE-COPY SIGN:** A sign that is designed so that characters, letters, plaques, or illustrations can be changed or rearranged without changing the design of the sign. (Added 10/2/06)

**CLEAN WATER ACT:** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.(Added 10/2/06)

**CLEARING:** is any activity that removes the vegetative surface cover. (Added 10/2/06)

**CLEAR ZONE:** A zone with high accident potential that extends outward 3,000 feet from the end of the runway of an Air Force base. This zone was established by the United States Air Force using historical crash patterns. (Added 5/9/11)

**COMMUNITY CENTER:** A facility operated by a religious, nonprofit or municipal organization primarily to provide public facilities for meetings, classes, teen centers, and similar uses. A community center may include artists' space and offices for nonprofit organizations if such uses are clearly secondary to the primary use of the building and do not include any residential or overnight components. (Added 10/2/06)

**CONDOMINIUM:** A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. May be either residential, business or industrial. (Added 10/2/06)

**CONSTRUCTION ACTIVITY:** is disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling. (Added 10/2/06)

**CONSTRUCTION SIGN:** A temporary sign identifying an architect, builder, contractor, subcontractor, material supplier, or other participant in the construction, alteration, or maintenance currently being done on the property on which the sign is located. (Added 10/2/06)

**CONTACT INFORMATION:** Any and all information necessary to make contact under both normal and emergency conditions. This information shall include, but may not be limited to: names, addresses, telephone and fax numbers, as well as e-mail addresses. This information shall be kept up-to-date. (Added 5/14/12)

**DESIGN STORM** is a rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP. (Added 10/2/06)

**DETENTION** is the temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides gravity settling of pollutants.(Added 10/2/06)

**DEVELOPMENT** is the modification of land to accommodate a new use or expansion of use, usually involving construction. (Added 10/2/06)

**DIRECT/EXTERNAL LIGHTING:** Illumination by means of a light source that is external to the sign being lit. (Added 10/2/06)

**DIRECTIONAL, INFORMATIONAL, OR SAFETY SIGN:** An on-premises sign which identifies the premises, the activity, or the business conducted upon such premises or which provides directions for the safe and efficient flow of traffic. Such signs include those marking entrances, exits, parking areas, loading areas, or other operational features of the premises. (Added 10/2/06)

**DISCHARGE OF POLLUTANTS** means the addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source. (Added 10/2/06)

**DISTILLERY:** a facility, licensed under the relevant state and federal statutes, where distilled spirits are produced, manufactured or distilled. (Added 10/3/16)

**DISTURBANCE OF LAND:** is any land clearing, grading, bulldozing, digging or similar activities. (Added 10/2/06)

**DOOR SIGN OR WINDOW SIGN:** Any sign or poster placed inside a window or door and legible from a public way (with characters that exceed two and one half inches (2 1/2") in height. (Added 10/2/06)

**DOUBLE-FACED SIGN:** A sign lettered on both sides.(Added 10/2/06)

**DRAINAGE AREA:** means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line. (Added 10/2/06)

**DRYWELL:** is similar to an infiltration trench but smaller with inflow from a pipe; commonly covered with soil and used for drainage areas of less than one acre such as roadside inlets and rooftops runoff. (Added 10/2/06)

**DRIVE-THROUGH SERVICE:** A feature or structure that allows commerce, service, or other similar activity while a customer or client is able to remain in his/her vehicle. This does not include uses limited to Full Service Gas Stations.

**DWELLING:** A house or building, or portion thereof, which is occupied by one or more families that are sleeping and doing their cooking on the premises.

**DWELLING, MULTI-FAMILY:** A dwelling on one lot containing separate dwelling units for three or more families, having separate or joint entrances, services, or facilities. The term multiple dwelling includes row dwellings.

**DWELLING, TWO-FAMILY:** A detached building containing two (2) dwelling units.

**DWELLING UNIT:** A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EARTH REMOVAL:** The removal of earth products from a lot, including but not limited to sand, gravel, soil, loam, and mineral products. The removal of earth products which is incidental to and in connection with (1) the necessary excavation and grading of a site for a building, or structure and its appurtenant driveways or parking facilities for which a permit has been granted by either the Building Commissioner, the Board of Selectmen, the Planning Board, or the Board of Appeals, or (2) the construction of a street approved under the Subdivision Control Law, shall not be considered as earth removal for the purposes of this bylaw.

