

## ARTICLE VIII OF THE BY-LAWS

### ZONING BY-LAW

#### SECTION I. PURPOSES AND VALIDITY

##### A. PURPOSES

The purposes of this Zoning By-law are to promote the health, safety, convenience, morals and welfare of the inhabitants of the Town and to accomplish all other lawful objectives of zoning, including, but not limited to, the purposes and objectives set forth in Section 2A of Chapter 808 of the Acts of 1975.

##### B. VALIDITY

The provisions of this Zoning By-Law are severable and if provisions, or the application of such provision to any property, person or circumstances, shall be determined by judicial process to be invalid, such invalidity shall not be construed to affect the validity of any other provision or the application of any provision to any other property, person or circumstances.

If in a Single Family Residence District any such regulation shall be held, by judicial process to be invalid with respect to any property, that property thereafter shall be subject to the comparable regulation applicable in the class of single family residence district next following in the alphabetical designation found in Section IV, Subsection a "District Designations".

(end of Section I)

## SECTION II. DEFINITIONS

For the purpose of this Zoning By-Law, certain terms and words are defined as follows. Terms or words not defined in this Section or elsewhere in this By-Law, but defined in the latest edition of the State Building Code (780 CMR), or in the Massachusetts General Laws, shall have the meaning given therein.

### ACCESSORY APARTMENT

An apartment located in a Single Family Dwelling or a detached Accessory Building in compliance with a Special Permit issued under Section VI.G of this By-law.

### ACCESSORY BUILDING

A detached Building devoted exclusively to an Accessory Use.

### ACCESSORY USE

A use of land which is customarily incidental and subordinate to, and located on the same Lot as, the Principal Use it serves.

### AQUIFER

A geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

### ATTIC

That portion of a pitched roof building located under the roof construction between the ridge line and the ceiling level of the uppermost story.

### AVERAGE GRADE

The average of the elevations of the Natural Grades around the perimeter of a proposed building, as determined by the formula:

$$\frac{\sum^s [(e^1 + e^2) / 2 \times L]}{P}$$

where S is a segment of the building perimeter, e<sup>1</sup> and e<sup>2</sup> are the Natural Grades at the respective ends of the segment; L is the corresponding length of the segment; and P is the length of the total building perimeter. In the case of a rectangular building, Average Natural Grade may be determined by taking the average of the Natural Grades of the four extreme corners of the building.

### BASE FLOOD

Base Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

### BASE FLOOD ELEVATION

Base Flood Elevation shall mean the flood elevations shown on the FIRM.

## BASEMENT

That portion of a building which is partly or completely below Finish Grade (See “Story Above Grade”).

## BUILDING

Any Structure having a Roof supported by columns or walls, and intended for the shelter of persons, animals, or property of any nature. The word “Building” shall be construed where the context requires as though followed by the words “or part of parts, thereof”.

## BUILDING COVERAGE

The area covered by the foundation of a building together with any overhang of any part of the building extending beyond the foundation.

## CHILD CARE FACILITY

A Day Care Center or a School Age Child Care Program, *but not including*: (a) any program operated by a public school system; any part of a private organized educational system, unless the services of such system are primarily limited to either a school age day care program, or kindergarten, nursery or related preschool services; (b) a Sunday school or classes for religious instruction conducted by a religious organization; (c) a facility operated by a religious organization where the children are cared for during short periods of time while persons responsible for such children are attending religious services; (d) a Family Day Care Home; (e) an informal cooperative arrangement among neighbors or relatives; or (f) the occasional care of children with or without compensation therefor.

## CO-LOCATION

The use of a building or structure already occupied by a Personal Wireless Service Facility by the Personal Wireless Service Facility(ies) of additional Personal Wireless Service(s).

## DAY CARE CENTER

A Child Care Facility, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or any other name, which receives children not of common parentage, under seven years of age or, if such children have special needs, under sixteen years of age, for nonresidential custody and care during part or all of the day separate from their parents.

## DESTRUCTION/DEMOLITION

Removal without replacement of the enclosing components of a building’s exterior envelope, including doors, windows, cladding, sheathing, and other similar elements; or the alteration of all or a portion of a building’s exterior envelope such that existing walls, roof, or floor cease to be part of the building’s exterior envelope. For the purpose of this By-law, the frame supporting enclosing components need not be removed for the construction to be considered demolition or destruction. For purposes of this definition, envelopment shall mean the total incorporation of all or part of the building envelope. This definition shall take effect on January 1, 2014.

## DISPOSAL

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

## DORMITORY

A Building or portion thereof used as living quarters for a group of five or more unrelated persons, as accessory to an exempt religious or educational use located on the same Lot.

## DWELLING

A permanent Building used or intended to be used exclusively for human habitation and containing one or more Dwelling Units. Dwelling shall not include a trailer or mobile home, however mounted, or a Dormitory, Long Term Care Facility, or other congregate living facility.

## DWELLING UNIT

A permanent Building, or portion thereof, used or intended to be used as the residence of a single Family.

## EATING PLACE

A commercial establishment in which the primary business conducted is the sale and service of prepared food, refreshments, and/or beverages for consumption at tables or counters on the Premises. The term Eating Place does not include a Fast Food Establishment.

## EARTH

Shall include soil, loam, sand, gravel, clay, rock or other natural minerals and peat.

## FAMILY

One or more persons, including domestic employees, occupying a Dwelling Unit as a single non-profit housekeeping unit, provided that a group of five or more persons who are not related to each other by blood or civil law, shall not be deemed to constitute a Family.

## FAMILY DAY CARE HOME

Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age is such children have special needs, provided that the total number of children in the family day care home shall not exceed six, including participating children living in the residence. The term Family Day Care Home shall not include: a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

## FARM, FARMING

“Farming” or “agriculture” shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

## FAST FOOD ESTABLISHMENT

A commercial establishment in which the primary business conducted is the sale of prepared food, refreshments and/or beverages in disposable containers for consumption either off the Premises or in vehicles on the premises.

## FLOODWAY DATA

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.

## FRONTAGE/FRONTING

The line measured continuously along the street sideline from the point where one sideline of the lot intersects the street sideline to the point where the second sideline of the lot intersects the street sideline. Where the continuous street sideline is broken by a backup area, the frontage line shall be measured across the mouth of the backup area and not around its perimeter.

## GARAGES (in Multiple Dwelling Districts)

Roofed structures or carports rented to or used by residents of a multiple dwelling unit. Such structures may be attached to or separate from the multiple dwelling buildings.

## GRADE

For purposes of dimensional determinations, and based upon North American Vertical Datum of 1988 (NAVD 88).

NATURAL GRADE shall be the natural grade of the land at any point along the perimeter of a proposed building prior to disturbance for construction. The elevation of the natural grade prior to disturbance for construction shall be certified by a registered land surveyor, or may be such elevation as may be determined from maps or records satisfactory to the town.

FINISH GRADE shall be the final grade of the land at any point along the perimeter of a building at the completion of construction. The elevation of the finish grade shall be determined by a site plan satisfactory to the Town showing proposed contours at completion of construction.

GRADE PLANE

A horizontal reference plane passing through the elevation of the Average Natural Grade of a proposed building from which building height is determined.

GROUNDWATER

All water found beneath the surface of the ground. In this Zoning By-Law the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

HAZARDOUS MATERIALS

Any substance or combination of substances, that, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water. Any substance deemed a "hazardous waste" in Mass. Gen. Laws. ch. 21C shall also be deemed a hazardous material for purposes of this Zoning By-Law.

HEIGHT

The vertical distance from the Grade Plane to the highest point of a building.

IMPERVIOUS

Impenetrable by water.

LONG-TERM CARE FACILITY

An establishment for the recuperation, rehabilitation, or care of elderly, invalid, or convalescent persons. The term does not include a hospital or diagnostic medical center.

LOT

The whole area of continuous land under one Ownership, whether there be one or more than one owner and whatever the form of tenure.

MOVE OR MOVEMENT

To dig, excavate, remove, deposit, fill, grade, replace, level, or otherwise alter or change the location of earth or contour of land.

MUNICIPAL PURPOSE USE

The use of land or Structures by the Town of Weston for municipal services and facilities of any kind, including but not limited to schools, libraries, playgrounds, parks, wastewater treatment, solid waste transfer, communications, and offices.

MULTIPLE DWELLING

A Building containing two or more Dwelling Units, such as an apartment house, town houses or row houses, but not including a Single Family Dwelling with an Accessory Apartment.

NON-COMMERCIAL CLUB

The use of a site for provision of meeting, recreational, or social facilities by a private nonprofit association, primarily for use by members and guests and not connected with or engaged in commercial enterprises.

NON-CONFORMING BUILDING OR STRUCTURE

A building, structure or portion thereof which does not conform to the height and location regulations for the district in which it is located.

NON-CONFORMING LOT

A lot which does not conform to the area, frontage, and/or dimensional regulations for the district in which it is located.

NON-CONFORMING USE

A use of a building, structure, or land which does not conform to the use regulations of the district in which it is located.

PERMIT GRANTING AUTHORITY

The Zoning Board of Appeals.

PERSONAL WIRELESS SERVICES

Shall have the same meaning as in the Telecommunications Act of 1996, 47 USC §332(c)(7)(C), including, but not limited to, commercial mobile services, including but not limited to, cellular services, personal communications services, advanced wireless services, and broadband wireless services.

PERSONAL WIRELESS SERVICE FACILITY

Any and all materials, equipment, cabling, storage structures, monopoles, towers, satellite dishes and/or antennas intended for transmitting or receiving Personal Wireless Services.

PREMISES

A lot, together with any structures and appurtenances thereon.

PRINCIPAL USE

A primary or main use of a lot.

PROFESSIONAL

Person formally certified by a professional body or belonging to a specific profession by virtue of having completed a required course of studies and/or practice.

RECHARGE AREAS

Areas from which precipitation or surface water can migrate into an aquifer.

REPLACEMENT SINGLE FAMILY DWELLING

The supplanting of all or a portion of a demolished or substantially demolished single-family dwelling with a substitute single-family dwelling in the same or in a different location on the lot, or the relocation on the lot of an existing single family dwelling.

RESIDENTIAL GROSS FLOOR AREA (“RGFA”)

The sum of the horizontal area(s) of the above-grade floors in the residential building(s) on a lot, excluding unfinished attics but including attached or detached garages. The RGFA shall be measured from the exterior face of the exterior walls.

## ROOF

The outside top covering of a building with its supporting members, not including vertical supports. For purposes of dimensional determinations, roof slopes shall be established as follows:

Pitched Roof: A roof plane with a slope greater than 3:12 [Three (3) inches of vertical rise for every twelve (12) inches of horizontal run].

Flat Roof: A roof plane with a slope equal to or less than 3:12 [Three (3) inches of vertical rise for every twelve (12) inches of horizontal run].

A building shall be construed to be covered with a pitched roof when 30% or more of the area within the total building perimeter is covered with roofs of slopes greater than 3:12.

## SCENIC ROAD

Those early Town Roads and / or core transportation routes which the Planning Board has identified as best representing the historic, rural and otherwise scenic character of the Town. These roads are: Ash Street, Boston Post Road and Boston Post Road By-Pass (Route 20), Brown Street, Chestnut Street, Church Street, Conant Road, Concord Road, Crescent Street, Fiske Lane, Glen Road, Highland Street, Hilltop Road, Kingsbury Lane, Lexington Street, Lincoln Street, Loring Road, Love Lane, Maple Road, Merriam Street, Newton Street, North Avenue (Route 117), Oak Street, Pigeon Hill Road, Pine Street, Ridgeway Road, Ripley Lane, School Street, Silver Hill Road, South Avenue (Route 30), Sudbury Road, Summer Street including By-Pass, Viles Street, Ware Street, Webster Road, Wellesley Street, Winter Street.

## SCHOOL AGE CHILD CARE PROGRAM

A Child Care Facility providing supervised group care, on a regular basis before or after school and/or during school vacation and holidays, for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, and/or older children of common parentage not more than fourteen years of age (or sixteen years of age if such child has special needs). Such facility must include a planned daily program of activities attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months.

## SETBACK

The shortest distance from the street side line, street center line, or lot line, as the case may be, to any part of the foundation of a building or structure.

## SIGN

Any advertising symbol or device used or intended to advertise or promote the interests of any entity when the same is placed out of doors or is visible from the exterior by reason of being placed in or on a window or outside door.

## SINGLE FAMILY DWELLING

A Dwelling used or intended to be used principally as the residence of a single Family, with or without an Accessory Apartment authorized under Section VI.G of this Zoning By-law. When the context indicates, the term Single Family Dwelling shall also refer to the Principal Use of the lot for such purpose.



## SOLID WASTES

Useless, unwanted or discarded solid materials, with insufficient liquid content to be free flowing, including for example, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

## SPECIAL PERMIT GRANTING AUTHORITY (SPGA)

The Board of Selectmen, the Zoning Board of Appeals, or the Planning Board, as may be designated in Zoning By-law for the issuance of a particular special permit.

## STORY

That portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above.

## STORY ABOVE GRADE

Any Story having its finished floor surface entirely above finish grade, except that a Basement shall be considered as a story above grade where the finished surface of the floor above the Basement is:

- a) More than six (6) feet above average finish grade e;
- b) More than six (6) feet above Grade for more than 50% of the total building perimeter; or
- c) More than twelve (12) feet above Grade at any point.

## STREET

In connection with frontage regulations, a street is any constructed and paved public or private way shown on the official map of the Town.

## STREET SIDE LINE

The legal boundary between the street right of way and the abutting lot(s).

## STRUCTURE

Anything constructed, assembled, erected or maintained at a fixed location above or below ground, including, but not limited to, the following examples: antenna, bridge, building, gazebo, mechanical equipment, pergola, platform or deck, satellite dish, shed, swimming pool, and an apron of five (5) feet measured from water's edge, tennis or similar court, tower, trailer without wheels, trellis, tunnel. The word "structure" shall be construed as if followed by the words "or part thereof," but shall not include underground utilities, septic systems, underground storm water drainage systems, driveways, or landscape features such as birdbaths, fountains, patios, flagpoles, lamp posts, planting boxes and swing sets.

A fence shall be considered a structure only if it is more than six (6) feet high, as measured from existing natural grade.

A wall, other than a retaining wall, shall be considered a structure if it is constructed of any masonry material including concrete and is thirty-six (36) inches or more above existing natural grade.

A retaining wall constructed of any material (including rip-rap) shall be considered a structure if it is thirty-six (36) inches or more above existing natural grade.

For purposes of determining the height of stepped walls or retaining walls, the thirty-six (36) inch height shall be measured in the aggregate, vertically from existing natural grade to the highest point of the wall.

### SUBSTANTIALLY DEMOLISHED

Destruction of more than 50% of the exterior walls of a Building or the destruction of more than 75% of the Roof of a Building.

### SUBSTANTIAL IRREGULARITY

A lot having a coefficient lower than 0.4 is considered to be substantially irregular, as determined by the formula  $r = 16A/p^2$  (where r = the coefficient of regularity; A = area; and p = perimeter).

### WIRELESS COMMUNICATIONS FACILITIES

Any and all materials, equipment, storage structures, monopoles, towers, satellite dishes and/or antennae intended for transmitting or receiving telecommunications services including, but not limited to radio, television and cellular telephone services, except as may be incidental to a residential use.

### ZONE II

Zone II is defined as that area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated. It is bounded by the groundwater divides which result from pumping the well and by the contact of the edge of the aquifer with less permeable materials such as till and bed rock.

(end of Section II)

SECTION III. PRE-EXISTING NONCONFORMING  
BUILDINGS, STRUCTURES AND USES

A. GENERAL

Subject to the provisions of the zoning statutes respecting issuance of Building Permits and construction work, this Zoning By-Law shall not apply to existing buildings or structures, nor to the existing use of any building or structure, nor of land to the extent to which it is used at the time of adoption of this Zoning By-Law, provided that any change of use thereof, any alteration of a building or structure when the same would amount to extension thereof and any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent shall be subject upon application to the finding of the Zoning Board of Appeals as the Special Permit Granting Authority that such change, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure.

B. DISCONTINUED USE

A nonconforming use of any building, structure, or land protected by Subsection III,A. above, if discontinued for a period of two years or more, shall not be resumed.

C. RECONSTRUCTION

A nonconforming building or structure protected by Subsection A above, if substantially destroyed by fire or other casualty, may be rebuilt within one year, provided that in rebuilding it shall be made to conform to this Zoning By-Law so far as practicable.

(end of Section III)

## SECTION IV. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

### A. DISTRICT DESIGNATIONS

For the purpose of this Zoning By-Law the Town is hereby divided into the following classes of districts to be known as:

1. Single Family Residence Districts (A)
2. Single Family Residence Districts (B)
3. Single Family Residence Districts (C)
4. Single Family Residence Districts (D)
5. Multiple Dwelling Districts (A)
6. Multiple Dwelling Districts (B)
7. Business Districts (A)
8. Business Districts (B)
9. Office & Research and Development Districts
10. Commercial Districts
11. Wetlands and Flood Plain Protection District (A)
12. Wetlands and Flood Plain Protection District (B)
13. Aquifer Protection Overlay Districts
14. Personal Wireless Service Overlay Districts

### B. DISTRICT BOUNDARIES

#### 1. Zoning Map.

The location and boundaries of all districts except the Wetlands and Flood Plain Protection Districts, as amended, and the Aquifer Protection Overlay District are shown on a map on file in the office of the Town Clerk entitled "Zoning Map Town of Weston, Massachusetts, November, 2007. The location and boundaries of all Wetlands and Flood Plain Protection Districts are shown, as amended, on a map on file in the office of the Town Clerk entitled "Wetlands and Flood Plain Protection District, Weston, Mass.-1980". The location and boundaries of all Aquifer Protection Overlay Districts are shown on a map on file in the office of the Town Clerk entitled "Aquifer Protection Overlay District, Town of Weston, 1988" all of which, together with all explanatory matter, boundary lines and designations, are hereby made a part of this Zoning By-Law.

#### 2. General Locations of District Boundaries.

Where the boundary lines are shown upon the map within the lines of public or private ways, the center lines of the ways shall be the boundary lines.

Boundary lines located outside the lines of ways and shown approximately parallel thereto shall be regarded as parallel thereto, and dimensions shown in figures placed upon the map between the boundary lines and the lines of ways are the distance in feet of the boundary lines from the lines of ways, such distances being measured at right angles to the lines of ways unless otherwise indicated.

In all cases which are not covered by other provisions of this Subsection, the location of boundary lines shall be determined by the distance in feet, if given, from other lines or points on the map, by the use of identification as shown on the map, or by the scale of the map.