**EASEMENT** means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. (Added 10/2/06)

**FAMILY:** Any number of individuals related by blood, marriage, or adoption, living and cooking together as a single housekeeping unit, provided that a group of not more than four (4) persons living and cooking together, but not necessarily related by blood or marriage each to the other, may be considered a family. **This section, however, does not apply to non-related disabled persons as defined by any applicable Federal and/or State law and/or regulations.**

**FARM BUSINESS:** Business established for the processing of farm products, fifty percent (50%) by volume of which must have been raised or produced on the premises, or elsewhere in the Town of Ludlow. (Added 10/2/06)

**FARM STAND:** A booth or stall established for the display or sale of farm products to the general public. During the months of June, July and August, fifty percent (50%) by volume of which must have been raised or produced on the premises or elsewhere in the Commonwealth of Massachusetts. (Added 10/2/06)

**FLAG:** See Banner (Added 10/2/06)

**FLASHING SIGN:** A sign which is illuminated by an intermittent or sequenced light source. (Added 10/2/06)

**FLEA MARKETS:** An occasional or periodic sales activity held within a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Not to include private garage sales. (Amended 10/2/95)

**FLOODPLAIN:** a flood prone area where land is susceptible to being inundated by a water source. (Added 5/13/13)

**FLOW ATTENUATION** means prolonging the flow time of runoff to reduce the peak discharge. (Added 10/2/06)

**FORESTS AND WOODLOTS:** Forestry and the harvesting of forest products.

**FREE-STANDING SIGN:** A supported sign not attached to any building. (Added 10/2/06)

**FRONT YARD:** A space across the full width of the lot and extending from the front line of the building located on such lot to the front line of such lot. (See Diagram 1)

**FRONTAGE:** That portion of a lot fronting upon a street to be measured continuously along one street line between its side lines and their intersection parallel with the street line. The required frontage shall extend from the street line to the required setback line. Frontage shall provide both rights of access and potential vehicular access across that lot line to a potential building site. (See Diagram 1)(Amended 10/97&10/01)

**FUNERAL HOME:** A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation. (Added 10/2/06)

**GARAGE, PRIVATE:** A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

**GARAGE, PUBLIC:** A building or portion thereof, other than a private garage, available to the public for the storage of motor vehicles; may be operated for profit. (Added 10/2/06)

**GOVERNMENT SIGN:** Any sign erected and maintained by government. (Added 10/2/06)

**GROUNDWATER:** means all water beneath the surface of the ground. (Added 10/2/06)

**HEIGHT OF A SIGN:** The vertical distance measured from the highest point of a sign to the mean ground grade beneath the sign. (Added 10/2/06)

**HOME OCCUPATION:** An occupation customarily associated with a home, carried on within a dwelling or in a permitted accessory building exclusively, and carried on by a resident of the premises (employing not more than two (2) persons not residents on the premises.) Provided that such is secondary to the use of the dwelling for residential purposes and does not change the residential character thereof, but excluding the sale of food or beverages for consumption on the premises.

**HOME PROFESSIONAL OFFICE:** The use of a portion of a dwelling for the operation of an office of a physician, dentist, ophthalmologist, lawyer, or other similar professional. Said office must be located within the private residence of the professional.

**HORSES AND/OR PONIES:** The keeping of horses and/or ponies and a private stable, for personal use.

**HOUSE ADDITION:** External construction to an existing house which increases the number of dwelling units. In no case shall an ADDITION be approved if it will result in more units per structure or per lot than are allowed in that zoning district.

**HOUSE CONVERSION:** Internal changes to a house which increase the number of dwelling units. In no case shall an ADDITION be approved if it will result in more units per structure or per lot than are allowed in that zoning district.

**HYDROLOGY MODEL:** may include one of the following: (Added 10/2/06)

- TR-20, a watershed hydrology model developed by the Natural Resources Conservation Service that is used to route a design storm hydrograph through a pond;
- TR-55, or Technical Release 55, *Urban Hydrology for Small Watersheds* is a publication developed by the Natural Resources Conservation Service to calculate stormwater runoff and an aid in designing detention basins;
- Hydro cad.