3. Lots Divided By Zoning Districts.

Where boundary lines of a district, other than the boundary line of the Wetlands and Flood Plain Protection District and Aquifer Protection Overlay Districts divide a lot, the dwelling on such a lot shall conform to the area, frontage, setbacks and lot width requirements of the district where the dwelling is located; and where the dwelling itself straddles a district line, as above defined; the entire lot shall conform to the area, frontage, setbacks and lot width requirements of the strictest applicable district.

4. Aquifer Protection Overlay Districts.

For the purposes of this Zoning By-Law there is hereby established within the Town of Weston an overlay district consisting of certain aquifer protection areas, including aquifer recharge areas calculated in accordance with Department of Environmental Quality Engineering's guidelines for Zone II, which are delineated on a map entitled "Aquifer Protection Overlay District, Town of Weston, 1988," drawn to a scale of 1"=800', and which shall be considered as superimposed over other districts established by the Zoning By-Laws of Weston.

5. Wetlands And Flood Plain Protection Districts.

a. Wetland and Flood Plain Protection - District A - The locations and boundaries of the Wetlands and Flood Plain Protection Districts A are shown on a map entitled "Wetlands and Flood Plain Protection Districts, Weston, Mass. - 1980" as designated in blue on said map. Said District A shall include those areas identified in blue on said Map including those areas specifically described as follows:

- (i) All land bordering any natural waterbody that lies within a horizontal distance of twenty-five (25) feet from the mean high water line except as otherwise shown in blue on the Weston Wetlands and Flood Plain Protection District Map. The mean high water line at a water body is defined as the elevation where vegetation changes from predominantly aquatic to predominantly terrestrial and along a brook, river or stream the elevation on the bank of a channel at which the annual high water has left a definite mark.
- (ii) All waterbodies encircled by boundary lines of the District A in blue.
- (iii) All that land along the following named brooks and their tributaries: Stony Brook, Cherry Brook, Hobbs Brook, Hayward Brook, Bogle Brook and Seaverns Brook and certain unnamed brooks that lie within a horizontal distance of twenty-five (25) feet from the mean high water line along each bank thereof except as otherwise shown on the Weston Wetlands and Flood Plain Protection District Map in blue.
- (iv) All those wetlands which may be described as upland swamps or marshes which lie at the source of the brooks or their tributaries or which lie in surface depressions without drainage outlets, as shown on the Weston Wetlands and Flood Plain Protection District Map in blue.

b. Wetlands and Flood Plain Protection - District B - The location and boundaries of the Wetlands and Flood Plain Protection District B shall include all special flood hazard areas within the Town of Weston that are designated as Zone A and AE as shown on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program effective June 4, 2010. The map panels of the Middlesex County FIRM, that are wholly or partially within the Town of Weston, are map panel numbers 25017C0389E, 25017C0393E, 25017C0394E, 25017C0527E, 25017C0529E, 25017C0531E, 25017C0532E, 25017C0533E and 25017C0534E, all dated and effective June 4, 2010. The exact boundaries of the District B shall be defined by the 100-year base flood elevations as shown on the FIRM and as further defined by the Middlesex County Flood Insurance Study (FIS) report effective June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

6. Personal Wireless Service Overlay Districts.

There shall be two Personal Wireless Service Overlay Districts. Personal Wireless Service Overlay District I ("PWSOD I") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 53: Massachusetts Turnpike Authority land "ballfield," located east of Liberty Mutual Insurance Company, Riverside Road;
- Maps # 49 & 55: 668 South Avenue, Massachusetts State Police Barracks.
- Map # 27, Parcel # 75-10: Town of Weston Police Station and
- A portion of Map # 27, Parcel #74, described as follows:

All that certain Parcel of land located on the southerly side of Boston Post Road By-Pass (Route 20) and described as follows:

SOUTHEASTERLY by land of Town of Weston (Weston Police Station) three hundred seventy-two and 61/100 (372.61) feet;

SOUTHERLY by land of Town of Weston (Weston Highway Department) fifty and 00/100 (50.00) feet;

NORTHWESTERLY by land of the Town of Weston (Weston Highway Department) three hundred thirty-three (333) feet approximately;

NORTHERLY by land of the Commonwealth of Massachusetts (Boston Post Road By-Pass, Route 20) sixty-five (65) feet approximately; containing 0.4 acres, more or less.

Town of Weston Highway Department

- Map # 8, Parcel # 34: Weston Market, 284 North Avenue;
- Map # 59 , Parcels # 23-20 (P/O 58): Leo J Martin Golf Course, Park Road;
- Map # 58, Parcel # 23-20: Leo J Martin Golf Course, Park Road;
- Map # 33, Parcels # 16 and 28-10: Weston Golf Club;
- Map # 34, Parcel # 16 (P/O 33): Weston Golf Club;
- Map # 46, Parcel # 4: Pine Brook Country Club;
- Map # 45, Parcel # 4 (P/O 46): Pine Brook Country Club;

- Map # 11: Campion Residence and Renewal Center Parking Lot, across Concord Road from Campion Center, Concord Road;
- Map # 19, Parcel # 35 (P/O 23):Town of Weston Solid Waste Transfer Station;
- Map # 18, Parcel # 35 (P/O 23): Town of Weston Solid Waste Transfer Station; Map # 23, Parcel # 35: Town of Weston Solid Waste Transfer Station;
- Map # 24, Parcel # 6: Weston Mobil Gas Station, 88 Boston Post Road.

Personal Wireless Service Overlay District II ("PWSOD II") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 52, Parcel # 1: 134 South Avenue;
- Map # 41, Parcels # 38 & 39: 75 Norumbega Road, 85 Norumbega Road, 99 Norumbega Road, 101 Norumbega Road;
- Map # 49, Parcel # 33: 100 Brown Street, Hazel Hotchkiss Wightman Tennis Center, Inc.
- Map # 8, Parcel # 35: Shell Gas Station, 290 North Avenue;
- Map # 11, Parcel # 8: Campion Residence and Renewal Center, 319 Concord Road;
- Map # 51, Parcel # 52: Town of Weston Southside Fire Station, South Avenue;
- Map # 24, Parcel # 1: Weston Corporate Center, Biogen Idec, 133 Boston Post Road;
- Map # 13, Parcel # 93: Town of Weston Water Tank, Cat Rock Tank;
- Map # 41, Parcel # 24: Office Building, 101 River Road;
- High Voltage Transmission Poles and Stanchions in the abandoned Boston & Maine (Clinton Division) Railroad Right of Way;
- Map # 13, Parcel # 129: Town of Weston North Side Fire Station, North Avenue;
- Map # 13, Parcel # 103: Sunrise of Weston, 135 North Avenue;
- Map # 8, Parcel # 54-10: Dairy Joy Restaurant, 331 North Avenue;
- Map # 38, Parcel # 1: Regis College, 235 Wellesley Street.

#### 7. Renewable Energy Overlay District

For the purpose of this Zoning By-law there is hereby established within the Town of Weston a Renewable Energy Overlay District, which is delineated on a map entitled "Renewable Energy Overlay District Town of Weston, 2011," which shall be considered superimposed over other districts established by the Zoning By-Laws of Weston and shall consist of the following parcels, identified on the Weston Assessors Maps as:

Map # 23, Parcel # 035  
 Map # 24, Parcel #001  
 Map # 18, Parcel #28-10

(end of Section IV)

## SECTION V. USE REGULATIONS

### A. GENERAL

1. Except as may be permitted with respect to lawfully nonconforming uses, buildings and structures regulated under the provisions of Section III of this Zoning By-law, no building, structure or land may be used, and no building or structure may be erected or altered for any use, not expressly allowed in the district in which the building, structure or land is located. A building, structure or use not expressly allowed by this Zoning By-law is prohibited.

2. Notwithstanding any other provision of this Zoning By-law, any building or structure, and any use of any building or structure or premises, which is injurious, obnoxious, offensive, dangerous, or a nuisance to the community or to the neighborhood through noise, vibration, concussion, odors, fumes, smoke, gases, dust, harmful fluids or substances, danger of fire or explosion, or other objectionable feature detrimental to the community or neighborhood health, safety, convenience, morals or welfare, is prohibited.

### 3. Uses Allowed in All Districts

a. Buildings, structures and land in any zoning district may be used for Municipal Purpose Use, or for any public purpose use conducted by the Federal Government or the Commonwealth of Massachusetts or any of their respective agencies.

b. Commercial Agriculture in accordance with G.L. c.40A, §3.

c. Subject to Limited Site Plan Approval, buildings, structures and land in any zoning district may be used for the following:

i. Religious purposes, in accordance with G.L. c. 40A, §3;

ii. Educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions, or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation, in accordance with G.L. c. 40A, §3; and

iii. Child Care Facility, in accordance with G.L. c. 40A, §3;  
provided that:

- off-street parking is provided in accordance with Section VIII.A “Regulations for off-Street parking” and
- height, setbacks and lot area are maintained in accordance with the requirements for the District in which the land, buildings, or structures are located.

d. Upon issuance of a special permit, activities necessary in connection with scientific research or scientific development or related production, which are accessory to activities permitted in the district as a matter of right, provided the Special permit Granting Authority finds that the proposed accessory use does not substantially derogate from the public good.



4. All other uses of buildings, structures and land shall be subject to the requirements and limitations set forth in this Zoning By-law for the zoning district(s) in which the particular building, structure or land is located, including, Accessory Uses in connection with lawful Principal Uses. Accessory Uses are subject to the same special permit and/or site plan approval requirements as the principal use(s) served.

**B. SINGLE FAMILY RESIDENCE DISTRICTS (A, B, C and D)**

**1. By-Right Uses**

- a. Unless located on a lot which bounds on a Scenic Road as defined in Section II, single family detached dwelling containing one housekeeping unit only, together with accessory buildings not containing a housekeeping unit. The number of such dwellings with such accessory buildings on any one lot shall not exceed the number which can be located thereon in conformity to Section VI, Subsection F.2., "Numbers and Location of Dwellings on One Lot";

The Residential Gross Floor Area "RGFA" of any new or replacement single family dwelling use constructed pursuant to a building permit issued on or after October 29, 1998, may not exceed the greater of 3,500 s.f. or 10% of the lot area up to a maximum of 6,000 s.f.

- b. Preservation of a lot in its natural condition; fields, pastures, woodlots, and orchards; greenhouses for private use; farm; sale or offering for sale of farm produce by owner or resident tenant providing a substantial portion is raised on the premises;
- c. Wildlife and plant management by nonprofit organization;
- d. The renting of rooms or the furnishing of table board to not more than four persons not members of the family residing on the premises;
- e. Any occupation or occupations conducted by a person residing in the dwelling, provided:
  - (i) That the occupation or occupations are conducted totally within the dwelling and not in an accessory structure;
  - (ii) That the occupant shall maintain at least fifty percent interest in the occupation or occupations so conducted;
  - (iii) That there shall be no use of any accessory structure other than for parking one vehicle used for the occupation or occupations;
  - (iv) That regardless of the number of occupations conducted in the dwelling, no more than one vehicle related to the occupation or occupations shall be regularly on the premises whether or not garaged;
  - (v) That vehicle shall be rated to carry no more than two tons;
  - (vi) That there is no visible exterior storage of material or equipment and no exterior indication from the boundaries of the premises of such use or variation from the residential character of the area;

- (vii) That not more than three persons regularly engaged in the occupation or occupations, whether full or part-time, in addition to the occupant shall work at the premises at one time;
  - (viii) that traffic generated by such occupation is not inconsistent with traffic usually associated with a single family residence and there is adequate parking on the lot screened from abutting properties;
  - (ix) that it does not create a hazard to health, safety, or welfare;
  - (x) That there is no evidence of the occupation or occupations through persistent or excessive sound, vibration, dust, heat, glare, odor, or light discernible at the boundaries of the premises or through interference with radio or television reception or other communications equipment.
  - (xi) That, where required, there is compliance with Section V, Subsection B.5.
- f. Driveways with up to two curb cuts serving a single family dwelling provided:
- (i) the driveway complies with Weston General By-Law Article XXVII entitled “Storm Water and Erosion Control By-law” and provided there is no surface runoff of water from the driveway onto the public or private ways upon which the driveway abuts or onto other abutting properties; and
  - (ii) there is safe vehicular and pedestrian movement onto and from adjacent ways.
2. By-Right Uses Allowed With Site Plan Approval
- a. Privately owned and operated park or playground;
  - b. New or replacement single family dwelling, together with accessory buildings not containing a housekeeping unit, in conformity with Section VI.F.2., which is constructed pursuant to a building permit issued on or after October 29, 1998, and which is located on a lot bounding on a Scenic Road as defined in Section II.
  - c. New or replacement single-family dwelling, together with accessory buildings not containing a housekeeping unit, in conformity with Section VI, subsection F.2, which is constructed pursuant to a building permit issued on or after October 29, 1998 and which exceeds the RGFA limit provided in Section V.B.1.a.
3. Uses Allowed With Site Plan Approval and By Special Permit
- a. Private cemetery;
  - b. Noncommercial club;
  - c. Family day care;
  - d. Day camp;
  - e. Philanthropic or charitable institution, but not a correctional institution or place of detention;
  - f. Accessory use by not more than one business entity of a railroad station existing as of May 1, 1979, provided that no more than four persons are regularly engaged in the activity, and that any Special Permit granted hereunder is conditioned on the establishment and maintenance of a clean, safe, heated and lighted waiting room within the station, a lighted platform, and a lighted and adequate parking area adjacent to the station for the convenience of passengers of the railroad or other connecting

modes of transportation; the conditions relating to the waiting room, platform, and parking area may be waived so long as the railroad station is not in active service.

- g. Veterinarian/Animal Hospital, provided the premises was used by a veterinarian and/or animal hospital as of May 1, 1998 and had been continuously so used for at least the twenty-five years prior to May 1, 1998 and provided said premises abuts Boston Post Road and/or the Boston Post Road Bypass.

4. Uses Allowed by Special Permit

- a. Accessory Apartments (see Section VI.G.)
- b. Division of land pursuant to the Flexible Development provisions of Section VI.H.

5. Uses Allowed By Permit

Storage for Commercial and Business Activities: In Single Family Residence Districts the Permit Granting Authority may issue Permits for the storage of vehicles, materials, supplies and equipment in connection with commercial or business activities principally carried on in the Town and providing services essential to the uses of premises permitted in the residence districts; and may in connection with a farm use, in a residence district, permit the commercial raising, keeping, selling or other dealing with poultry or livestock.

6. Uses Allowed with Special Permit of the Board of Selectmen with Site Plan Approval

- a. antique shop
- b. shop or studio of an artist, potter, sculptor, silversmith, woodcarver, or similar craftsman
- c. office of a doctor, dentist, lawyer, accountant, architect, engineer, or similar professional, provided that for the above uses, the following shall apply:
  - (i) all work and storage shall be conducted within the building and no more than three full-time employees or their equivalents, shall be employed on the premises;
  - (ii) the use is conducted within a building owned by the Town of Weston, which building has a gross floor area equal to or less than 1500 s.f. and been designated by the Weston Historical Commission as a building of historic significance;
  - (iii) all proposed interior and exterior renovations of the building and the site have been reviewed by the Historical Commission and the Historical Commission has issued an advisory report that such renovations will not adversely affect the historical integrity of the building and the site on which it is located;
  - (iv) the Board of Selectmen finds that the impacts on the neighborhood expected to be generated by the proposed use are consistent with other uses permitted in Single Family Residence Districts;
  - (v) the use may be subject to such further terms and conditions as shall be deemed appropriate by the Board of Selectmen in order to preserve the integrity of the historic building and to protect the surrounding neighborhood from detrimental impacts.

C. MULTIPLE DWELLING DISTRICTS (A and B)

1. By-Right Uses

- a. Single Family Residence containing one housekeeping unit only, conforming to Single Family Residence District A requirements;
- b. Preservation of a lot in its natural condition; fields, pastures, woodlots, and orchards; greenhouses for private use; farm; sale or offering for sale of farm products by owner or resident tenant providing substantial portion raised on the premises;
- c. Wildlife and plant management by nonprofit organization;

2. By-Right Uses Allowed With Site Plan Approval

- a. Multiple dwellings numbering four units or fewer;
- b. Privately owned and operated park or playground.

3. Uses Allowed With Site Plan Approval and By Special Permit

- a. Multiple dwellings numbering over four units;
- b. Philanthropic or charitable institution, but not a correctional institution or place of detention;
- c. Long term care facility.

D. BUSINESS DISTRICTS (A and B)

1. By-Right Uses

- a. Open space;
- b. Privately owned and operated park or playground.

2. By-Right Uses Allowed With Site Plan Approval

- a. Office or office building with 1,000 square feet or less gross floor area;
- b. Bank with 1,000 square feet or less gross floor area;
- c. Store, salesroom or showroom for the conduct of retail business with 1,000 square feet or less gross floor area;

3. Uses Allowed with Site Plan Approval and By Special Permit

- a. Office or office building with over 1,000 square feet gross floor area;
- b. Bank with over 1,000 square feet gross floor area;
- c. Store, salesroom or showroom for the conduct of retail business with over 1,000 square feet gross floor area;
- d. Eating place;
- e. Ambulatory medical office;
- f. Noncommercial club;
- g. Personal service establishment;
- h. Filling station or garage for servicing or repairing of motor vehicles;
- i. Commercial greenhouse or nursery;
- j. Veterinarian, animal hospital;

- k. Exceptional uses: in special circumstances the Special Permit Granting Authority by Special Permit for each instance may allow use thereof for any other business purpose which the Special Permit Granting Authority determines to be consonant with a Business District of the foregoing character.

E. OFFICE AND RESEARCH AND DEVELOPMENT DISTRICTS

1. By-Right Uses

- a. Open space;
- b. Public park and playground;
- c. Wildlife and plant management by nonprofit organization.

2. By-Right Uses Allowed With Site Plan Approval

- a. Office or office buildings of 5,000 square feet or less gross floor area;
- b. Professional and management training facility of 5,000 square feet or less gross floor area
- c. Personal service facility, such as cafeterias and banks, for the occupants of a development but not for the general public;

3. Uses Allowed With Site Plan Approval and By Special Permit

- a. Office or office building of greater than 5,000 square feet gross floor area;
- b. Professional and management training facility of greater than 5,000 square feet gross floor area;
- c. Research and/or laboratory facility not involving manufacturing of products for sale in the normal course of business, and not creating a hazard to health, safety, or welfare.
- d. Private cemetery.

F. COMMERCIAL DISTRICTS

1. By-Right Uses

- a. Open space;
- b. Privately owned and operated park or playground.

2. By-Right Uses Allowed With Site Plan Approval

- a. Any trade or business of less than 1,000 square feet gross floor area;
- b. Office or office building of less than 1,000 square feet gross floor area;
- c. Bank of less than 1,000 square feet gross floor area;
- d. Store, salesroom, or showroom for the conduct of retail business of less than 1,000 square feet gross floor area;

3. Uses Allowed With Site Plan Approval and By Special Permit

- a. Any trade or business of over 1,000 square feet gross floor area;
- b. Office or trade building with over 1,000 square feet gross floor area;
- c. Bank with over 1,000 square feet gross floor area;
- d. Store, salesroom or showroom for the conduct of retail business with over 1,000 square feet gross floor area;

- e. Eating place;
- f. Personal service establishment;
- g. Filling station or garage for servicing or repairing of motor vehicles.

G. WETLANDS AND FLOOD PLAIN PROTECTION DISTRICTS (A AND B)

1. General

- a. Construction in Wetlands and Flood Plain Protection Districts A and B - Any other Zoning By-Law or regulation to the contrary notwithstanding, no construction requiring any utility, including electric, water, gas and telephone lines, or waste disposal or drainage facilities shall be permitted within the Districts A and B unless the Planning Board acting as Special Permit Granting Authority following, as applicable, the procedures established in Sections X and XI of the Zoning By-Law shall determine that all utilities are located, protected and constructed so as to minimize or eliminate flood damage and that methods of disposal for sewage, refuse and other wastes and methods of providing drainage are adequate to reduce flood hazards and prevent pollution.
- b. Procedure where Base Flood Elevation is Not Provided -Within Wetlands and Flood Plain Protection Districts A and B, where the base flood elevation is not provided, the applicant for a Special Permit shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization towards meeting the elevation or flood proofing requirements, as appropriate, of this Zoning By-Law and the State Building Code.
- c. Base Flood Elevation Data shall be required for the review of all definitive subdivision proposals or other development greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

2. Wetlands and Flood Plain Protection District A

- a. Purposes - In addition to the purposes in Section I, "Purposes", of this Zoning By-Law, the purposes of this District are:
  - (i) To provide that lands in the Town of Weston subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof or the public generally or to burden the public with costs resulting from the unwise individual choices of land use in wetlands such as streams and other water courses, swamps, marshes, bogs, ponds, or areas subject to flooding.
  - (ii) To protect, preserve, and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the Town and the Boston metropolitan area.
  - (iii) To assure the continuation of the natural flow pattern of the water courses within the Town and to preserve natural floodwater storage areas so as to protect persons and property against the hazards of flood inundation.
- b. Use Regulations - The Wetlands and Flood Plain Protection District A shall be considered as overlying other districts established by the Weston Zoning By-Law. All uses and structures otherwise authorized by said Zoning By-Law in the portion of the

districts so overlaid shall be permitted in the Wetlands and Flood Plain Protection District A provided that in the Wetlands and Flood Plain Protection District A:

- (i) No existing building or structure shall be moved into such district, and no new building or structure shall be erected or constructed therein except as provided in Section V, Subsection G.2.c. (vi) and V.G.2.f.;
  - (ii) No existing building or structure shall be moved, altered or enlarged so as to increase its ground coverage by more than a total of twenty (20) percent;
  - (iii) No dumping or filling or relocation of earth materials shall be permitted except as may be required for the uses permitted in Section V, Subsection G.2.c. (vii), (viii) and (ix).
  - (iv) No storage of manure, road salt, fertilizer, or other leachable chemicals shall be permitted.
- c. Other Activities and Uses - The following activities and uses so far as otherwise authorized by the Weston Zoning By-Law as from time to time amended shall be permitted in the said District A subject specifically to Section V, Subsection G.2.b., as applicable, provided that all necessary permits, orders or approvals required by federal, state or local laws or regulations are obtained as may be required by such laws or regulations;
- (i) Uses directly related to the conservation of water, plants and wildlife.
  - (ii) Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted.
  - (iii) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any water course.
  - (iv) Grazing and farming, including truck gardening and harvesting of crops.
  - (v) Forestry and nurseries.
  - (vi) Small nonresidential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage or sale of crops raised on the premises.
  - (vii) Creation of ponds with a total water surface area at normal elevation not in excess of 40,000 square feet.
  - (viii) Removal of silt and other accumulated debris from a watercourse which tends to interfere with the natural flow patterns of the watercourse.
  - (ix) Construction, reconstruction or alteration of golf course areas.
- d. Lot Area Allowance
- (i) If any portion of a lot in a Single Family Residence District is overlaid by the Wetlands and Flood Plain Protection District A, said portion may be used to meet the area requirement for that district otherwise provided in the Zoning By-Law provided that no building or structure may be erected on the portion

remaining outside the Wetlands and Flood Plain Protection District A unless that portion has a minimum area of 20,000 square feet.

- (ii) However, a lot with a dwelling existing thereon at the time of the adoption of this Zoning By-Law may be used for all purposes otherwise permitted by the Weston Zoning By-Law except that if a dwelling lies within the Wetlands and Flood Plain Protection District A, the dwelling shall be subject to the provisions of Section V, Subsection G.2.b.(ii) hereof.
  - (iv) If any portion of a lot in a Multiple Dwelling District is overlaid by the Wetlands and Flood Plain Protection District A, the proportion of the lot which may be used to meet the area requirements of the Weston Zoning By-Law shall be determined by the Board of Appeals acting in accordance with Sections X and XI of the Weston Zoning By-Law.
- e. Boundary Line Plot Plan - Whenever an application is made for a Building Permit which the Inspector of Buildings believes may be affected by a Wetlands and Flood Plain Protection District A boundary, the Inspector of Buildings shall require the applicant for such Permit to provide as part of such application a plan, certified by a land surveyor registered in Massachusetts, of the lot on which such building is intended to be built showing the exact location in reference to said lot of the District A boundary as shown on the Wetlands and Flood Plain Protection District Map in blue and as described in Section IV, Subsection B.5.a. In the case of a Building Permit for an interior improvement to a building or structure so located, the boundary line location shall not be required.
- f. Determination of Flooding and Suitability - In the event it is proposed to use land or to construct a building or structure within the Wetlands and Flood Plain Protection District A otherwise than is specifically permitted by this Section V, Subsection G.2., application may be made to the Planning Board for a Special Permit for such use, building or structure, in accordance with the applicable procedures under Sections X and XI of the Zoning By-Law. Before rendering its decision, the Planning Board shall refer any such special permit application to the Conservation Commission for a written report and recommendation, including an evaluation of and opinion concerning the sufficiency and accuracy of the environmental information accompanying the special permit application, an evaluation of whether the subject land is subject to flooding and, if so, an evaluation as to the proposed use or construction's probable effect or impact on: (a) flood storage in the surrounding area or on other nearby areas subject to seasonal or periodic flooding, (b) the water table and water recharge areas affecting the Town's present and potential water supplies, and (c) the public health, safety and/or welfare, as well as recommendations as to whether the special permit should be granted and whether any restrictions should be imposed upon the proposed use or construction as conditions of a special permit. Failure of the Conservation Commission to submit its recommendations to the Planning Board within 35 days of the date of referral shall be deemed to be a lack of opposition to the Special Permit application.

The Planning Board may grant a special permit under this Section only if it determines:

- (i) That the subject land is not subject to flooding; or



- (ii) That the subject land is not unsuitable because of drainage conditions; and
- (iii) In either instance of (i.) or (ii.) above, the Special Permit Granting Authority determines that the use of such land for such use or structure will not interfere with the general purposes for which District A has been established; and that the use of such land for such use or structure will not be detrimental to the public health, safety and/or welfare.

Such use, building or structure if permitted, shall comply in all respects with all other provisions of the underlying District or Districts within which the land is located; and all necessary permits, orders or approvals required by federal, state or local law or regulations as may be required by such law or regulation shall be obtained.

### 3. Wetlands and Flood Plain Protection District B

- a. Purposes - In addition to the "Purposes" in Section I of this Zoning By-Law, the purpose of this district is to satisfy the requirements of The National Flood Insurance Program by limiting the uses of the lands located in such district to the uses deemed appropriate by such program.
- b. Use Regulations - The Wetlands and Flood Plain Protection District B shall be considered as overlying other districts established by the Weston Zoning By-Law. All uses and structures otherwise authorized by said Zoning By-Law in the portion of the districts so overlaid shall be permitted in the Wetlands and Flood Plain Protection District B, provided that in said District B:

(i) All new construction and substantial improvements of nonresidential structures within the District B shall have all utility and sanitary facilities designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as determined and certified by a registered professional engineer.

(ii) No encroachments within the District B or its designated regulatory floodway, including fill, structures, of any type, new construction, substantial improvements and other developments shall be permitted which would result in any increase in flood levels in said District and downstream areas during the occurrence of the base flood discharge.

All development in District B, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with the following:

- Chapter 131, Section 40 of the Massachusetts General Laws;
- Portions of the Massachusetts State Building Code which address floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- 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);
- FEMA Mitigation Directorate Technical Bulletin 10-01 “Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program.”

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.

#### H. AQUIFER PROTECTION OVERLAY DISTRICTS

1. The purpose of the Aquifer Protection Overlay Districts is to preserve and protect the quality and quantity of present and potential drinking water supplies, both public and private, and their recharge areas.
2. The Aquifer Protection Overlay Districts shall be considered as overlying other districts established by this Zoning By-law. Uses and structures otherwise permitted in the underlying districts shall be subject to the development and use regulations applicable to such districts only to the extent they are not inconsistent with the requirements of the Aquifer Protection Overlay Districts.
3. Permitted Uses: Within the Aquifer Protection Overlay District, no land shall be used except for one or more of the following:
  - a. Any use or structure that is permitted as of right or by administrative site plan approval in the underlying district, including all necessary excavation and grading;
  - b. Any use or structure that is accessory (i.e., customarily incidental to, including, but not necessarily limited to, driveways, underground utilities, storm water systems, landscaping, retaining walls and residential sewage disposal systems) to a structure permitted as of right or by administrative site plan approval in the underlying district, including all necessary excavation and grading;
  - c. Agricultural, horticultural, or forestry uses and structures and all necessary excavation and grading;
  - d. Any use, structure or accessory use or structure that is otherwise allowed by special permit in the underlying zoning district shall continue to be allowed in the Aquifer Protection Overlay District upon issuance of a special permit based upon the underlying zoning; and all necessary excavation and grading to support activity allowed by such special permit relief shall be allowed as of right in the aquifer Protection Overlay District, provided that the excavation and grading occurs six feet or more above maximum high groundwater table elevation.

For the purposes of this section, the term “excavation” shall mean any digging in one area that disturbs more than one cubic yard of material.

4. Special Permit Uses: The following uses and activities may be permitted in the Aquifer Protection Overlay District only by Special Permit granted in accordance with the provisions of Subsection V.H. 6 and Section X of this Zoning By-law. In addition, any uses which are subject to a special permit requirement in the underlying district shall also be subject to the

Special Permit findings and conditions set out in Subsection V.H. 6 in addition to the Special Permit provisions in Section X. For the purposes of this section, the term “excavation” shall mean any digging in one area that disturbs more than one cubic yard of material.

- a. Any use or structure otherwise allowed by special permit in the underlying zoning district that would result in excavation or grading within 6 feet of maximum high groundwater table elevation shall continue to be allowed in the Aquifer Protection Overlay District, provided that a special permit issues in accordance with the zoning in the underlying district and provided that further special permit issues under this section for excavation and grading;
  - b. Sewage treatment facilities not allowed in Section V.H.3.b.;
  - c. Solid waste transfer station;
  - d. Golf courses;
  - e. Replacement or expansion of buried fuel or chemical storage tanks provided that the new tanks, including underground transmission lines, are upgraded to achieve appropriate environmental protection;
  - f. Storage of deicing chemicals in amounts exceeding 100 pounds;
  - g. Application of pesticides, herbicides, and fertilizers for commercial purposes;
  - h. Rendering impervious more than fifteen (15) percent of the lot area by structures or paving provided that adequate recharge measures are taken;
  - i. Creation of ponds;
  - j. Artificial turf fields not used for personal residential use.
5. Prohibited Uses: In addition to the uses not expressly permitted pursuant to Subsections V.H. 3 and V. H. 4, the following uses and activities are specifically prohibited in the Aquifer Protection Overlay District:
- a. New installation of buried storage tanks of liquid petroleum and/or chemical products of any kind;
  - b. Disposal of any hazardous materials or placement of contaminated fill;
  - c. Storage of hazardous materials in quantities greater than those amounts usually associated with household uses;
  - d. Sanitary landfill, junkyard salvage yard, other solid or hazardous waste disposal, or incineration;
  - e. Industrial or commercial uses which discharge processed wastewater on site;
  - f. Disposal of snow that contains deicing chemicals;
  - g. Use of sodium deicing chemicals in excess of one part of sodium chloride to 10 parts of sand;
  - h. Any excavation or grading, within 6 feet of the maximum high groundwater table elevation, for any purpose that is not expressly allowed either by right or by special

permit shall be prohibited. For the purpose of this section, the term “excavation” shall mean any digging in one area that disturbs more than one cubic yard of material.

- i. Dry cleaning and commercial laundry establishments;
- j. Motor vehicle sales, service, washing, and repair establishments, and filling stations;
- k. Truck terminal;
- l. Commercial wood finishing;
- m. Electronic component manufacturing or assembly;
- n. Commercial photo processing;
- o. Underground transmission lines for chemicals or liquid petroleum products;
- p. Hotels, motels;
- q. Motorized boats;
- r. Outdoor, uncovered storage of pesticides, herbicides, fertilizers, and stockpiled manure not on an impervious base.

6. Special Permit Procedures:

If the bounds of the Aquifer Protection Overlay District, as delineated on the Aquifer Protection Overlay District Map, are challenged, the burden of proof shall be upon the owner(s) of the land in question to show evidence supporting an alternative location of the boundary.

- a. Any person who desires to obtain a Special Permit shall submit a written application to the SPGA. Each application, together with a filing fee, shall contain a complete description of the proposed use, together with any supporting information and plans which the SPGA may require. The applicant shall file ten (10) copies of the application with the SPGA.
- b. The application, where applicable, shall include:
  - A complete list of the quantities and names of all chemicals, pesticides, fuels, and other potentially toxic or hazardous materials to be used or stored on the premises accompanied by a description of measures proposed to protect from vandalism, corrosion, and leakage, and to provide for spill prevention and counter-measures;
  - A description of quantities of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method;
  - Evidence of approval by the Department of Environmental Quality Engineering of any industrial waste treatment or disposal system and of any wastewater treatment system over 15,000 gallons per day capacity;
  - Analysis by a registered professional engineer experienced in groundwater evaluation and/or geohydrology, with an evaluation of the proposed use including its probable effects or impact on surface and groundwater quality and quantity, and natural flow patterns of water courses.

- c. The SPGA shall refer copies of the application to the Board of Health, Planning Board, Conservation Commission, Board of Water Commissioners, Hazardous Waste Coordinator, and Town Engineer, who shall review the application and submit recommendations to the SPGA within thirty-five days of the referral date. Failure to submit recommendations to the SPGA within thirty-five days shall be deemed lack of opposition.
7. Required Findings by SPGA: The SPGA shall not issue a Special Permit unless it shall find that the proposed use:
- a. Is in harmony with the purpose and intent of this Zoning By-Law and will promote the purposes of the Aquifer Protection Overlay District;
  - b. Will not be detrimental or injurious to the neighborhood in which it is to take place;
  - c. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
  - d. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and
  - e. Will not adversely affect an existing or potential water supply.
8. Special Permit Conditions: The Special Permit shall include sufficient conditions to satisfy the purpose stated in Section V., Subsection H.1. The conditions may include, but are not limited to, analysis or monitoring of ground and surface waters; hydrogeologic evaluation; erosion, siltation, compaction and sedimentation control; drainage and recharge provisions; and any other limitations or standards deemed necessary by the SPGA. In making a determination regarding the issuance of a Special Permit, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality and quantity which would result if the control measures were to fail. The SPGA may require a bond pursuant to Section X, Subsection B.1.
- I. GENERAL USE PROVISIONS IN ALL DISTRICTS: Notwithstanding anything to the contrary in Section V of this Zoning By-law, and in addition to the other regulations set forth elsewhere in Section V, the following general use regulations apply in all districts:
- 1. Unregistered Vehicles and Hazards to Public Safety  
No motor vehicle which is, and for the immediately preceding thirty-day period has been, disabled, dismantled or inoperative, or unregistered, nor any refrigerator, mechanical equipment or other apparatus hazardous to the public safety shall be stored or parked on any land in the Town unless such vehicles, appliance, equipment or other apparatus is enclosed within a building.
  - 2. Exterior Lighting  
All artificial lighting placed on a tree, structure, or installed free standing to illuminate walks, driveways, parking areas, storage areas, tennis or paddle tennis courts, swimming and wading pools, other private recreation areas or other portions of the exterior of a structure or installation and its surrounding real estate in any district, shall be so installed or shielded as to prevent direct glare from the light source from interfering with the vision of motorists or pedestrians passing in the street or streets abutting the premises and as to

prevent direct glare from the light source from lighting neighboring properties, particularly residences.

All artificial lights used to illuminate tennis or paddle tennis courts, swimming and wading pools and other private recreation areas shall be extinguished not later than 11:00 p.m.

### 3. Earth Removal and Movement

The goal of this Earth Removal and Movement By-law is to minimize land disturbance and to achieve a condition where material being imported to a site is equal to or greater than the amount being removed from the site.

#### a. EARTH REMOVAL

The Removal of Earth from any land in any district shall be allowed by right provided the removal of material from a property does not exceed the import of material associated with the following lawful activities: 1) the construction, alteration of a way (including a driveway); 2) the construction or installation of a residential septic system, drainage system, underground fuel storage tank, or utility on the same premises that the system would be served; 3) and/ or the removal of unsuitable material. The following instances are exempt from this provision when such removal is incidental to the lawful:

- (i) Construction or alteration of a building or structure limited to the foot print of the foundation;
- (ii) Construction, operation, or work undertaken by the Town or other public body at the location where the removal occurs;
- (iii) Operation of a greenhouse or nursery; or
- (iv) Farming, gardening or landscaping done on the farm premises.
- (v) Removal of up to 1,000 cubic yards of material in Residential Districts A & B and 750 cubic yards of material in Residential Districts C & D where the removal of material is required to allow for proper drainage away from a foundation.