**ILLICIT CONNECTION** means a surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw. (Added 10/2/06)

**ILLICIT DISCHARGE:** means direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section D. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section D of this bylaw. (Added 10/2/06)

**IMPERVIOUS SURFACE:** Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil. (Added 10/2/06)

**INFILTRATION** is the downward movement of water from the surface to the permeable subsoil. (Added 10/2/06)

**INFILTRATION TRENCH** is a subsurface stormwater management facility constructed to introduce stormwater to subsoil and trap/remove both suspended solids and particulate pollutants. Trenches are not intended to trap coarse sediments. (Added 10/2/06)

**INTERNAL LIGHTING (INDIRECT LIGHTING):** Illumination by means of light sources, where all such sources are shielded from view. (Added 10/2/06)

**KENNEL:** An accessory building or enclosure in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold. (Added 10/2/06)

**LADDER SIGN:** A sign with two (2) or more crosspieces serving as individual signs. (Added 10/2/06)

**LARGE-SCALE, GROUND-MOUNTED, PHOTOVOLTAIC SYSTEM:** A photovoltaic installation that is structurally mounted on the ground and has a rated nameplate capacity greater than 60 kW, measured in Direct Current (DC). (Added 5/14/12)

**LIVING AREA:** Living area shall mean the sum of the area of habitable rooms. Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

**LODGER:** A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals, and who is not a member of the housekeeping unit.

**LOT:** A parcel of land.

**LOT, BUILDING:** A parcel of land in one ownership meeting the dimensional requirements of this bylaw for the district in which such land is situated, and if occupied by a building or buildings, meeting the minimum yard requirements of that district, and defined on a plan or deed recorded in the Registry of Deeds.

**LOT, CORNER:** A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street being not more than 135 degrees. For purposes of this bylaw, the yard adjacent to each street shall be considered a front yard. At least one front lot line shall conform to the minimum lot frontage requirement.

**LOT, NONCONFORMING:** A lot lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which is not in accordance with all provisions of this bylaw.

**LOT AREA:** The total horizontal area of a lot lying within the lot lines.

**LOT LINE:** A division line between adjoining properties or a division line between individual lots established by a plan filed in the Registry of Deeds or Land Court.

**LOT WIDTH:** The straight line distance between lot sidelines measured parallel to and the front yard setback distance (depending on the zoning) from a straight line connecting the intersections of the road line with the lot sidelines. If the line connecting the intersections of the road line with the lot sidelines crosses the road line at any point, the lot width line shall be measured by the front setback distance (depending on the zoning) from the point within the lot on the road line which is farthest from the line connecting the intersections of the road line and lot sidelines. (See Diagrams #4 & #5) (Amended 1/25/99 STM)

**MANUFACTURING:** Heavy or light industry, assembly of a product including processing, fabrication, assembly, treatment, packaging, and allowed accessory uses. (Added 10/2/06)

**MARQUEE SIGN:** A roof-like structure, canopy, or mobile unit bearing a signboard with or without a scrolling message and with or without internal lighting. (Added 10/2/06)

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY** is the Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, § 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site. (Added 10/2/06)

**MEDICAL CENTER:** A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and may include such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities. (Added 10/2/06)

**MEDICAL MARIJUANA TREATMENT CENTER/DISPENSARY:** shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health as a Registered Marijuana Dispensary, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. (Added 5/12/14)

**MEMBERSHIP CLUB:** A Private building or grounds, which specifically includes country clubs and fraternities, as well as other organizations to which membership is limited or controlled. (Added 10/2/06)

**METEOROLOGICAL TOWERS:** Towers installed to measure the wind speed and direction at a site. (Added 5/9/11)

**MICRO-BREWERY:** a facility, licensed under the relevant state and federal statutes, with a capacity of not more than fifteen thousand (15,000) barrels, (a barrel being equivalent to thirty-one (31) gallons a year), for production and packaging of malt, wine, or hard cider beverages for retail or wholesale distribution, on or off the premise, and which may include a tap room where beverages produced on the premises may be sold and consumed. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**MICRO-CIDERY:** a facility, licensed under the relevant state and federal statutes, with a capacity of not more than fifteen thousand (15,000) barrels, (a barrel being equivalent to thirty-one (31) gallons a year), for the production and packaging of hard cider beverages for retail and wholesale distribution, on or off premise, and may include a tap room where beverages produced on the premises may be sold and consumed. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**MICRO-WINERY:** a facility, licensed under the relevant state and federal statutes, with a capacity of not more than fifteen thousand (15,000) barrels, (a barrel being equivalent to thirty-one (31) gallons a year), for the production and packaging of wine beverages for retail and wholesale distribution, on or off premise, and may include a tap room where beverages produced on the premises may be sold and consumed. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**MIXED USE DEVELOPMENT:** any combination of residential and/or commercial uses on the same lot. (Added STM 10/04/21)