In all other instances, other than those specifically enumerated above, Removal of Earth from any land in any district shall be prohibited, except that, subject to the provisions of Section X and XI, Removal of Earth may be authorized by the Planning Board by Special Permit in any appropriate instance where the Board determines that the removal will be advantageous to the premises in question or to the neighborhood or otherwise desirable and will be of such a character and can be so accomplished that by proper re-grading, re-loaming, reseeding or other means, which shall be re-graded if necessary, the land involved will be left in a sightly condition and protected against erosion, and that proper stormwater drainage measures are in place.

b. EARTH MOVEMENT

For non-residential uses, in any district, no Earth in excess of 1,000 cubic yards on any parcel of land shall be moved unless the quantity of material to be moved is certified by a registered professional engineer or land surveyor and a special permit from the Planning Board is obtained in accordance with the procedure provided in Section X. Special Permits, and only under such conditions as the Planning Board may impose, except that a special permit shall not be required for such Earth Movement if the Movement would be:

- i. Incidental to farm, nursery, or gardening activities.
  - ii. Incidental to Commercial Agricultural activities, as defined by G.L. c. 40A. §3.
  - iii. Incidental to the maintenance and landscaping activities normally conducted on a golf course (i.e. activities, including, but not necessarily limited to, tee box and green relocation and fairway restoration).
  - iv. On Town-owned land or involve a transfer of Earth between or among Town-owned parcels.
- c. Nothing herein shall be interpreted to allow the movement of Earth as a primary use.
- d. Before a special permit is issued pursuant to Section V.I.3.b, the applicant shall show to the satisfaction of the SPGA that the movement will not impair the usability of the area for the purposes permitted in this Zoning By-law, that the grades to be established within the area will permit vehicular access to the area and the continuation of streets from the abutting premises, and that the area may ultimately be developed compatibly with the neighboring land.

4. Aircraft

The use of any premises in any district for the landing or taking off of aircraft is prohibited except for the purpose of pest or insect control or in case of emergency.

5. Construction Trailers The Inspector of Buildings may permit upon written application the location of a construction trailer or trailers on a lot or parcel of land, which construction trailer may be used for a period not exceeding six months as the offices and headquarters for the contractor or contractors engaged in construction on such lot or parcel of land. Such construction trailer shall not be used as living quarters. A permit issued by the Inspector of Buildings may be renewed for an additional six month period or until the project is completed.

J. PERSONAL WIRELESS SERVICE FACILITY REGULATIONS

1. Purpose and Definitions

In order to conform to the Town's responsibilities under the Federal Telecommunications Act of 1996 in a manner consistent with the protection of health, safety and welfare of the public and the preservation of property values in the Town, the regulations contained in this section of the By-Law shall govern the

establishment of any new or altered Personal Wireless Service Facilities in the Town. The Town does not intend this By-Law to prohibit or have the effect of prohibiting the provision of Personal Wireless Services in the Town.

2. Applicability

From the effective date of this By-Law, no building or special permit shall be issued for the placement, construction, erection or modification of any structure to provide for Personal Wireless Service Facilities either whether as a principal use, or as an accessory use, except as set forth below in Section V.J.4 in excess of the height limitations contained in Section VI.E, except in a Personal Wireless Service Overlay District as set forth below in Section V.J.3, or as set forth in section V.J.4.b.

To the extent that dimensional or use criteria applicable to Personal Wireless Service Facilities differ from such criteria set forth in other sections of this By-Law, the dimensional or use criteria in this section shall apply to Personal Wireless Facilities.

3. Personal Wireless Service Overlay Districts

There shall be two Personal Wireless Service Overlay Districts. Personal Wireless Service Overlay District I ("PWSOD I") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 53: Massachusetts Turnpike Authority land "ballfield," located east of Liberty Mutual Insurance Company, Riverside Road;
- Maps # 49 & 55: 668 South Avenue, Massachusetts State Police Barracks.
- Map #27, parcel #75-10, Town of Weston Police Station and
- A portion of Map # 27, parcel #74, described as follows:

All that certain Parcel of land located on the southerly side of Boston Post Road By-Pass (Route 20) and described as follows:

SOUTHEASTERLY by land of Town of Weston (Weston Police Station) three hundred seventy-two and 61/100 (372.61) feet;

SOUTHERLY by land of Town of Weston (Weston Highway Department) fifty and 00/100 (50.00) feet;

NORTHWESTERLY by land of the Town of Weston (Weston Highway Department) three hundred thirty-three (333) feet approximately;

NORTHERLY by land of the Commonwealth of Massachusetts (Boston Post Road By-Pass, Route 20) sixty-five (65) feet approximately; containing 0.4 acres, more or less.

Town of Weston Highway Department

- Map # 8, Parcel # 34: Weston Market, 284 North Avenue;
- Map # 59 , Parcels # 23-20 (P/O 58): Leo J Martin Golf Course, Park Road;
- Map # 58, Parcel # 23-20: Leo J Martin Golf Course, Park Road;
- Map # 33, Parcels # 16 and 28-10: Weston Golf Club;
- Map # 34, Parcel # 16 (P/O 33): Weston Golf Club;
- Map # 46, Parcel # 4: Pine Brook Country Club;
- Map # 45, Parcel # 4 (P/O 46): Pine Brook Country Club;



- Map # 11: Campion Residence and Renewal Center Parking Lot, across Concord Road from Campion Center, Concord Road;
- Map # 19, Parcel # 35 (P/O 23):Town of Weston Solid Waste Transfer Station;
- Map # 18, Parcel # 35 (P/O 23): Town of Weston Solid Waste Transfer Station; Map # 23, Parcel # 35: Town of Weston Solid Waste Transfer Station;
- Map # 24, Parcel # 6: Weston Mobil Gas Station, 88 Boston Post Road.

Personal Wireless Service Overlay District II ("PWSOD II") shall consist of the land designated on the Weston Assessors Maps as:

- Map # 52, Parcel # 1: 134 South Avenue;
- Map # 41, Parcels # 38 & 39: 75 Norumbega Road, 85 Norumbega Road, 99 Norumbega Road, 101 Norumbega Road;
- Map # 49, Parcel # 33: 100 Brown Street, Hazel Hotchkiss Wightman Tennis Center, Inc.;
- Map # 8, Parcel # 35: Shell Gas Station, 290 North Avenue;
- Map # 11, Parcel # 8: Campion Residence and Renewal Center, 319 Concord Road;
- Map # 51, Parcel # 52: Town of Weston Southside Fire Station, South Avenue;
- Map # 24, Parcel # 1: Weston Corporate Center, Biogen Idec, 133 Boston Post Road;
- Map # 13, Parcel # 93: Town of Weston Water Tank, Cat Rock Tank;
- Map # 41, Parcel # 24: Office Building, 101 River Road;
- High Voltage Transmission Poles and Stanchions in the abandoned Boston & Maine (Clinton Division) Railroad Right of Way;
- Map # 13, Parcel # 129: Town of Weston North Side Fire Station, North Avenue;
- Map # 13, Parcel # 103: Sunrise of Weston, 135 North Avenue;
- Map # 8, Parcel # 54-10: Dairy Joy Restaurant, 331 North Avenue;
- Map # 38, Parcel # 1: Regis College, 235 Wellesley Street.

4. Special Permit

- a. The Planning Board may, by special permit, authorize the placement, construction, erection or modification of: a Personal Wireless Service Facility in PWSOD I and PWSOD II, subject to the following limitations:
  - i. A free-standing ground-mounted tower is eligible for a Special Permit in PWSOD I only; and
  - ii An antenna mount attached to a building or structure other than a free-standing Personal Wireless Service tower, (except for an antenna mount attached to a utility pole located within the layout of a public right of way, which shall be governed by Section V.J.9 below) is eligible for a Special Permit up to 20 feet in height above the height of the building or other structure on which it is mounted in PWSOD I and or II; and
  - iii. An antenna mount attached to a utility pole in the public way that does not extend more than ten feet above the utility pole is eligible for a Special Permit; or
- b. A Personal Wireless Service Facility The Planning Board may also, by special permit, authorize in any zoning district the placement, construction, erection, or modification of a Personal Wireless Service Facility that is totally enclosed in a barn, or an office,

commercial, industrial, religious or municipal building; so long as the barn or other building is not a Dwelling.

- c. The foregoing clauses a. and b. are subject to findings by the Planning Board, in its judgement, after soliciting and reviewing comments from residents, other Town boards, departments, agencies, and their staff and consultants, that reasonable measures shall be or already have been taken to:
  - i. Mitigate against negative impacts on visual quality affecting neighboring properties and streets by incorporating reasonable design, siting and screening methods; and
  - ii. Protect against potential damage to neighboring properties and streets from structural failure or collapse or from falling ice.
- d. In making such findings in c. above, the Planning Board shall consider the extent to which the proposed Personal Wireless Service Facility, including its antenna mount on
- e. a building or other structure or its free-standing ground-mounted tower, if any, meets the following criteria:
  - i. A ground-mounted Personal Wireless Service tower shall be located such that if it were to fall or collapse, it would fall or collapse entirely within the boundaries of the parcel on which it is to be located;
  - ii. The Personal Wireless Service Facility shall be sited, designed and constructed in such a manner that existing vegetation is preserved to the maximum extent practicable;
  - iii. Any fencing proposed shall be screened by a landscape buffer of evergreen shrubs or trees planted along the exterior side of the fence, with a mature height at least equivalent to the fence height, and no such fencing shall be of razor wire or barbed wire;
  - iv. Lighting shall be limited to that needed for emergencies and/or as required by the FAA;
  - v. To the extent technologically feasible, all network interconnections from the Personal Wireless Service Facility shall be via land lines or by wireless means that do not detract from the appearance of the Personal Wireless Service Facility;
  - vi. Ground mounted Lattice-style towers and Personal Wireless Services structures requiring three or more legs and/or guy wires for support are prohibited; To approve a ground mounted, freestanding Personal Wireless Services tower, the Planning Board must find that it is of an architectural design that is compatible with the site and its surroundings. Examples of such designs include, but are not limited to, “unipole,” “slick stick,” or “flagpole style” monopoles.
  - vii. In PWSOD I, the total height of a free-standing Personal Wireless Service tower, including attached accessories, shall not exceed 100 feet in height as measured from the existing natural grade at the base of the tower. In PWSOD I and PWSOD II, the height of a Personal Wireless Service antenna mount,

mounted on a building or structure, other than a free-standing Personal Wireless Service tower, shall not exceed 20 feet in height above the-highest point of the building roof on which it is mounted, or 20 feet in height above the top of the structure on which it is mounted if other than a building. In no event, however, shall the height of a Personal Wireless Service antenna mount in PWSOD I and PWSOD II exceed 100 feet as measured from the ground level at the base of the building or other structure on which it is mounted. The Planning Board may limit a proposed free-standing tower or antenna mount to a building or other structure that is not a tower to a lesser height than proposed by an applicant, if the Planning Board finds that the lesser height better satisfies the intent of the By-Law.

- viii. The Personal Wireless Service Facility shall be designed to accommodate co-location of multiple users to the maximum extent technologically practicable in order to reduce the number of Personal Wireless Service Facilities which will be required to be located in the Town.
- ix. New Personal Wireless Service Facilities will be considered only if existing or already approved Personal Wireless Service Facilities cannot accommodate the equipment planned for the new facility and/or such approved Personal Wireless Service Facilities are otherwise impracticable for the applicant to utilize for the provision of Personal Wireless Services. At its discretion, the Planning Board may deny Co-location if the Board finds that co-location would have a detrimental impact, including a detrimental visual impact, on the neighborhood and the detrimental impact outweighs the benefits of co-location.
- x. The applicant shall demonstrate that the proposed technology is the safest and least obtrusive to the landscape currently available.
- xi. A Personal Wireless Service Facility which is proposed to be totally enclosed in a building or other structure pursuant to V.J.4.b. above, shall be concealed from view and shall not significantly alter the exterior of the existing structure within which the Personal Wireless Services structure is to be enclosed. The Planning Board may permit an extension to such building, if the Planning Board finds: A) the building is in a non-residential zoning district; B) the Personal Wireless Service Facility will be totally enclosed in the extension; C) the extension is consistent with the existing architecture of the building and character of the building's surroundings; and D) the extension does not exceed 20 feet above the highest point of the roof of the building on which it is mounted.
- xii. For example, a new cupola, spire, or faux chimney could be employed to enclose wireless equipment in accordance with this provision, if the Planning Board finds that the above criteria are satisfied.
- xiii. The Personal Wireless Service Facility shall be sited and designed in a manner which minimizes its visibility from neighboring residences and streets. The Planning Board may limit a proposed facility to a lesser height than proposed by an applicant, if the Planning Board finds that the lesser height better satisfies the intent of the By-Laws.

The Planning Board may waive strict compliance with any of the above-listed criteria, except the height limitations, provided it determines that such would not derogate from the intent of these Regulations.

## 5. Application

- a. The Special Permit Application shall include a site plan submission meeting the requirements of Section XI of this By-Law, the Planning Board Rules and Regulations for Site Plan Approval, to the extent applicable. In addition, the application shall include:
  - (i) A rendering, model or similar, to-scale representation, accurately depicting the proposed facility within the context of the site on which it is to be located and the surrounding area;
  - (ii) A report or reports prepared by professional engineers describing:
    - (a) the technical, economic and other reasons for the facility height, location and design;
    - (b) the capacity of the facility, including the number and type of transmitters and receivers it can accommodate and the basis for the calculation of the capacity;
    - (c) how the proposed facility complies with all applicable Federal and State standards;
  - (iii) Written official statements of compliance with, or exemption from, the regulations of all federal and state agencies governing Personal Wireless Service Facilities or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health;
- b. The applicant shall pay the reasonable costs for the Planning Board to have independent consultants review the application materials.
- c. The applicant seeking a special permit for a Personal Wireless Services facility shall provide a demonstration of the visual impact of the proposed Personal Wireless Services structure by raising a balloon, or a temporary structure, on the proposed site to the height of the proposed structure for such period of time as the Planning Board determines to be necessary.

## 6. Term

- a. Special Permits authorized under this section shall be limited to an initial term of two years and shall be renewed every two years thereafter provided the special permit holder has filed with the Board annual certification demonstrating continuing compliance with the special permit and with applicable federal and state regulatory requirements.
- b. Any parts of the Personal Wireless Service Facility which have not been used for one year shall be dismantled and removed at the owner's expense, except, extensions to buildings or structures that were permitted for enclosing a Personal Wireless Service Facility may be left intact at the discretion of the landowner for potential future use by other Personal Wireless Service providers, unless explicitly provided otherwise as a condition of the special permit. The Planning Board may, as a condition of any special permit or renewal granted under this section, require the applicant or special permit holder to post a bond or other financial security with the Town Treasurer in an

amount deemed sufficient to cover demolition and removal of the facilities in the event of discontinuance of use.

7. Height Allowance for Public Safety Services

The Planning Board may waive strict compliance with the 100 ft. height limitations for a free-standing in the PWSOD I and allow up to 20 ft. of additional height only if it determines that the additional height is necessary for the provision of public safety services in the Town; that due to the location, elevation, and topography of the site on which the proposed structure is to be located, the additional height will not create an undue impact on nearby residential neighborhoods; and that the existing tree canopy on or surrounding the site is such that it would interfere with effective public safety communications if a lesser height were required.

8. Variances

If an applicant seeks a variance under the Telecommunications Act of 1996 for a Personal Wireless Services Facility, the application shall comply with Section V.J. of this By-Law, and the applicants shall also apply to the Planning Board for Site Plan Approval. . In considering an application for a variance, the Zoning Board of Appeals shall consider the factors and criteria described above in Sections V.J.4c and V.J.4d and apply the requirements of Section V.J. of this By-Law. If a variance is sought from the Zoning Board of Appeals, the applicants shall also apply to the Planning Board for Site Plan Approval.

9. Antenna Mounts on Certain Utility Poles

Requests to mount Personal Wireless Services equipment on utility poles located within the layout of a public right of way shall require only a “grant of location” from the Board of Selectmen in accordance with the grant of location process described in Chapter 166, Section 22 of the Massachusetts General Laws (or any related or successor provisions thereto).

K. ACTIVE ADULT RESIDENTIAL DEVELOPMENT (“AARD”)

1. Definition And Applicability

An Active Adult Residential Development (“AARD”) is an alternative type of residential development in which, except as hereinafter provided, permanent occupancy of the dwelling units shall be restricted to persons 55 years of age or older, and in which at least 10% of the total number of dwelling units shall be affordable for purchase or lease by persons of low income, as defined in 760 CMR 45.02, provided however, that some or all of the affordable units may not be age -restricted. Customary, non-commercial accessory uses shall also be allowed as part of an AARD. However, no accessory retail or other commercial use or nursing care facilities shall be allowed in an AARD.

An AARD is an allowable use in the Single Family Residence District (A), Single Family Residence District (B), and Business District (B), with Concept Plan approval by two-

thirds vote of the Town Meeting and subsequent Special Permit with Site Plan Approval issued by the Planning Board.

## 2. Purposes

The purposes of an AARD are to:

- a. Provide alternative housing for a maturing population;
- b. Provide a type of housing which reduces residents' burdens of property maintenance and which reduces demands on municipal services;
- c. Encourage the development of affordable housing for active adults with low and moderate income, as defined in 760 CMR 45.02; and
- d. Promote flexibility in site planning while protecting natural features, scenic views into property, protect existing vegetation and land forms and utilization of land in harmony with neighboring properties.

## 3. Minimum Tract Size

No tract of land may be used for an AARD unless it contains at least 40 acres of contiguous land, exclusive of (a) the wetlands resource areas listed in 310 CMR 10.02, 1, a through e, (b) the first (inner) 100 feet of the Riverfront Area as defined in 310 CMR 10.58, and (c) land included in the Town's Wetland and Flood Plain Protection District (collectively, the "Exclusions").

## 4. Concept Plan

The purpose of the Concept Plan is to present the proposed project to Town Meeting in such a way so that the Town can compare the impacts from a proposed AARD to the impacts from a by-right use development and decide whether this is a suitable use for the tract. The Concept Plan shall include: (1) Preliminary Site Plan which provides a conceptual layout for the AARD, including tree survey, trees required for removal, roadway, driveway and walkway locations, location of utilities, grading plans for dwellings, roads, driveways, walkways, location of waste water treatment structure(s), storm water management structures and associated grading, general landscaping, and exterior lighting; (2) Preliminary Architectural Plans and Elevations; (3) Traffic Analysis of the AARD; (4) A Municipal Impact Analysis of the AARD; (5) Site Impact Analysis of the AARD; (6) In addition, in order to compare the impact of the AARD to the impact of the by-right use in the zoning district(s), the Concept Plan shall also include: Preliminary Site Plan/Site Impact Analysis, Traffic Analysis, and Municipal Impact Analysis for the "By-Right" Plan. An element of the Concept Plan review shall be a comparison of the proposed AARD with the by-right residential use in the underlying Zoning District(s) in which the development tract is located.

The plans and supporting material submitted to the Planning Board and Town Meeting shall be sufficiently detailed to enable the Planning Board and Town Meeting to evaluate and compare the impacts of the AARD and a By-Right project. The submission

requirements for the Concept Plan shall be specified in rules and regulations to be adopted by the Planning Board.

The AARD By-law provides some design flexibility in order to encourage developers to work with the land; however, the Concept Plan for an AARD development shall be evaluated according to the following General Design Guidelines and Standards:

a. General Design Guidelines

(i) Site Design

The development shall be sensitive to the land and take into consideration existing natural resources including but not limited to the following: land forms, woodlands, wetlands, vernal pools, and geological features. Tree and soil removal shall be minimized.

The development shall be sensitive to man-made architectural and historical resources including but not limited to the following: historic buildings, trails, stone walls, and scenic views into the property from the public way.

The development shall take into account Low Impact Development techniques for storm water management and shall incorporate “green” principals in building materials, systems, and site design. Where possible, buildings shall be located to take advantage of solar and wind orientation.

(ii) Relationship to Neighboring Properties

The tract shall be developed in consideration of neighboring properties in regard to scale, character, impact, drainage and storm water runoff.

Awareness of the development, particularly a higher density development, shall be minimized by screening views of the development from nearby streets, adjacent neighborhoods, conservation land and Town properties by the effective use of existing landforms, alterations thereto, berms and by existing vegetation and supplemental plantings.

Open space shall be located and designed so as to increase the visual amenities of the abutting neighborhoods as well as for occupants of the development.

The number of access points to the Town’s system of primary and secondary streets shall be minimized and the location of intersections with primary and secondary streets shall be such to minimize traffic congestion.

(iii) Landscape Design

The natural character and appearance of the Town shall be maintained or enhanced insofar as practical. Landscape design for the AARD shall reflect the desire of Weston residents to preserve the Town’s rural character by avoiding formal manicured

landscape treatments, especially where visible from the roadways, public trails and abutting properties.

A dense vegetative buffer around the entire perimeter of the tract shall be required to screen the AARD from existing roads and adjacent properties. The buffer shall contain existing trees and vegetation. The depth of the buffer may vary but it must provide substantial visual screening and will be classified as a no-cut zone.

In projects where the vegetative perimeter buffer does not screen portions of the development from existing roads and adjacent properties due to topography, additional screen plantings in the interior of the tract will be required.

(iv) Architecture

Buildings shall be located harmoniously with the landforms, trees and other natural features of the site. They shall be located advantageously for views from a building while minimizing intrusion on views from other buildings.

Architecture within the AARD shall reflect or complement the historic architectural fabric of Weston. Preferred building materials include wood clapboard, shingle, and fieldstone.

Without specifying any particular architectural style, the scale, massing and detailing of buildings shall be compatible with those prevalent in the neighborhood. Where a multifamily development is located adjacent to a neighborhood of single family dwellings, the massing scheme and the selection of exterior materials for buildings shall be complementary to a single family neighborhood.

Buildings of historic or architectural significance shall be preserved and readapted wherever possible. New buildings shall be compatible with existing historic structures.

b. Standards

(i) The developer shall make adequate, but not excessive, provisions for parking. There shall be provided at least two parking spaces per dwelling unit (counting garage space) plus additional parking for recreational amenities and provisions of guest spaces. All parking lots must be landscaped to the satisfaction of the Planning Board.

(ii) The frontage and setback requirements in the underlying Zoning District(s) where the tract is located shall be the minimum for an AARD.

(iii) An AARD shall provide at least 45% undisturbed, restored and created open space. Undisturbed open space shall be preferred, especially along the perimeter of the tract. Open space is defined as land not covered by buildings, above ground structures and paving or any other type of impervious surface.

(iv) The maximum AARD floor area ratio (Residential Gross Floor Area, "RGFA" of all buildings minus total gross floor area of affordable units) divided by the total



buildable area of the tract (minus the Exclusions) of an AARD shall not exceed 11%, however, there may be, at the Planning Board's discretion, provision for the addition of bonus gross floor area, up to a maximum floor area of 5%, upon the provision of additional open space, other public benefits and/or additional affordable housing (whether low or moderate income as defined in 760 CMR 45.02), as the Planning Board may determine.

(v) The maximum number of dwelling units per acre shall be 1.5, excluding affordable units. In making such computation, the Exclusions shall be deducted from the total land area.

(vi) Buildings in an AARD shall be arranged efficiently and clustered in order to maximize provision of open space on a site. There shall be no more than four dwelling units in a single building.

(vii) Prior to Town Meeting approval of a Concept Plan, the applicant shall execute a Development Agreement with the Board of Selectmen, after review and approval by the Planning Board. Such Development Agreement shall memorialize any additional obligations which the applicant has agreed to undertake in addition to those obligations which are expressly required by the Concept Plan or the Zoning By-law including, but not limited to, obligations relating to off-site improvements, traffic mitigation, construction timing and truck routes, historic preservation, architectural standards, and reimbursement of Town costs for consulting or other services related to review of the AARD development proposal and monitoring of the project construction.

(viii) All roads within an AARD are intended to remain private.

### c. Procedures

i. Approval of an AARD Concept Plan shall be by a two-thirds vote of the Town Meeting, following a recommendation and report to Town Meeting by the Planning Board as to whether and how the proposed Concept Plan meets the purposes of the AARD and the General Design Guidelines and Standards for Concept Plans as set forth in this By-law. It shall be the obligation of the applicant to timely submit an article to the Board of Selectmen for inclusion of the AARD Concept Plan proposal on the warrant for the Town Meeting at which the applicant will be seeking concept approval.

ii. The AARD Concept Plan approval process commences with the filing of the proposed Concept Plan with the Planning Board. Before filing the Concept Plan, the applicant shall meet informally with the Planning Board to discuss the project, including scope, timing of public hearing and Town Meeting and program. A filing fee and a review fee shall be deposited with the Planning Board at the time of submission of the Concept Plan to the Board. The filing and review fees shall be specified in a separate document to be adopted by the Planning Board. In addition to filing the Concept Plan with the Planning Board, the Plan shall be filed with the Selectmen, Town Engineer, Board of Health, Conservation Commission, Fire and Police Department. The Planning Board will determine whether the Concept Plan is complete

and schedule a public hearing within a reasonable time from receiving a complete submission.

5. Site Plan Approval-Special Permit

a. Timing

Not more than twelve (12) months after the Concept Plan has been approved by Town Meeting, and prior to applying for any other permits or commencing any work on the site, including but not limited to demolition, tree or vegetation removal, earth removal, or grading, application may be made to the Planning Board for an AARD Special Permit with Site Plan Approval.

b. Site Plan Approval-Special Permit Submission and Findings

The submissions required of an applicant for a Special Permit with Site Plan Approval for an AARD shall be set forth in rules and regulations to be adopted by the Planning Board. Such submissions shall include the documentation that will govern the use, occupancy and other matters related to the AARD, such as, but not limited to, the master deed, declaration of trust and rules and regulations, if the AARD will be a condominium (collectively, the “AARD Governance Documents”). The Planning Board shall issue a Special Permit and Site Plan Approval for an AARD only if it finds that the AARD presented in the application is not substantially different from the Concept Plan approved at Town Meeting, and if it specifically finds that:

(i) The Site Plan provides for no reduction in setbacks and no increase in number of dwelling units and, no substantial change, in the sole opinion of the Planning Board, in location of the units, gross floor area, height, and amount of open space, as provided for in the approved Concept Plan. However, in the Special Permit, the Planning Board may require additional plantings beyond those shown on the Concept Plan and specify an increase in size of plantings if it furthers the goals of this By-Law.

(ii) The Site Plan provides for no uses which are not permitted by the approved Concept Plan.

(iii) The applicant makes provision that any land shown in the approved Concept Plan as permanent open space be subject to a permanent conservation easement, according to MGL S.31 of Chapter 184, simultaneously with the issuance of a building permit for any dwelling units on the AARD tract. Proof of execution and recordation of this easement shall be delivered to the Planning Board. The restriction shall be held by the Town of Weston or its designee, and the open land may be used for limited recreation by the residents of the Town.

(iv) Walking trails are established within the AARD parcel and connected to the Weston Forest and Trail Association, Inc. network and/or Town of Weston land. The trails shall be established by permanent easement and located in upland areas. If there are not WFTA trails or Town land in the vicinity of the AARD parcel, as determined by the Planning Board, then walking trails shall be established within the AARD tract for the residents.

(v) Buildings and surrounding grounds are located so that fire, police and other emergency personnel have reasonable access to all structures.

(vi) All utilities, other lines and equipment, including but not limited to electric, telephone, cable TV, are located underground.

(vii) The Site Plan locates and screens refuse disposal area, utility buildings, storage areas and other support facilities to make them less visible from sites external and internal to the AARD parcel.

(viii) The provisions of the AARD Governance Documents are satisfactory to the Planning Board and approved as to form by Town Counsel, including restrictions limiting permanent occupancy of the aged restricted units to persons aged 55 or older. Such restrictions may include provisions allowing limited, temporary occupancy by persons under the age of 55 such as guests or necessary health aides.

(ix) The Development is in harmony with the general purpose and intent of the Town of Weston Zoning By-law.

c. Site Plan Approval/Special Permit Rules and Regulations

The Planning Board shall adopt rules and regulations in a separate document that are consistent with this By-law specifying design standards for site development features, including, but not limited to: exterior lighting; storm water management; landscaping; erosion control; architectural design; design and construction standards for streets; street and parcel monumentation.

d. Phasing Plan

A Phasing Plan shall be submitted by the applicant and approved by the Planning Board as part of the Special Permit process. Surety may be required, at the Planning Board's discretion, for different phases of the construction, to guarantee performance and implementation of the Concept Plan and Special Permit Plan(s). The Planning Board shall determine the type and amount of the surety and the timing for deposit of surety with the Town. This phasing plan shall be endorsed by the Board prior to any work done on site, including tree removal, grubbing, excavation of any sort, and, prior to application for a Building or Demolition Permit.

e. Construction Plan

A detailed Construction Plan for the proposed development shall be submitted by the applicant and approved by the Planning Board as part of the Special Permit process. A list of submission items shall be listed in a separate document approved by the Planning Board and may include, but not be limited to the following items: hours of operation, truck routes, material safety data sheets, erosion and storm water control.

## L. RENEWABLE ENERGY OVERLAY DISTRICT

### 1. Purpose

The purpose of this by-law is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be subject to site plan review as specified in Section XI of the Town of Weston Zoning By-law, and in accordance with the additional requirements specified herein.

### 2. Applicability

This by-law applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also applies to physical modifications that materially alter the type, configuration, or size of any such installations or related equipment.

### 3. Definitions

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum rated nameplate capacity of 250 kW DC.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

### 4. General Siting Requirements

#### a. Lot Requirements

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be permitted on parcels located within the Renewable Energy Overlay District as established in Section IV.7.

#### b. Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

#### c. Setbacks

For large-scale, ground-mounted solar photovoltaic installations, the setbacks shall be the same as the underlying district per Section VI of the Town of Weston's Zoning By-law.

## 5. Permitting Process & Requirements

### a. Site Plan Review

Ground-mounted large-scale solar photovoltaic installations with 250 kW or larger rated nameplate capacity shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.

### b. General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

### c. Required Documents

Pursuant to the site plan review process, the applicant shall provide the following documents:

- (i) A site plan showing:
  - (a) Property lines and physical features, including roads, for the project site;
  - (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - (c) Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - (d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - (e) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - (f) Name, address, and contact information for proposed system installer;
  - (g) Name, address, phone number and signature of the applicant, as well as all co-proponents or property owners, if any; and
  - (h) The name, contact information and signature of any agents representing the applicant; and
- (ii) Documentation of actual or prospective access and control of the project site (see also Section 6.e);
- (iii) An operation and maintenance plan (see also Section 7.h);
- (iv) Zoning district designation for the parcel(s) of land comprising the project site;
- (v) Proof of liability insurance; and
- (vi) Description of financial surety that satisfies Section 7.e.

All material modifications to a solar photovoltaic installation made after final approval shall require approval by the Planning Board.

Any portion of this Section 5 may be waived, if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.

6. Design Standards

a. Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section VII of the Town of Weston Zoning By-laws. Solar photovoltaic installations shall not be used for displaying any advertising. Advertising shall not include reasonable identification of the manufacturer or operator of the solar photovoltaic installation. The solar photovoltaic installation shall identify the owner and provide a 24-hour emergency contact phone number.

c. Utility Connections

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

d. 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 solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and by-laws.

e. Appurtenant Structures

All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

7. Additional Provisions

a. Maintenance

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Weston Fire Chief. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

b. Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

c. Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 7.d of this by-law shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (i) Physical removal of all large-scale ground-mounted solar photovoltaic installations, 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. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

d. Abandonment

Absent notice to the Planning Board, as provided above, of a proposed date of decommissioning or written notice to the Planning Board requesting an extension due to extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate or its operations are discontinued for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation. As a condition of approval, an applicant shall agree to grant the necessary license or easement to the Town to allow entry to remove an abandoned installation. All solar photovoltaic installations removal and associated costs will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

e. Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by

a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

f. Compliance with Laws, Ordinances and Regulations

The construction and operation of all large-scale solar photovoltaic installations 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 solar photovoltaic installation shall be constructed in accordance with the State Building Code.

g. Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

h. Operation & Maintenance Plan

The applicant shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

i. Utility Notification

No large-scale, ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

j. Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Weston 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 solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(end of Section V.)



## SECTION VI. DIMENSIONAL AND OTHER REQUIREMENTS

### A. GENERAL

1. The regulations governing the minimum area, frontage, and width of lots, and the height and location of buildings and structures on lots, in the various districts are hereinafter set forth in this Section. Every lot as established shall be, and shall continue to be, in conformity itself with said regulations such that any building or structure thereon will be in conformity thereto. No building or structure or part thereof shall be constructed, altered, enlarged, reconstructed, extended or moved except in conformity thereto.
2. In the case of a lot fronting on more than one street, the lot must have the entire required minimum frontage on one of the streets but need not have it on more than one.
3. In the case of premises abutting more than one street, the regulations as to setbacks from the street side line and from the street center line shall be applicable with respect to each street.
4. Land located within a way, whether public or private, shall be excluded in computing any lot area.
5. No site alteration work which requires or will require a storm water permit or any zoning or other land development permit or approval shall be performed on any property until such permit or approval is obtained, including any one of the following:
  - a. Approval by the Planning Board of a site plan where such approval is or will be required under the provisions of this Zoning By-law.
  - b. Issuance of a permit by the Storm Water Permitting Authority where such permit is required by the Storm Water By-law, Article XXVII of the By-laws of the Town of Weston.
  - c. Issuance of a permit for building, demolition, or any other permit required by the Massachusetts Building Code or this Zoning By-Law.

### B. SINGLE FAMILY RESIDENCE DISTRICTS (A, B, C AND D)

#### 1. Minimum Requirements.

Except in the case of a Flexible Development pursuant to VI.H., every lot in the Single Family Residence Districts shall contain at least the area, shall have frontage on a constructed and paved street of at least the distance, and shall have at least the width at the street setback line, specified in the following table. Every building or structure shall be so situated as to have at least the setbacks from street side line and street center line and all lot lines specified in such table.

2. **Table of Conventional Dimensional Requirements.**

	District			
	A	B	C	D
Minimum lot area in sq. ft.(b)	60,000	40,000	30,000	20,000
Minimum street frontage, and minimum lot width at street setback line (c)	250 ft	200 ft	175 ft	150 ft
Minimum setback from street side line (a) (e) (f)	60 ft.	50 ft.	40 ft..	30 ft
Minimum setback from street center line (a) (e) (f)	85 ft.	75 ft.	65 ft.	55 ft.
Minimum setback from lot line (e) (f)	45 ft.	35 ft.	25 ft.	20 ft.

Notes

- (a) The governing minimum street setback shall be the greater of the street sideline setback and the street center line setback.
- (b) If any portion of a lot in a Single Family Residence District is overlaid by the Wetlands and Flood Plain Protection District A said portion may be used to meet the area requirement for that district otherwise provided in the Zoning By-Law provided that no building or structure may be erected on the portion remaining outside the Wetlands and Flood Plain Protection District A unless that portion has a minimum area of 20,000 square feet.
- (c) A lot shown on a Plan endorsed by the Planning Board before May 13, 1997 or a lot for which a separate deed has been recorded before said date, and which was otherwise in compliance with this Bylaw when so endorsed or recorded, shall be deemed to comply with the minimum street frontage and lot width requirements of this Bylaw, if it has a street frontage and lot width of at least 200 Ft. in the Single Family Residence District A, 150 ft. in the Single Family Residence District B, 125 ft. in the Single Family Residence District C, or 100 ft. in the Single Family Residence District D.
- (d) For the limited purposes of determining density under Section VI.H.6.d., the applicable minimum frontage and lot width requirements shall be 200 ft. on the Single Family Residence District A, 150 ft. in the Single Family Residence District B, 125 ft. in the Single Family Residence District C, or 100 ft. in the Single Family Residence District D.
- (e) Eaves, overhangs, cantilevers, chimneys, bay windows and similar building parts, and uncovered porches, decks, steps and landings, may project up to three feet into the minimum setback.
- (f) Eaves, overhangs, cantilevers, chimneys, bay windows, and/or similar building parts projecting more than three feet into the minimum setback, but no more than four feet beyond the building foundation, shall be deemed to conform to the minimum setback in the Table, notwithstanding that the distance from the Street Line, Street Centerline or Lot Line, as the case may be, is less than the minimum setback distance specified in the Table for the Single Family district in which the building is located, provided such building was constructed pursuant to a building permit issued prior to April 16, 2009.

3. Substantial Irregularity.

Unless contained in a Flexible Development pursuant to Section VI.H, no building lot shall be created after the effective date of this By-Law which is substantially irregular in shape. For purposes of this provision, “substantially irregular” shall have the meaning set forth in Section II, Definitions, as applied to the entire lot. In addition, except as contained in Flexible Development pursuant to Section VI.H, no building lot shall be created unless it is capable of containing a quadrangle which contacts the street frontage at least at one point along a side at least equal in length to the applicable minimum frontage distance required for the district in which the lot is located, (b) includes 90% of the lot area required for the district in which the lot is located, and (c) has no included angle of less than seventy-five degrees (75°), within which quadrangle all principal buildings, accessory buildings and structures and their above-ground and underground appurtenances shall be located, excepting only signs, driveways, utility service connections, drainage, fences and light standards.