**MOBILE HOME:** A structure transportable in one or more sections, which is eight body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with permanent foundation, when connected to the required facilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. (Added 10/4/99)

**MOBILE HOME PARK:** Any premises used or permitted to be used for parking of more than one occupied mobile home.

**MOTELS:** Any building or group of buildings which provide sleeping accommodations for transient motorists and which is not licensed as an inn. Furthermore, each motel shall have at least one non-resident staff person on duty at all times and shall not rent any room to any guests for more than 14 consecutive nights in any 30-day period.(Added 10/2/95)

**MUNICIPAL FACILITIES:** Municipally-owned facilities utilized in the provision of services normally provided by municipalities, such as schools, parks, playgrounds, municipal office building and the like. (Added 10/2/06)

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAIN SYSTEM** means the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Ludlow. (Added 10/2/06)

**NANO-BREWERY**: a facility, licensed under the relevant state and federal statutes, with a capacity of not more than six thousand (6,000) barrels, (a barrel being equivalent to thirty-one (31) gallons per year), for the small scale production of malt, wine, or hard cider beverages primarily for on premises consumption and sale with limited retail or wholesale distribution. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**NANO-CIDERY**: a facility, licensed under the relevant state and federal statutes, with a capacity of not more than six thousand (6,000) barrels, (a barrel being equivalent to thirty-one (31) gallons per year), for small scale production of hard cider beverages primarily for on premises consumption and sales with limited retail and wholesale distribution. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**NANO-WINERY**: a facility, licensed under the relevant state and federal statutes, with a capacity of not more than six thousand (6,000) barrels, (a barrel being equivalent to thirty-one (31) gallons per year), for the small scale production of wine beverages primarily for on premises consumption and sales with limited retail and wholesale distribution. May include other uses such as a restaurant and/or outdoor dining, if otherwise permitted in the zoning district. (Added 10/3/16)

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER PERMIT DISCHARGE PERMIT** is a permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States. (Added 10/2/06)

**NONCONFORMING SIGN**: A sign which was previously erected legally but which does not comply with subsequently enacted regulations. (Added 10/2/06)

**NON-STORMWATER DISCHARGE** means discharge to the municipal storm drain system not composed entirely of stormwater. (Added 10/2/06)

**NURSING HOME**: Also known as extended care home, rest home, or convalescent home. A nursing home is any state licensed facility for two or more patients that provides beds and domiciliary and/or nursing care for chronic or convalescent patients and which is properly licensed by the State, but not including assisted living residences. (Added 10/2/06)

**OFFICE:** A place for the transaction of a professional service or business, not including the sale of articles at retail.

**OFFICE TRAILER:** A trailer of various lengths, which will accommodate office furniture, heating, electricity, possible room separations, and optional toilet/sink room. The Office Trailer will not include facilities for cooking and sleeping. (Added 10/05/09)

**OFF STREET PARKING:** A parking space(s) plus adequate access driveways and aisles within a structure, or in an open area which is not part of a dedicated street right-of-way, for the parking of a motor vehicle on any land owned, rented, or leased for such purposes.