C. MULTIPLE DWELLING DISTRICTS (A AND B)

1. Minimum Requirements.

Lots and structures used for multiple dwellings shall conform to the following requirements as to square footage, frontage, set-backs, square feet of land per unit, number of units per building, buffers, number of bedrooms per unit, and area of living space.

2. Table of Dimensional Requirements.

	District	
	A	B
Minimum lot area in square feet	240,000	600,000
Minimum street frontage on existing public way	200 ft.	100 ft.
Minimum setback from street side line of existing public way	100 ft.	65 ft.
Minimum setback from street centerline of existing public way	125 ft.	N/A
Minimum setback from lot line	100 ft.(a)	65 ft.
Square feet of land per unit (b)	30,000	10,000
Number of units per building	2 to 8	4 to 8
Buffer maintained in natural state, or landscaped, around perimeter of lot.	50 ft	25 ft.
Minimum garage distance from lot line	65 ft..	45 ft
Minimum setback from side line of road located within the lot	20 ft.	20 ft.
Minimum setback from center line of road located within the lot	45 ft..	45 ft
Maximum average number of bedrooms per unit	2	N/A
Minimum floor area of living space in square feet	750	750

Notes

- (a) In cases where a lot line is adjacent to permanent conservation land, a railroad, or certain other types of municipal open land which in themselves serve as buffers, the minimum setback from lot line may be 65 feet.
- (b) The number of square feet of land per unit shall consist entirely of land outside the Wetlands and Flood Plain Protection District.

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3. The aggregate of all dwelling structures in Multiple Dwelling Districts shall not cover more than 20% of the lot upon which they are built. The aggregate of all structures and off-street parking areas, whether or not covered, in Multiple Dwelling Districts shall not cover more than 30% of the lot upon which they are built or located.
4. No garage structure shall measure more than 100 feet in length and no other building shall measure more than 250 feet in length. No garage structure shall exceed a height from the ground of one story. All buildings shall be separated from other buildings by a distance of at least 25 feet, and a garage shall be considered as part of such building if attached.
5. Utility space and other space not used for living purposes, roofs, balconies and porches shall not be used in determining living space but balconies and porches shall be used in determining building coverage.
6. Each multiple dwelling unit shall contain cooking and bathroom facilities.
7. Roads, Driveways and Access.
  - a. All roads (as opposed to driveways serving multiple dwellings) providing access to or constructed in a Multiple Dwelling District shall be at least 50 feet in width of which at least 24 feet shall be paved, shall provide for a sidewalk at least 5 feet wide within such width on one side of such road and shall be constructed in such a manner as will permit its acceptance as a public way.
  - b. The grading, surfacing and drainage of such roads shall be approved by the Weston Planning Board. All such roads, or their exterior lines, shall be entered on the official Town of Weston Map, duly certified to by the Town Clerk and filed at Middlesex Registry of Deeds, before any multiple dwellings may be permitted to be built having access to such roads.
  - c. The location of the access roads servicing the multiple dwelling units shall, upon approval by the Special Permit Granting Authority, be entered upon the Official Town Map as if for a subdivision approved by the Planning Board in accordance with M.G.L. Chapter 41, "Municipal Planning", Section 81-E "Official Map".
  - d. The main access road or roads to a Multiple Dwelling District shall enter and exit from a public way and shall be at least 25 feet from the property lines of any adjacent lot or lots of a district other than a Multiple Dwelling District. Each such buffer strip shall be either landscaped or left in its natural state.
8. Utilities And Services.
  - a. All utilities to be utilized in connection with the multiple units shall be installed under the surface of the ground.
  - b. The lot upon which multiple dwellings are constructed shall be supplied with a septic or sewage system or systems acceptable to the Board of Health and with Town water and adequate street lighting. Suitable fire alarms and police call boxes in sufficient numbers to afford health, fire, and police protection for the residents of the multiple dwelling units shall be provided.

9. Long Term Care Facility.

Where a Long Term Care Facility is allowed with Site Plan Approval and by Special Permit, the Dimensional Requirements for Multiple Dwelling Districts shall be modified in the following respects:

- a. Buffer to be maintained in natural state a minimum of 100 feet from street side lines and lot lines. Driveways and underground utility lines may cross the buffer area.
- b. Number of units per Building: Not Applicable.
- c. Minimum floor area of living space in square feet: Not Applicable.
- d. Section VI.C.4.: Not Applicable.

**D. BUSINESS, OFFICE & RESEARCH AND DEVELOPMENT, AND COMMERCIAL DISTRICTS**

1. Minimum Requirements.

Every lot in the Business, Office and Research and Development and Commercial Districts shall have the lot size, frontage and access on a street of at least the distance, and the width at the street setback line as specified in the following table. Every building or structure in such districts shall be so situated as to have at least the buffer setback from the street sideline and from all lot lines specified in such table. The ratio of the total area of the floor space of all buildings on any lot to the total area of such lot shall not exceed the ratio specified in such table. The total portion of a lot in such district covered by parking areas shall not exceed the percentage specified in such table.

2. **Table of Dimensional Requirements.**

	District			
	Business A	Business B	Office & Research and Development District	Commercial
Min. Street Frontage	50 ft.	50 ft.	400 ft. (a)	50 ft.
Min. Street Setback	15 ft.	25 ft.	150 ft.	25 ft.
Min. Lot line Setback	10 ft.	10 ft.	200 ft. (b)	20 ft.
Max. Bldg. Coverage	25%	25%	15%	25%
Max. Floor to Lot Ratio	1:2	1:2	1:2.5	1:2
Max. Parking Coverage	50%	50%	25%	50%
Min. Lot Size	-	-	600,00 SF (a)	-
Natural or Landscaped Buffer	-	-	65 ft. (c)	-

Notes for Office & R & D Districts Only

- (a) In reference only to applications for a Site Plan Approval for an Office and Research and Development District involving sites partly within the Town of Weston and partly in an abutting municipality the Special Permit Granting Authority for Site Plan Approval may vary the requirements for such projects in the following particulars only:

- (i) Frontage and access requirements may be satisfied in another abutting municipality in accordance with the requirements and standards of that municipality for Office and Research and Development districts when the area in the Town to be used for the project is with without frontage in the Town of Weston.
  - (ii) The requirement of a minimum lot area of 600,000 square feet may be met if the area of the total lot is equal to or exceeds 600,000 square feet of which not less than 300,000 square feet is located in the Town of Weston.
  - (iii) Parking requirements - see Section VIII "Vehicular Requirements."
- (b) The Special Permit Granting Authority for Site Plan Approval may reduce the minimum lot line setback to not less than 100 feet if topography and other natural features effectively screen the development from neighboring residential property, and shall reduce the minimum lot line setback to not less than 65 feet if the lot line is adjacent to permanently open land, a railroad or limited-access highway.
  - (c) No buildings, structures, parking areas or recreation facilities shall be located within the 65-foot buffer around the perimeter of the site except for access roads crossing the buffer.

**E. HEIGHT REGULATIONS**

1. On all land located within the Town of Weston, no building shall exceed the height limitations set forth in the table below. In all cases, height shall be determined by measuring the vertical distance from the Grade Plane to the highest point of a building.

2. Table of Height Limitations

DISTRICT		HEIGHT LIMITATION	NOTES
Business A	Lots of less than thirty-five acres	35 Feet or 2 ½ Stories whichever is less	(a),
	Lots of thirty-five acres or more	52 Feet or 4 Stories whichever is less	
Business B	Lots of less than five acres	35 Feet or 2 ½ stories whichever is less	(a)
	Lots having at least five acres but less than thirty-five acres	45 Feet or 3 Stories whichever is less	
Office & Research and Development		40 Feet	(b)
Commercial, Single Family Residential (A, B, C, D), and Multiple Dwelling Districts (A & B)	Pitched Roofs	37 feet or 2-1/2 stories whichever is less	(a)
	Flat Roofs	32 Feet or 3 Stories	(a)

**Notes:**

a) The height of all buildings located within this District shall be measured to the highest point of the entire building. Stories shall be measured from the floor level of the lowest story above grade. Attics in pitched roof construction shall constitute ½ story.

b) In Office & Research and Development Districts ONLY, in the situation where a building used exclusively for office or research and development purposes is built with differing roof heights, each portion having a different roof height shall be considered as a separate building for purposes of height determination. For all other uses within an Office & Research and Development District, the entire building shall be considered a single entity for purposes of height determination.

3. Exceptions

- a) Except as provided in Section V.J. on any building located within any District, domes, cupolas and other ornamental features, solar collectors, chimneys, ventilators, skylights, tanks, bulkheads, machinery, antennas, transceivers, and other accessory features which are required above roofs may not exceed twenty (20) feet measured vertically from the highest point of the entire building.
- b) Parapets, and penthouses for stairs and elevators shall not be considered accessory features. In a situation where a parapet, staircase, elevator penthouse, or other element not considered an accessory feature extends above the level of the highest point of the roof, the highest of such elements shall be considered the highest point of the building.
- c) Freestanding antenna constructions not attached to a building including antenna for use by federally licensed amateur radio operator and not otherwise regulated, shall not exceed fifty (50) feet in height measured from the ground.
- d) On any building located within Business B and Office and Research and Development Districts only, rooftop screens or fences erected to conceal equipment shall not exceed twelve (12) feet in height.

F. OTHER DIMENSIONAL REQUIREMENTS

1. Corner Obstructions

No building, fence or other structure shall be erected or installed, and no tree, shrub, or other growth shall be planted or permitted to grow or exist, which will dangerously obstruct the view of traffic by operators of vehicles at street intersections or otherwise constitute a hazard to public safety; nor shall any fence or other structure be erected or installed, nor shall any tree, shrub, or other growth be planted or permitted to grow or exist higher than 24 inches above the ground in the area formed by the intersecting sidelines of any street or way, whether public or private, and a line joining each sideline at points 35 feet distant from the point of intersection of the sidelines: in the case of rounded corners the distance shall be measured from the point of intersection of the side lines when projected. The provisions of this Subsection shall not require the removal of any existing tree whose entire foliage is not less than 10 feet above its base and whose trunk is not of a size or shape to obstruct the view of traffic for operators of motor vehicles.

2. Number and Location of Single Family Dwellings on One Lot  
Except as may be permitted in an AARD, the number and location of single family dwellings on any one lot shall be such that every dwelling (and its accessory structures) can be provided sufficient land to form a separate lot which will itself be in full conformity to the regulations of this Section VI, and on which every dwelling (and its accessory structures) will be in full conformity thereto; and upon alienation of any such dwelling it shall be provided with such a lot and every dwelling remaining on the original lot shall be left capable of being provided with the same.
  
3. Gross floor Area Limitation  
In all Single Family Residence Districts, for any use other than single family detached dwelling, church, or other religious purpose, educational purpose if conducted by a religious or non profit entity, or municipal purpose, the gross floor area (as defined in the State Building Code) of any buildings and parking structures divided by the total lot area shall be no greater than 0.10; and all lots and structures relating to any such use shall conform to the dimensional requirements of the residential district where they are located.  
  
Any project granted Site Plan Approval by the Planning Board before April 18, 1991 is not subject to the provisions of the paragraph provided that such project obtains any required Special Permit by May 6, 1992.

#### G. ACCESSORY APARTMENT

The Special Permit Granting Authority may authorize, in any Residential District, the alteration of a Single Family Dwelling to include an Accessory Apartment, or the conversion of a detached Accessory Building such as a garage, barn or gate house to an Accessory Apartment, provided that the following criteria have been met:

1. The Single Family Dwelling to be altered or the Accessory Building to be converted, is on a lot which conforms to the lot area requirements for the residential district in which it is located.
2. Construction of the Single Family Dwelling to be altered, or the Accessory Building to be converted, was completed, including any additions or enlargements thereto, at least ten years prior to the date of the special permit application.
3. The Single Family Dwelling to be altered contains at least 3,000 square feet of habitable area, not including unfinished attic or basement area.
4. The proposed Accessory Apartment will have at least 600 square feet of gross floor area but, if to be located within a Single Family Dwelling, will not also have a gross floor area exceeding 25% of the habitable area of the Single Family Dwelling (excluding unfinished attic and basement area).
5. The Accessory Apartment will contain separate cooking facilities and one or more bathrooms, but not more than two bedrooms.



6. The alteration or conversion for Accessory Apartment purposes will not result in any increase in building coverage, other than a fire exit, fire escape or other safety feature required by the State Building Code. In any event, the alteration or conversion will not result in substantial changes to the exterior of the building which would be inconsistent with the exterior appearance of the building immediately prior to date of the special permit application.
7. The Board of Health has issued a favorable recommendation as to the suitability of the subsurface disposal system for the proposed Accessory Apartment. Such recommendation may include conditions which, in the opinion of the Board of Health, are necessary to ensure standards in keeping with public health interests.
8. Sufficient and appropriate space exists on the lot for at least one additional off-street parking space to serve the Accessory Apartment in addition to the off-street parking spaces required to serve the Single Family Dwelling. Said additional parking space, whether already existing or to be constructed, shall have a gravel or paved surface, and shall be accessed from the driveway serving the Single Family Dwelling to be altered or the Accessory Building to be converted.
9. The owner or owners of the property shall live either in the Single Family Dwelling or in the Accessory Apartment.

In granting a Special Permit for an Accessory Apartment, the Special Permit Granting Authority may impose reasonable conditions, including a requirement that the applicant post security in the form of a bond or cash deposit for the performance of representations and agreements made by the applicant in connection with the special permit application.

A Special Permit for an Accessory Apartment shall provide that the Special Permit shall lapse upon transfer of title to the subject property unless the transferee applies for a renewal of the Special Permit within six months of the date of transfer and the renewal is subsequently granted.

#### H. FLEXIBLE DEVELOPMENT REQUIREMENTS AND PROCEDURES

1. Applicability An owner or owners of land in a Single Family Residence District may apply to the Planning Board for a Special Permit for Flexible Development under this Section VI.H. This will exempt such land from the lot area, frontage, setback and other applicable dimensional requirements set forth in the Table of Conventional Dimensional Requirements of this Zoning By-Law in order to fulfill the purposes of Flexible Development. The Planning Board shall be the Special Permit Granting Authority for any Special Permit for Flexible Development issued under this Section.

Nothing in this section shall be interpreted as conflicting with the right of a landowner to proceed under the Subdivision Control Law with an application for a preliminary or definitive subdivision plan pursuant to G.L. c.41, Sections 81S and 81T, or with an application for endorsement of a plan of land division as "approval not required" pursuant to G.L. c.41, Section 81P.

## 2. Purpose

The general purpose of Flexible Development is to allow greater flexibility and creativity in the design and layout of single family residential development, without any increase in permitted density, in order to:

- a. minimize alteration of or damage to the natural and cultural features and topography of the land;
- b. avoid undue adverse impacts of new development on existing homes and neighborhoods;
- c. preserve wooded areas and other undeveloped open land particularly along Town roads;
- d. preserve the existing semi-rural appearance of the Town.

## 3. Fees

An Applicant for a Special Permit for Flexible Development shall pay a filing fee and review fees as the Planning Board shall deem reasonably necessary, which fees shall be set forth in the Planning Board Special Permit Rules for Flexible Development.

## 4. Procedure

A landowner seeking to create a Flexible Development of land may file with the Planning Board an Application for a Special Permit for Flexible Development. The Application shall conform to the applicable requirements for a Definitive Subdivision Plan as set forth in the Planning Board's Rules and Regulations for the Subdivision of Land, as well as the Flexible Development requirements contained herein and all other requirements in the Special Permit Rules for Flexible Development.

The Planning Board shall give notice, hold a public hearing and file its decision regarding a Flexible Development Application, in accordance with the procedures governing special permits contained in Sections 9, 11 and 15 of M.G.L. c.40A, the Zoning Act.

## 5. Dimensional Requirements

A Special Permit for Flexible Development may authorize the creation and use of lots meeting the following dimensional requirements in lieu of the conventional dimensional requirements contained in Section VI.B.2. and VI.B.3.

- a. Lot Area Each lot shall be at least of a size capable of supporting the construction of a single-family dwelling and its accessory structures in accordance with all applicable state and local regulatory requirements and the purposes of Flexible Development.
- b. Frontage The frontage of each lot for a building site created in a Flexible Development shall be that necessary, in the opinion of the Planning Board, to provide for adequate access to the lot. Where shared driveways or other circumstances provide adequate access to an individual lot, frontage may not be required.
- c. Setbacks All structures shall be set back a minimum of twenty (20) feet from all lot lines, provided, however, that with respect to lot lines which abut an existing street or which otherwise abut land outside the Flexible Development, setbacks from said lot lines shall conform to the Section VI.B.2. setback requirements applicable to conventional development in the underlying zoning district.

- d. Building Height The height of all buildings or other structures within a Flexible Development shall conform to the requirements of Section VI.E.
  
- 6. Other Requirements
  - a. Buildable Lot Buildable lot shall be defined for purposes of determining the density of a Flexible Development as an area of contiguous land, having sufficient area and dimensions to meet the applicable requirements of this Zoning By-Law for use as the site of one single family detached dwelling, and conforming to all relevant state and local laws and regulations.
  - b. Developed Areas The boundaries of the area(s) within each lot that will contain all principal and accessory structures shall be shown on the plan and designated as the "Developed Areas." The areas so designated shall be of a size and location to satisfy the stated purposes and standards set forth herein.
  - c. Single Dwelling Not more than one single family dwelling and its accessory structures and uses may be located on a lot created under Flexible Development pursuant to Section VI.F.2.
  - d. Density The maximum number of lots for building sites in a Flexible Development shall not exceed the number of buildable lots which could be created through conventional development of the site. The allowable maximum density shall be based upon the maximum number of buildable lots which may be created through conventional development of the land without substantial waivers from the Planning Board's Rules and Regulations for the Subdivision of Land and in conformance with the conventional dimensional requirements for the underlying zoning district. The Planning Board shall make the final determination of density, provided, however, that for the limited purpose of showing conformance with said conventional dimensional requirements, the applicable minimum frontage and lot width requirements shall be 200 ft. in the Single family Residence District A , 150 ft in the Single Family Residence District B, 125 ft. in the Single Family Residence District C, and 100 ft. in the Single Family Residence District D.
  - e. Restrictions Against Further Development No Flexible Development for which a Special Permit has been issued under this Section may be further subdivided. A notation to that effect shall be made on the Lotting Plan as defined in the Planning Board Rules and Regulations to be endorsed by the Planning Board and recorded in the Registry of Deeds or the Land Court.

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

7. Allowed Uses

The land in a Flexible Development may be used for any use otherwise allowable in the Single Family Residence District in which it is located, pursuant to the provisions of Section V. Use Regulations.