**OFF-PREMISES SIGN:** A sign identifying a business or residential use, facility, or service which is not located on the premises where such activity is located. (Added 10/2/06)

**ON-PREMISES SIGN:** A sign identifying a business or residential use, facility, or service which is located on the premises where such activity is located. (Added 10/2/06)

**ON-STREET PARKING:** A parking space within a dedicated street right-of-way and along the frontage of a site for the purpose of parking a motor vehicle. No part of such space may be within areas where parking is not allowed (curb cuts, posted no parking areas, etc.). (Added 10/2/06)

**OPEN SPACE:** The space on a lot unoccupied by buildings or structures, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of total lot area. (Amended 10/2/06)

**OPERATION AND MAINTENANCE PLAN** is a plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed. (Added 10/2/06)

**OUTDOOR COMMERCIAL RECREATION USE:** A principal (but not accessory) use operated with the principal purpose being the provision of outdoor recreational facilities, whether these be provided to the public at large or to the members of any particular organization, and including but not limited to any of the following uses: country, fishing, golf, tennis, or swimming club, or golf driving range, sports camp, campground, marina, or horseback riding establishment. (Added 10/2/06)

**OUTFALL** is the terminus of a storm drain or other stormwater structure where the contents are released. (Added 10/2/06)

**OUTSTANDING RESOURCE WATERS (ORWs)** means waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater management Standards. ORWs include vernal pools certified by the natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated. (Added 10/2/06)

**PARKING GARAGE:** A building used for the storage of motor vehicles for compensation.

**PARKING SPACE:** An off-street parking space shall be as set forth in Section 6.4.6 of this Bylaw. (amended 10/2/06)

**PEAK DISCHARGE** is the maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event. (Added 10/2/06)

**PERMEABLE SOILS** are soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B. (Added 10/2/06)

**PERSON** is any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof. (Added 10/2/06)

**PHOTOVOLTAIC (PV) INSTALLATION:** A series of components which uses one or more panels to convert sunlight into electricity. (Added 5/14/12)

**PLAQUE SIGN:** A sign affixed to a common background. (Added 10/2/06)

**POINT SOURCE** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged. (Added 10/2/06)

**POLITICAL SIGN:** A temporary sign associated with the elective process. (Added 10/2/06)

**PRINCIPAL USE:** The main or primary use of any land or lot.

**PRIVATE GARAGE:** An accessory building, or part thereof, or a portion of a principal building used for the parking or storage of motor vehicles belonging to the occupant of the premises and used in connection with a use permitted on the premises. The accessory buildings or affected portion of a principal use shall not exceed the following dimensions and are subject to the total area limitations for accessory structures (Section 3.3.1 b (4)). (Amended 10/2/06)

**PROCESS WASTEWATER** is water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product. (Added 10/2/06)

**PROJECTING SIGN:** A sign which extends from a wall of a building.

**PUBLIC WAY:** Any way, publicly or privately owned, over which the public has a right to pass. (Added 10/2/06)

**QUARTER BOARD SIGN:** A sign designed to imitate a sign such as may be found attached to the stern of a vessel. (Added 10/2/06)

**QUONSET HUT:** A prefabricated shelter set on a foundation and built of semi-circular arching roof of corrugated metal.

**RATED NAMEPLATE CAPACITY:** The maximum rated output of electricity produced by an energy-generating system. (Added 5/14/12)

**REAL ESTATE SIGN:** A temporary sign that advertises real property as being for sale, rent, or lease. (Added 10/2/06)

**REAR YARD:** A space across the full width of a lot, and extending from the rear of the building located on such lot to the rear line of such lot. (See Diagram 1.)(amended 10/1/01)

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil. (Added 10/2/06)

**RECREATION, ACTIVE:** Leisure time activities, usually of a formal or organized nature, usually performed with others, often requiring equipment and taking place at prescribed places, sites or fields. (Added 10/2/06)

**RECREATION, PASSIVE:** Those leisure time activities not considered active, such as biking, hiking, or picnicking. (Added 10/2/06)

**RECREATION, PUBLIC:** A recreation use or facility operated by a government agency and open to the general public. (Added 10/2/06)

**REDEVELOPMENT** means development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. (Added 10/2/06)

**RESIDENTIAL CARE FACILITY:** A residential care facility shall consist in part of independent dwelling units, and shall contain a combination of central cooking and dining facilities, recreation facilities, and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility. (Added 10/7/02)

**RETENTION** is the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass. (Added 10/2/06)

**ROOF SIGN:** Any sign erected upon or above a roof or parapet wall of the building on which it is partially or wholly supported. (Added 10/2/06)

**ROOM RENTALS:** The renting of rooms or the furnishing of table board to three or fewer persons in a dwelling occupied as a private residence.