8. Standards

In reviewing an Application for a Special Permit for Flexible Development, the Planning Board shall consider the extent to which the Application meets the purposes of Flexible Development by satisfying the following standards:

- a. The laying out of Developed Areas, roads, storm drains, sewage disposal systems, and utilities shall be in conformance with the natural features of the parcel, minimizing changes to the topography and maximizing the amount of preserved wooded areas and other open space.
- b. The amount of land to be disturbed for the construction of buildings, driveways, septic systems, utilities, storm drainage systems and roads shall be minimized.
- c. Important natural and historic features of the land, as determined by the Planning Board, shall be protected.
- d. The Flexible Development shall be in keeping with and enhance the overall semi-rural appearance of Weston by:
  - (i) preserving views from existing roads;
  - (ii) avoiding undue adverse impacts on neighborhoods;
  - (iii) conserving natural and historic resources, including but not limited to those linked to off-site protected resource areas.
- e. The impacts of road and utility installations for each dwelling unit served shall be less than those generated by a conventional development of the same land.
- f. The design, number and location of curb cuts shall be such that any conflict with existing traffic flow is minimized, and the semi-rural appearance of existing streets is maintained or enhanced.
- g. Provision, satisfactory to the Planning Board, shall be made with regard to the ownership and maintenance of any and all private roads, common driveways, common land, or other common facilities within the Flexible Development.
- h. The design shall minimize the size of Developed Areas.

The Planning Board shall not grant a Special Permit for Flexible Development unless the Application is consistent with the above standards and conforms to the dimensional and use requirements for Flexible Development set forth herein and in the Planning Board Special Permit Rules for Flexible Development.

(end of Section VI)

## SECTION VII. SIGNS

### A. BUSINESS AND COMMERCIAL DISTRICT SIGNS

In any Business or Commercial District, no sign shall be allowed except as hereinafter specifically permitted. All signs shall be limited to the purpose of advertising or indicating only the person(s) occupying the premises on which it is located, the merchandise for sale, or the activity conducted thereon, except that temporary signs are permitted during periods of construction on the premises or offering the property for sale or rent, which signs shall be promptly removed when such construction, rental, or sale has been concluded.

#### 1. Number:

There shall be not more than one primary sign for each occupant of a building which shall be either affixed to the building or standing, except that if there are walls with direct public entrance into the building or which face upon a street or parking area other than the front wall, there may be a secondary sign affixed to each of such walls; provided, however, that no building shall have more than three secondary signs for each occupant. In addition to the foregoing sign or signs, there may be one directory of the tenants of the building affixed to the exterior wall of the building at each entrance to the building. Such directory shall not exceed an area determined on the basis of one square foot for each tenant of the building.

#### 2. Location:

- a. An affixed sign shall be securely attached to a vertical wall or parapet of the building, shall be parallel with and not more than twelve (12) inches away from the face of such wall or parapet nor project beyond the face of any other wall or parapet of the building and shall not at any point extend above the wall or parapet to which it is attached, except that if the building to which the sign is to be attached is a one-story building with a slanting roof an affixed sign may be attached securely to such roof but the top of such sign shall be at least eighteen (18) inches below the level of the top of such roof and the bottom of such sign shall not project more than six (6) inches away from the roof and shall be placed not more than two (2) feet above the level of the lower edge of such roof.
- b. A standing sign shall be subject to the provisions of this Zoning By-Law relating to setbacks of structures from lot lines.

#### 3. Size:

- a. The total area of a primary affixed sign or signs shall not exceed more than one and one-half (1 1/2) square feet for each lineal foot or major fraction thereof of front width of the building to which such sign or signs is attached. In cases of multiple occupancy, such total area may be allocated among the occupants. The cumulative area of secondary sign or signs shall not exceed fifty per cent (50%) of the area permitted for the primary sign or signs as above provided. The area covered by the lettering or symbols of any sign shall not exceed 33 and 1/3% of the total area of such sign.

- b. A standing sign shall not exceed 20 square feet in surface area (exclusive of support), or 10 feet in any dimension, or 10 feet above ground level, except that a standing sign on premises used as gasoline filling station and lubritorium shall not exceed 14 feet above ground level.
  - 4. Construction:  
All signs shall be painted, applied, or attached to an intermediate frame or support which shall in turn be affixed to the wall or roof of the building or supporting post as the case may be, except that a sign composed of individual letters or devices cut into or securely affixed to the exterior wall of a building is permitted, provided that such letters or devices have a minimum depth or thickness of one-fourth (1/4) of an inch and a maximum of four (4) inches. The material of which the sign is constructed and the intermediate structure and the manner of affixation to the wall or roof of the building or post shall be subject to the approval of the Building Inspector from the standpoint of public safety.
  - 5. Illumination:  
No sign shall be illuminated except by a white, steady, stationary light or lights shielded and directed solely at the sign. Flashing, moving, and animated signs and signs illuminated from within or from the rear of such sign are prohibited.
  - 6. Gasoline Filling Stations and Garages:  
Gasoline filling stations and garages may, if they elect to do so, divide the one exterior primary sign permitted each occupant under this Section VII into separate departments of the business, provided, however, that the total of the area of the separate signs shall not exceed the maximum area permitted under paragraph 3 hereof. In addition, one standing sign in conformity with the provisions of paragraph 3, b, hereof indicating the company whose gasoline is being sold may be erected upon the premises being used by such filling station or garage. The dimensions of standard type of gasoline pump, bearing thereon in usual size and form, the name or type of gasoline and the price thereof, shall not be included in the dimensions of signs permitted under this Section VII.
  - 7. Permits:  
No sign shall be erected on the exterior of any building or on any land unless and until application for the erection of such sign, together with a scale drawing and a colored rendering of such sign and such other information and drawings as the Inspector of Buildings may require, have been filed with him, and a Building Permit for the erection of such sign has been issued. If the requirements and limitations of this Subsection A shall have been satisfied, the Inspector of Buildings shall issue such permit.
  - 8. Nonconforming signs:  
The provisions of Section III, "Pre-Existing Nonconforming Buildings, Structures and Uses", shall apply to this Section VII.
- B. RESIDENCE DISTRICT SIGNS**
- 1. Signs Permitted Without a Permit:
    - a. One temporary nonilluminated sign with a maximum area of nine square feet advertising the premises on which the sign is located as for sale or rent and containing no other advertising matter.
    - b. A nonilluminated sign or name plate not more than two square feet in area indicating the persons occupying the premises or the activity conducted thereon.

2. Activities permitted by Site Plan Approval and/or a Special Permit to be maintained in residence districts shall be limited to the type of sign authorized for residence districts, except the Special Permit Granting Authority for Special Permits may permit a larger sign, if necessary or appropriate, but not larger than 20 sq. ft. in area and 10 feet in any dimension.

(end of Section VII)

## SECTION VIII. VEHICULAR REQUIREMENTS

### A. OFF-STREET PARKING REGULATIONS

#### 1. Parking Requirement by Usage:

In order to provide sufficient off-street vehicular parking in the Town, no Building Permit for the new construction, erection or alteration (as defined in Section III, Subsection A) of a building or structure shall be issued and no use or change of use of any building, structure or premises shall be made unless off-street parking facilities have been provided in accordance with the applicable requirements of this Subsection. The minimum number of off-street parking spaces shall be as follows:

- a. Store, salesroom or showroom for the conduct of retail business: at least two spaces for each establishment or one space for each two hundred square feet of gross floor area, whichever is larger, plus two spaces for each three employees or nearest multiple thereof.
- b. Office or office building: one space for each two hundred and fifty square feet of gross rentable floor area plus one space for each three employees or nearest multiple thereof, except in Business District B when the lot contains five acres or more.  

In Business District B when the lot contains five acres or more: one space for each two hundred eighty-five square feet of gross floor area, provided that additional land is available for up to a total of one space for each two hundred fifty square feet of gross floor area.
- c. Eating places: one space for each four seats plus two spaces for each three employees or nearest multiple thereof employed in the largest shift.
- d. Other commercial uses: all other types of commercial and industrial uses not specifically mentioned shall have at least one space for each 250 square feet of gross rentable floor area plus one space for each three employees or nearest multiple thereof employed in the largest shift.
- e. Industrial and manufacturing establishments: one space for each two employees based on the maximum number of employees the plant is designed to employ in any one shift plus one space for each three hundred square feet of gross floor area.
- f. Places of assembly including churches but not schools: one space for each four seats.
- g. Occupations permitted under Section V, "Use Regulations": four spaces plus one space for each two nonresident employees. If more than one such occupation shall be conducted in the structure, then the above requirement shall apply to each such occupation.
- h. Nursing homes, long-term care facilities, medical offices: two spaces for each three employees or nearest multiple thereof employed in the largest shift and one space for each four patients based on the maximum capacity of the facility.
- i. Multiple dwelling units: two spaces for each dwelling unit, which requirement may be reduced by the Special Permit Granting Authority where not required (as elderly persons without automobiles) as part of the Site Plan Approval procedure.



- j. Non-Commercial clubs: as may be required by the Special Permit Granting Authority in the Special Permit authorizing such use.
  - k. Schools and other educational uses subject to Massachusetts General Laws, Chapter 40A, Section 3: sufficient spaces, in the judgment of the Inspector of Buildings, to ensure that no parking for vehicles for employees or regular attendants will take place on a public or off-site private way, except that in cases where Limited Site Plan Approval or Special Permit issued by the Planning Board is required, the Planning Board shall make such determination.
  - l. All other non-residential uses not specifically mentioned above: sufficient spaces, in the judgment of the Inspector of Buildings, to ensure that no parking for vehicles for employees or regular attendants will take place on a public or private way.
2. Location and Size of Parking Area:
- Required parking areas shall be located on the same lot as the building, structure or premises with respect to which such areas are provided or may be on adjoining or nearby land when all of the required parking area lies within 200 feet of the principal premises. All parking areas shall be entirely located within a district where the activity carried on in the principal premises is permitted under Section V "Use Regulations". Each parking space shall include space for maneuvering and for access to and from the parking area, shall be continually available and shall be not less than 350 square feet in area. The percentage of the lot utilized for such parking area shall not exceed the percentage specified in Section VI "Dimensional and Other Requirements", Subsection D.
3. Construction Standards of Parking Area:
- The surface of all required parking areas shall be so constructed and be of such material as to avoid undue dust, erosion, and flow of water onto public ways or adjacent property and such areas shall be reasonably landscaped and maintained.
4. Group Parking Areas:
- Owners of buildings, structures or premises required to provide off-street parking facilities under this Subsection may join in establishing a group parking area to be owned in common by them (in fee or with rights of easement) having the required parking area for all the buildings, structures or premises participating therein.
5. Loading and Unloading Areas:
- Facilities for loading and unloading stock, merchandise, equipment, material, and supplies sufficient to serve the use conducted on the premises in question shall be provided and properly screened. In the business districts adequate maneuvering areas and loading facilities for trucks shall be provided on the lot of each building.
6. Pre-existing Uses:
- Use of buildings, structures and premises in existence at the time that this Section was adopted shall not be subject to the requirements set forth herein provided that any existing parking facilities which do not meet the requirements hereof shall not thereafter be reduced in size, or otherwise rendered further nonconforming.

7. Special Provisions for Office and Research and Development Districts:

- (a.) One parking space for each 300 square feet of building space or one parking space for each employee, whichever is greater; however, the Special Permit Granting Authority for Site Plan Approval may reduce the required number of parking spaces to a number equal to the maximum number of people employed at and using the facility during its largest shift or at any one time, whichever is greater.
- (b.) In reference only to applications for Site Plan Approval for an Office and Research and Development District involving sites partly within the Town of Weston and partly in an abutting municipality the Special Permit Granting Authority for Site Plan Approval may vary the parking requirements for such projects set out in Section VI, "Dimensional and Other Requirements", Subsection D in the following particular: The parking requirements of this Zoning By-Law may be satisfied by the location of all or some of the parking space requirements in the abutting municipality; provided that the Special Permit Granting Authority finds that the applicant also satisfies the Zoning By-Law or Ordinance requirements for parking of the abutting municipality. Parking spaces serving structures in the abutting municipality may be permitted in the Town of Weston, but the total number of spaces shall not exceed 150% of the number of parking spaces required for the structures in the Town of Weston.

8. Use in Business Districts that require Site Plan Approval:

With respect to any use in the Business Districts, the Office and Research and Development Districts, or the Commercial Districts which requires Site Plan Approval, the Planning Board may, as part of the Site Plan Approval, allow a reduction of the number of parking spaces otherwise required in this Section VIII by up to twenty percent where it determines that the reduction is reasonable in the circumstances and would not derogate from the intent of the By-law.

B. COMMON DRIVES IN SINGLE FAMILY RESIDENCE DISTRICTS

Not more than three (3) lots in a Single-Family Residence District may have their principal vehicular access over a common driveway to a constructed and paved public or private way shown on the official map of the Town. All lots sharing such principal vehicular access shall conform in all respects to the requirements of Section VI.B. unless said lots have been approved either as Cluster Development lots prior to January 17, 1994 or as Flexible Development lots pursuant to Section VI.H. A common driveway serving two or three lots shall be contained in a recorded easement to the perpetual benefit of the lots served by the common driveway and shall be constructed in accordance with the provisions of "Standards for Common Driveways, Rules and Regulations of the Town of Weston Planning Board." At the time application is made for a Building Permit for the construction of a residence on a lot served or to be served by a common driveway, it shall be the responsibility of the Inspector of Buildings to ascertain whether the said lot is one of the two or three lots served or to be served by a common driveway and, if so, to require compliance with this paragraph. The Inspector of Buildings shall not issue an Occupancy Permit for any dwelling erected on a lot served by such a common driveway until he is satisfied that the common driveway meets the requirements of this Subsection B. Provisions of this paragraph shall not apply to lots shown on plans recorded before May 5, 1980 insofar as such lots so shown and which do not

conform to this paragraph shall not be considered to be non-conforming for other purposes of this Zoning By-Law.

(end of Section VIII)

SECTION IX. PERMIT AND SPECIAL PERMIT  
GRANTING AUTHORITIES

A. ZONING BOARD OF APPEALS

1. There shall be a Zoning Board of Appeals consisting of three members to be appointed by the Board of Selectmen. The Board of Selectmen shall also appoint up to three associate members. Appointments shall be in accordance with G.L. c. 40A, §12. The Zoning Board of Appeals shall elect annually a chairman and a clerk. The Chairman may designate any associate member to sit on the Board in the case of absence, inability to act, or conflict of interest on the part of any Board member, or in the event of a vacancy on the Board, until such vacancy is filled.
2. The Zoning Board of Appeals shall have the following powers:
  - a. to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a Permit or enforcement action from the Inspector of Buildings or any administrative officer under the provisions of G. L.c. 40A, by the Regional Planning Agency or by any person including an officer or board of the Town of Weston, or of an abutting city or town aggrieved by an order or decision of the inspector of buildings, or other administrative official, in violation of any provision of G.L.c. 40A or of this Zoning By-Law.
  - b. to hear and decide petitions for variances from particular terms of this Zoning By-Law, pursuant to G.L.c. 40A, §10, provided however that no variance may authorize a use or activity not otherwise allowed in the district in which the subject land or structure is located.
  - c. to grant permits and Special Permits as provided in this Zoning By-Law.
3. In exercising the powers granted by this Section, the Zoning Board of Appeals may, in conformity with law, make orders or decisions, revoke, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
4. An appeal to the Zoning Board of Appeals taken by any person (as above defined) aggrieved by reason of his inability to obtain a Permit or obtain enforcement from the Inspector of Buildings or any administrative official under the provisions of the Zoning By-Law or applicable statutes, shall be taken within thirty days from the date of the order or decision appealed from, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk.

B. PLANNING BOARD

The Planning Board shall be the Special Permit Granting Authority for Flexible Developments, construction and determination of flooding and suitability in the Wetlands and Floodplain Protection Districts, Personal Wireless Services Facilities, Earth Movement, Day Camps, and Active Adult Residential Developments.

C. BOARD OF SELECTMEN

The Board of Selectmen shall be the Special Permit Granting Authority for the uses set forth in Section V.6 of this Zoning By-law.

(end of Section IX)

## SECTION X. SPECIAL PERMITS

### A. SPECIAL PERMIT FOR USES

The Zoning Board of Appeals and the Planning Board may, as the appropriate designated Special Permit Granting Authorities, grant Special Permits for the construction, structural alteration or extension of buildings, structures and premises, establishment of a use or a change of use as set forth in the Zoning By-Law, and may revoke and amend the same for appropriate causes. No Special Permit shall be granted by the Special Permit Granting Authority unless it determines, in addition to factors specified in Section V "Use Regulations", to be determined by it, that driveways with two curb cuts are permitted in Weston and may be prohibited or denied by the special permit granting authority when a project is otherwise before the special permit granting authority only if the SPGA determines that either curb cut will be injurious to the community or neighborhood safety or tht either curb cut fails to satisfy factors specified in Section V "Use Regulations."

1. The proposed use will not be injurious, obnoxious, offensive, dangerous, or a nuisance to the community or the neighborhood through noise, vibration, concussion, odors, fumes, smoke, gases, dust, harmful fluids or substances, danger of fire or explosion or other objectionable feature detrimental to the community or neighborhood health, safety, convenience, morals or welfare;
2. If required under Section V, the Planning Board has approved the Site Plan as provided in Section XI "Site Plan Approval."

### B. SPECIAL PERMITS IN GENERAL

1. In the event the Special Permit Granting Authority approves a Special Permit under these provisions, it may require security in the form of a bond or cash or bank book deposited with the Treasurer of the Town for the timely performance of the site work proposed by the applicant and for any conditions, modifications and restrictions imposed by the said Board in connection with the Special Permit. The Zoning Board of Appeals, as Special Permit Granting Authority, may also require, where it deems necessary, that the person to which a Special Permit is granted shall submit periodically certified plans showing the location and elevation of installations and structures placed in or upon the premises of the project or development for which the Special Permit is granted.
2. Special Permits issued by the Zoning Board of Appeals as Special Permit Granting Authority shall require the unanimous vote of the three members of the Zoning Board of Appeals who hear the Special Permit application. Special Permits issued by the Planning Board shall require at least four affirmative votes of the Planning Board.
3. A Special Permit shall lapse if substantial use of the permit, including any construction authorized, has not commenced within two years from the grant of the Special Permit except for good cause. Said two years shall not include the time required to pursue or await a determination of an appeal from such grant.
4. The Special Permit granting Authority shall hold a public hearing within 65 days after the filing of the application and, shall take final action on the application within ninety days after the public hearing. In approving a Special Permit, the Special Permit Granting Authority may impose such reasonable conditions, modifications and restrictions as the Special Permit Granting Authority may deem necessary to insure that the proposed

construction, reconstruction, substantial exterior alteration, or addition will constitute a suitable development and will not result in a substantial detriment to the neighborhood or the environment.

5. In the event that the Special Permit Granting Authority issues or amends a Special Permit under the provisions of this Section, any construction, reconstruction, substantial exterior alteration, addition, use or substantial change in use or activity shall be carried on only in conformity with any conditions, modifications and restrictions to which the Board shall have made its finding and determination subject, and only in substantial conformity with the application and the Site Plan on the basis of which the finding and determination are made.
6. Effective Date of Special Permit: No Special Permit shall take effect until a copy of the decision has been recorded in the Middlesex Registry of Deeds, or for registered land, in the Land Court. Such decision shall bear the certification of the Town Clerk that twenty days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, it has been dismissed or denied.

(end of Section X)

## SECTION XI. SITE PLAN APPROVAL

### A. SITE PLAN APPROVAL AS A PREREQUISITE

In all instances where Site Plan Approval is required under this Zoning By-law for the construction, alteration or use of structures or premises, or for the establishment or change in use of a structure or premises, such construction, extension, alteration, establishment or change may not commence, and no building permit or occupancy permit may be issued for the subject structure or premises, until Site Plan Approval has been issued by the Planning Board. In all instances where both Site Plan Approval and a Special Permit are required under this Zoning By-law, no Special Permit may be granted until Site Plan Approval has been issued by the Planning Board.

### B. PURPOSE

The purpose of Site Plan Approval is to further the purposes of this Zoning By-Law and the purposes set forth in Section 2A of Chapter 808 of the Acts and Resolves of 1975.

### C. REVIEW FEES

The Applicant shall make available to the Planning Board funds sufficient to cover any expenses connected with a public hearing and review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for technical review purposes.

### D. SITE PLAN APPROVAL APPLICATIONS

1. For uses and developments requiring Site Plan Approval, application may be made to the Planning Board in accordance with the procedures set forth in the Planning Board's Site Plan Approval Regulations.
2. The Planning Board shall hold a public hearing on a Site Plan Approval Application within 60 (sixty) days following the date of receipt of a complete Application submission as determined by the Town Planner. The Planning Board shall cause notice of the hearing to be mailed, at least two weeks prior to the date of said hearing, to the Applicant and to all abutters, owners of land directly across any public or private street or way, and abutters to abutters within three-hundred feet of the property line of the subject land, as they appear on the most recent applicable tax list.
3. In those instances where Site Plan Approval is a prerequisite to the grant of a Special Permit for which the Planning Board is the designated Special Permit Granting Authority, the Site Plan Approval Application may be heard and considered in conjunction with the Special Permit Application and, if so, the Planning Board shall incorporate its decision on the Site Plan Application into the Special Permit Decision. In all other instances, the Planning Board shall issue its written decision on the Application within 45 (forty-five) days after the close of the public hearing, and mail a copy of such decision to the Applicant.

#### E. REVIEW OF SITE PLAN - REASONS FOR DISAPPROVAL

The Planning Board shall approve an Application in the form submitted or with reasonable conditions which shall pertain to the Standards and Criteria set forth in Subsection F unless the Planning Board finds that:

1. The Application is incomplete;  
or
2. The imposition of reasonable conditions would not ensure that the proposed project would conform to the Standards and Criteria set forth in Subsection F;  
or
3. The project does not comply with the requirements of the Zoning By-Law.

#### F. STANDARDS AND CRITERIA

The Planning Board shall review and evaluate the Application and make a determination as to whether it is consistent with the Standards and Criteria listed below. If the Planning Board finds that these Standards and Criteria have been met and the Planning Board does not make any of the findings set forth in Subsection E, it shall approve the Application with or without conditions. The Standards and Criteria are as follows:

1. The development shall be integrated into the existing terrain and surrounding landscape. Building sites shall, to the extent feasible:
  - a. Minimize use of wetlands, steep slopes, flood plains, hilltops;
  - b. Preserve natural or historic features;
  - c. Maximize retention of open space;
  - d. Preserve scenic views from publicly accessible locations;
  - e. Minimize tree, vegetation and soil removal, blasting and grade changes;
  - f. Screen objectionable features from neighboring properties and roadways.
2. The development shall be served with adequate water supply and sewage disposal systems. For structures to be served by sewage disposal systems, the applicant shall submit a complete design prepared and stamped by a registered professional engineer and containing all information required by the Board of Health to approve sewage disposal systems.
3. The development shall incorporate measures that are adequate to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased rates of runoff, and minimize potential for flooding. Drainage shall be designed so that groundwater recharge is maximized, and at the project boundaries the rate of runoff shall not be increased.
4. To the extent feasible, development shall minimize demands placed on Town services and infrastructure.
5. The development shall provide for safe vehicular and pedestrian movement within the site and to adjacent ways, including sidewalks, crosswalks and the like.



6. Building design and landscaping shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town including the use of appropriate building materials, screening, and other architectural techniques.
7. Electric, telephone, cable TV and other such utilities shall be underground except where this cannot be accomplished because it is physically or environmentally infeasible, in which case such utilities shall be screened.
8. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back and/or screened to protect neighbors from objectionable features.
9. To the extent feasible, proposed projects shall be designed in such a way as to minimize shadows on neighboring properties.
10. There shall be no unreasonable glare onto public roads and other public ways, into the night sky, or onto neighboring properties from lighting or reflection.
11. The site plan shall comply with all zoning requirements.
12. Driveways with two curb cuts are permitted in Weston. Ad development may have a driveway with two curb cuts. A second curb cut may be prohibited or denied by the Planning Board when a project is otherwise before the Planning Board for site plan approval only if the Planning Board finds curb cut fails to satisfy the standards set forth in paragraphs 3 or 5 directly above.

#### G. WAIVER

The Planning Board may waive compliance with the public hearing requirements and/or some or all of the submission requirements set forth herein for those projects that require a less comprehensive review because they have minor impacts on land use.

#### H. ENFORCEMENT

The Planning Board may require the posting of a bond or other performance guarantee to assure compliance with the approved site plan and conditions.

#### I. REVISIONS AND AMENDMENTS

##### 1. Site Plans under Review

Any revision or new information relating to a proposed site plan that is before the Planning Board for review shall be accepted by the Planning Board as part of the original Application with the following exception. If the Planning Board determines that a proposed revision or new information is so significant that it requires substantial reconsideration or reanalysis by the Planning Board of the original Application and/or renotification to the parties in interest and Town Boards and officials, then the Planning Board may require the applicant to file a new Application.

##### 2. Site Plans Already Approved

All revisions to a site plan that has already been approved must be submitted to the Town Planner who shall make a determination as to whether the revisions are significant or insignificant. If the revisions are insignificant, the Town Planner shall approve or deny them. If the Town Planner determines the revisions are significant, or denies an

insignificant revision, he shall so advise the applicant and the Planning Board in writing within five (5) business days of the applicant's presentation to him/her of the revisions. The applicant may then submit the proposed revisions to the Planning Board who shall either accept or reject the proposed revisions as part of the approved site plan.

J. PLANNING BOARD RULES AND REGULATIONS FOR SITE PLAN APPROVAL

The Planning Board shall promulgate or amend Rules and Regulations which pertain to the Site Plan Approval process so long as the Rules and Regulations conform to this Section of the Zoning By-Law. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearings shall be advertised once in a newspaper of general local circulation, at least fourteen (14) days prior to the date of the public hearing.

K. LIMITED SITE PLAN APPROVAL EXCEPTION FOR RELIGIOUS, EDUCATIONAL, AND CHILD CARE FACILITY USES IN ACCORDANCE WITH G.L. c. 40A, §3.

1. For uses listed under Section V.A.3.c., Limited Site Plan Approval is required for the construction, alteration or use of structures or premises or for the establishment, intensification, or change of use of a structure or premises. Construction, extension, alteration, establishment or change may not commence, and no building permit or occupancy permit may be issued, until Limited Site Plan Approval has been issued by the Planning Board.
2. Applications for Limited Site Plan Approval shall be administered consistent with Sections XI.C through XI.J, with the exception of Sections XI.E and XI.F entitled Review of Site Plan – Reasons for Disapproval and Standards and Criteria respectively.
3. The Planning Board's review and evaluation of an application for Limited Site Plan Approval shall be limited to the following criteria:
  - a. Adequate parking shall be provided, meeting the applicable requirements of Section VIII of the Zoning By-law as to minimum number of off-street parking spaces, the location and size of the parking area(s), and construction standards, in a manner which allows for safe vehicular maneuvering and pedestrian movement within the site. Where applicable, adequate facilities for loading and unloading of stock, merchandise, material, and supplies shall be provided and screened in accordance with Section VIII.
  - b. The site drainage shall be designed in accordance with the Town of Weston Storm Water By-laws in effect at the time.
  - c. The design and adequacy of the sewage disposal system(s) to serve the proposed development shall be in accordance with Board of Health requirements.

- d. Electric, telephone, cable TV and other such utilities shall be installed underground, except where this cannot be accomplished because it is physically or environmentally infeasible.
  - e. Parking areas adjacent to residential uses shall be adequately screened year-round from view from said residence by trees, vegetation, and/or fence.
  - f. There shall be no unreasonable glare onto public roads and other public ways, into the night sky, or onto neighboring properties from lighting or reflection.
  - g. The site plan shall demonstrate conformance with applicable lot area, setback and height regulations for the zoning district in which the premises are located.
  - h. All site improvements shall be designed to limit the amount of earth movement on and earth removal from the site. In the event that the amount of earth removal and/or earth movement associated with the proposed site modifications triggers the provisions of Section V. I. 3 of the Weston Zoning Bylaw (Earth Removal and Movement), additional zoning relief shall be required under Section V.I. 3.
4. The Planning Board shall approve an Application in the form submitted or with reasonable conditions which shall pertain to the Standards and Criteria set for in Subsection K.3 unless the Planning Board finds that the Application is incomplete.

(end of Section XI)

## SECTION XII. ENFORCEMENT

- A. The Inspector of Buildings shall enforce the provisions of this Zoning By-Law and shall withhold a Building Permit for the construction, alteration or moving of any building or structure as constructed, if such construction, alteration or moving of such building or structure would be in violation of this Zoning By-Law; and no Building or Occupancy Permit or license shall be granted by the Inspector of Buildings for a new use or extended use of a structure, building or land which use would be in violation of this Zoning By-Law.
  
- B. Any person aggrieved by an order or decision of the Inspector of Buildings, or the failure of such Inspector to act upon written request for enforcement, shall have the right to appeal to the Permit Granting Authority. The word "person" as used herein shall include the owner of the property involved, any abutter to such property, (including properties across the street), the appropriate area planning agency, any officer, committee, board or commission of the Town, or any abutting city or town.
  
- C. If a violation of this Zoning By-Law is found by a court of competent jurisdiction, the fine for violation of any section of this Zoning By-Law shall not be more than THREE HUNDRED DOLLARS (\$300.00) per day (each day constituting a separate offense) for each day such violation continues after written notice has been given by the Inspector of Buildings to the owner or owners of the property in violation by posting in a prominent place on the largest structure on the property, and delivery in hand or by certified mail, return receipt requested, to such owner or owners. If delivery by certified mail is not made by reason of the actions of the said owner or owners, the date for the commencement of violation shall be the date of posting on the property as above specified.
  
- D. Violation of this Zoning By-Law may also rise to civil action by the Town acting through the Inspector of Buildings or other appropriate officer.

(end of Section XII)

## CHRONOLOGY

- 1928 Zoning By-Law adopted. Residence Districts: 10,000 sq. ft.
- 1934 Zoning By-Law amendments. Residence Districts: 15,000 sq. ft.
- 1937 Zoning By-Law amendments. Residence Districts: 20,000; 30,000; or 40,000 sq. ft. First frontage requirements.
- 1946 Zoning By-Law amendments. Board of Appeals established to hear appeals in place of Selectmen.
- 1950 Zoning By-Law amendments. Business Districts along Boston Post Road.
- 1952 Zoning By-Law amendments. Church or other religious purpose exemption.
- 1954 (June 21) ***Zoning By-Law revised. Complete revision.*** Residence Districts: 20,000, 30,000, 40,000, or 60,000 square feet. Street frontage and setback increases.
- 1963 Zoning By-Law revised to require a permit for certain storage in residential districts.
- 1965 Zoning By-Law amended to provide appeal to Board of Appeals.
- 1967 Zoning By-Law amended to provide for regulation of signs, for stricter requirements for lots in a business district, and for no unregistered vehicles remaining outside a building.
- 1970 Zoning By-Law amended to provide for multiple dwellings and districts therefor.
- 1974 Zoning By-Law amended to provide Site Plan Review procedures.
- 1975 Zoning By-Law amended, Board of Appeals may require security for performance under Site Plan Review.
- 1975 Zoning By-Law amended. Wetlands and Flood Plain Protection District adopted.
- 1978 ***New Zoning By-Law adopted to conform to provisions of Chapter 808 of the Acts of 1975.*** New multiple-dwelling district, cluster development, accessory apartments added. Wetlands and Flood Plain protection district amended. Corner obstruction provision revised and exterior lighting provisions added.
- 1979 Zoning By-Law amended to provide for certain accessory uses of railroad stations.
- 1980 Zoning By-Law amended to provide for Research and Development District, regulation of irregular lots and common driveways, and Wetlands and Flood Plain Protection Districts A and B.
- 1981 Zoning By-Law amended to add and delete wetland areas from the Wetlands and Flood Plain Protection Map.
- 1982 Zoning By-Law amended to amend the provision for certain accessory uses of railroad stations.
- 1985 Zoning By-Law amended to modify the flood plain area near Warren Avenue on the Wetlands and Flood Plain Protection Map.
- 1987 Zoning By-Law amended to change: certain requirements of the accessory apartment provision; rezone land behind Ogilvies from Residential to Limited Industrial.

## CHRONOLOGY (Continued)

- 1988 Zoning By-Law amended to: modify certain requirements for height and parking in a Business B District, and rezone 70 acres from Limited Industrial to Business B and 3 acres from Residence A to Business B near the MBS quarry site; add a provision for Aquifer Protection Overlay District and creation of a map for said District.
- 1989 ***Zoning By-Law text completely rearranged and reorganized***; then amended to revise all Use Categories to provide for By-right Uses, and substitution of Site Plan Approval for Site Plan Review; professional accessory uses in a residence district deleted and provision for "occupation(s)" added; Long Term Care moved to Multiple Dwelling Districts.
- 1990 Zoning By-Law amended to clarify Site Plan Approval procedures.
- 1991 Deleted Medical Office use in Residential Zone, added gross floor area limitation for non-residential uses in a residential zone, and amended Site Plan Approval procedures.
- 1992 Zoning By-Law reorganized and amended to add exemptions for churches, educational institutions and child care facilities.
- 1994 Zoning By-Law amended to replace cluster zoning with flexible development provision.
- 1997 Zoning By-Law amended to increase minimum street frontage, minimum lot width at street setback line and at building line in all single family residence districts; to regulate Residential Gross Floor Area in single family residence districts; to impose a six month moratorium on wireless communications facilities and to allow limited non-residential uses of certain Town-owned Historic Buildings with Site Plan Approval.
- 1997 Zoning By-Law amended to add Interim Personal Wireless Service Overlay Districts and related regulations and procedures.
- 1998 Zoning By-Law amended to further regulate irregular lots, amend height regulations, amend Residential Gross Floor Area provision and allow for a Veterinarian/Animal Hospital.
- 1999 Regulate new or replacement construction along designated scenic roads, amend the residential gross floor area provision to include replacement dwellings. Personal Wireless Service Overlay Districts regulations and procedures converted from temporary to permanent.
- 2000 Amend Table of Height Regulations and Parking regulations in Business, Commercial and Research and Development Districts requiring Site Plan Approval.
- 2001 Amend Personal Wireless Service Overlay Districts regulation. Amend definition of "Replacement Single Family Dwelling."
- 2002 Kingsbury Lane added as a designated Scenic Road. Amend Personal Wireless Service Facility Regulations.
- 2002 Zoning By-Law amendment renumbered from Section V.B.7.a to Section V.B.2.d By-Right Uses Allowed With Site Plan Approval.
- 2003 Amend the description of the Personal Wireless Services Overlay District I boundary.
- 2005 Zoning By-Law Amendment: Active Adult Residential Development ("AARD")

- 2008 Zoning By-Law Amendment: Section II, Definitions, by adding the definition of “Structure”
- 2009 **Zoning By-Law Recodification**, reorganization and clarification changes with Amendments
- 2010 Zoning By-Law Amended with changes to - Aquifer Protection Overlay District; Personal Wireless Service Facility Regulations; Wetlands and Floodplain Protection Districts A&B including changes to the Wetland and Floodplain Protection District Map, Weston, MA 1980 with amendments through October 19, 1981
- 2010 Zoning By-Law Amendment: Section II, Definitions, by changing the definition of “grade” to be based upon North American Vertical Datum of 1988 (NAVD 88)
- 2011 Amend Zoning By-Law Section II, Definitions, by adding the definition of “Earth” and “Move or Movement”; amend Section IX.B inserting Earth Movement and “Day Camps” in text; amend and replace the text in Section V.I.3. by inserting the text “Material Removal and Earth Movement”; amend Zoning By-Law by adopting a new Renewable Energy Overlay District
- 2012 Amend Zoning By-Law, Section II, by changing the definition of “Farm”; amend Zoning By-Law by inserting Section IV.B. 7. “Renewable Energy Overlay District”; Amend Zoning By-Law, Section XI.K. “Limited Site Plan Approval”
- 2012 Amend Zoning By-Law, Section V., I.3, Earth Removal and Movement
- 2013 Zoning By-Law Amendment: Section II, Definitions, by adding the definitions of “Destruction/Demolition”, “Non-Commercial Club”, and “Professional”.
- 2014 Amend Zoning By-Law, Section VIII.A.1 by replacing Paragraph k. with new text and adding a new Paragraph l.; amend Section XI.K.by inserting in Section 3, a new subsection “h” to follow “g”.
- 2015 Amend Zoning By-Law, IV.B.7. by adding a third parcel: Map #18, Parcel #28-10. Renewable Energy Overlay District.  
Amend Zoning By-Law Section VI, “Dimensional & Other Requirements”, Section A, “General” add new subsection 5., “site alteration approval process”.
- 2017 Amend Zoning By-Law Section V.J. of Article VIII Personal Wireless Service Facility Regulations (Article 23 ATM 5.8.17) and Section V use Regulations, Section X Special Permits and Section XI Site Plan Approval ( Article 24 ATM 5.8.17 Citizen Petition)