**RUNOFF** means rainfall, snowmelt, or irrigation water flowing over the ground surface. (Added 10/2/06)

**SADDLE HORSE OR RIDING STABLE:** The use of horses or ponies, stables, riding grounds, and/or riding facilities for commercial gain or education purposes.

**SALES OF AGRICULTURE PRODUCTS:** The sale of agricultural and dairy products raised on the premises.

**SANDWICH SIGN:** A self supporting, double paneled, temporary sign, with panels that are not parallel but are connected along one (1) edge and separated along the opposite edge. If connected on a vertical edge, it is a V-Shaped sign. If connected at the top, it is an A-frame sign.

**Prohibited.** See A-frame sign and V-shape sign. (Added 10/2/06)

**SERVICES:** Establishments primarily engaged in providing services for individuals, business, and government establishments and other organizations; including hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; membership organizations, and other miscellaneous services.

**SETBACK:** The minimum required unoccupied space or area between the street line on which the building is numbered or would be numbered, and the part of the building nearest such street line, such unoccupied space or area extending the entire width or distance across the lot.

**SIDE YARD:** A space extending from the front yard to the rear yard between a building and the adjacent side of the lot on which said building is located (See Diagram 1)

**SIGN:** Any device visible from a public way that is intended to visually advertise or promote a business, product, or service; or to visually advocate a political candidate or a position on an issue; or to inform the public of an event; or to inform motor vehicle operators of road conditions or directions; or to identify the occupant(s) of a property.

**SKETCH:** For the purpose of this bylaw, the word sketch shall mean a scale drawing one (1") inch equals forty (40') feet, unless different scale is required by Planning Board. All lettering should be one-eighth (1/8") inch and legible.

**SMALL-SCALE, GROUND-MOUNTED, PHOTOVOLTAIC SYSTEM:** A photovoltaic installation that is structurally mounted on the ground and has a rated nameplate capacity up to 60 kW, measured in Direct Current (DC). (Added 5/14/12)

**SMALL WIND ENERGY SYSTEM:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW. (Added 5/9/11)

**SMOKEHOUSE:** A building where meat or fish is cured by means of dense smoke.

**SPECIAL EVENT SIGN:** A temporary sign advertising or pertaining to a civic, patriotic, educational, or other event. (Added 10/2/06)

**SPECIAL PERMIT:** A special authorization to conduct a particular use or to take advantage of a particular situation set forth in this bylaw subject to the provisions of the Table of Use Regulations, where applicable, and the particular section authorizing the special permit, where applicable.

**SPECIAL PERMIT GRANTING AUTHORITY:** The Planning Board shall act as the special permit granting authority and shall have the power to issue special permits in accordance with the General Laws, Chapter 40A unless another Board is authorized to issue a special permit for a specific type of use. For the purpose of Section 3.4 NON-CONFORMING USE AND BUILDING REGULATIONS, the Zoning Board of Appeals shall act as the Special Permit Granting Authority. (Amended 10/6/14)

**START OF CONSTRUCTION** is the first land-disturbing activity associated with a development, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements; footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages. (Added 10/2/06)

**STORAGE TRAILER:** A box unit, of various lengths, made of steel, aluminum or both, with attached or unattached wheels, usually flat roofed with rear double doors, overhead doors and in some cases side doors. (Added 10/05/09)

**STORMWATER** means stormwater runoff, snow melt runoff, and surface water runoff and drainage. (Added 10/2/06)

**STORMWATER MANAGEMENT PLAN** is a plan required as part of the application for a Stormwater Management Permit. See Section F, part 8. (Added 10/2/06)

**STREET:** A public way or a way opened to the public use or other right-of-way giving access to the lot, but excluding an alley used for service access only. Street shall be deemed to include the entire right-of-way.

**STREET LINE:** The dividing line between a street and a lot; and in case of a public way, the street line established by the public authority laying out said way upon which the lot abuts.

**STRUCTURE:** A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, tower, framework, retaining wall, tanks, tunnel, tent, stadium, platform, swimming pools, bins, signs, flagpoles, reviewing stands, or the like.

**SUBDIVISION:** Including re-subdivision, shall be defined in the Subdivision Control Law (M.G.L. Chapter 41).

**SUBDIVISION IDENTIFICATION SIGN:** A sign identifying a subdivision, condominium complex, or residential development under construction. (Added 10/2/06)

**SUBDIVISION LOT PLAN SIGN:** A sign depicting the lot plan of a subdivision. (Added 10/2/06)

**SUBSIDIARY SIGN:** A lesser sized sign attached to another sign. (Added 10/2/06)

**SURFACE WATER DISCHARGE PERMIT** is a permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts. (Added 10/2/06)

**SWALE** is a natural depression or wide shallow ditch used to temporarily store, route, or filter runoff. (Added 10/2/06)

**SWIMMING POOLS:** A facility used for swimming, diving, and water sports, and may be either:

- a. A below ground, artificial, or semi-artificial receptacle or container of a pool of water located below surrounding grade and having a depth of at least twenty-four (24") inches, as measured from the lowest point in the pool, a vertical distance to the ground level and/or having a surface area more than two hundred and fifty (250') square feet and/or having a circulation system; or
- b. An above-ground, artificial, or semi-artificial receptacle or container of a pool of water located above surface grade with a diameter of fifteen (15') feet or greater at the outside dimension and a capacity to hold water at a depth of twenty-four (24") inches or more, and/or having a circulation system.

**TEMPORARY SIGN:** A sign intended for limited term use. (Added 10/2/06)

**TRAILERS:** "Trailers" shall mean any so-called automobile trailer, trailer coach, including any portable structure, means of conveyance, or vehicle so designed, constructed, and/or altered or converted in any manner so as to permit occupancy thereof, for dwelling or sleeping purposes.

**TRANSMISSION LINES:** Those conductors and their necessary supporting or containing structures which are located entirely outside of buildings and are used for transmitting electric energy which is not connected to individual users/property owners.(Added 5/14/12)

**TRAVEL TRAILER:** A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed 4500 pounds, or being of any weight provided its overall length does not exceed 28 feet. (Added 10/4/99)

**TSS** means Total Suspended Solids. (Added 10/2/06)

**UNCONTAMINATED** means water containing no pollutants. (Added 10/2/06)

**USE, NONCONFORMING:** A use lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which does not conform to one or more provisions of this bylaw.

**VARIANCE:** A departure from the provisions of a zoning bylaw relating to setbacks, side yards, frontage requirements, and lot size, but no involving the actual use and structure. A variance is granted because strict enforcement of the zoning bylaw as it applies to a specific lot would work an undue hardship and present site-specific practical difficulties that are not relevant to other lots in the districts.

**VIEWING BOOTHS:** An enclosed portion of any commercial building or structure smaller than 20' X 20' used for the purpose of the private showing, displaying, or projecting of any motion pictures, other film products, or video tapes for a fee. (added 4/10/95).

**V-SHAPED SIGN:** See Sandwich Sign and A-frame sign. (Added 10/2/06)

**WALL SIGN:** A single-faced sign attached parallel to or painted on a vertical exterior wall not projecting more than twelve inches (12") beyond the wall surface to which it is attached and not extending beyond the edges of that wall. (Added 10/2/06)

**WASTEWATER** means any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. (Added 10/2/06)

**WATERCOURSE** means a natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream. (Added 10/2/06)

**WIND TURBINE HEIGHT:** The height of a wind turbine is measured from natural grade to the tip of the rotor blade at its highest point. (Added 5/9/11)

**WIND TURBINE ROTOR:** The blades and hub of the wind turbine that rotate during turbine operations. (Added 5/9/11)

**WINERY:** a facility, licensed under the relevant state and federal statutes, where wine is produced, rectified, blended or fortified from fruits, flowers, herbs, or vegetables. (Added 10/3/16)

**WIRELESS COMMUNICATIONS TOWERS:** A structure, with antennas, if any, designed to facilitate cellular telephone service, personal communications service, and enhanced specialized mobile radio service. (Added 4/14/97)

**ZOO:** A park where live wild and/or domestic animals are kept in cages or enclosures as exhibits. Such a park would include facilities for visitors. (Added 5/14/12)

END OF SECTION 10

Footnote \* Section XI: Temporary Moratorium on the Sale and Distribution of Recreational Marijuana remove STM 10/1/18. Replaced with SECTION III: GENERAL USE REGULATIONS. 3.2 PROHIBITED USES. Subsection 3.2.3 Prohibition on Marijuana Establishments.