TOWN OF STOW
STOW, MASSACHUSETTS

ZONING BYLAW

Including Amendments through May 12th, 2015

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SECTION 1

AUTHORITY, PURPOSE, DEFINITIONS

1.1 Authority

The Town of Stow Zoning Bylaw is adopted under Chapter 40A of the General Laws (the Zoning Act) and Article 89 of the Amendments to the Constitution (the Home Rule Amendment).

1.2 Purpose

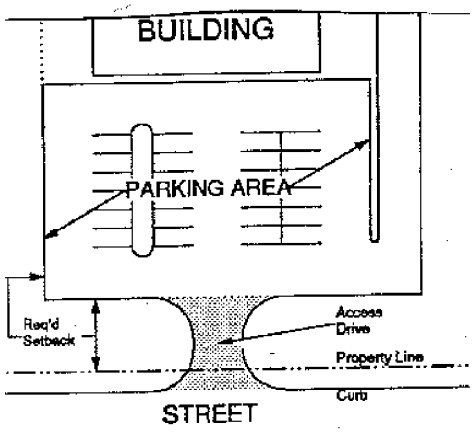
The purposes of this Zoning Bylaw are to regulate the use of land, BUILDINGs, and structures to the full extent of the constitutional and statutory powers of the Town to protect the health, safety and general welfare of present and future inhabitants, including but not limited to the following purposes: to preserve the environmental resources of the Town; to maintain open spaces by recognizing the concern for irretrievable loss of farm, wetlands and woodlands while respecting the rights of landowners; to encourage the most appropriate use of land through a proper balance of residential, commercial and industrial designations; to preserve the historical and cultural characteristics of the Town; to achieve housing choices and a range of housing costs; and to induce its citizens to remain in the community, thus providing a sense of history and continuity.

1.3 Definitions

The words defined in this section shall be capitalized throughout the Bylaw. Where a defined word has not been capitalized, it is intended that the meaning of the word be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context.

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "LOT" includes the word "plot", the word "land" includes the words "marsh" and "water".

ACCESS DRIVEWAY - The travel lane that allows motor vehicles ingress from the street and egress from the site and includes the area between the edge of street pavement to the area within the LOT where the ACCESS DRIVEWAY is no longer within the minimum parking area setback required under the Parking Section of the Zoning Bylaw.



ACCESSORY APARTMENT:

- A second DWELLING UNIT located within a structure constructed as a detached one-family DWELLING, subordinate in size to the principal DWELLING UNIT and separated from it in a manner that maintains the appearance of the structure as a one-family unit; or
- A second DWELLING UNIT located within a separate structure, such as a barn, garage or shed, that is clearly subordinate to the principal DWELLING UNIT.

ACCESSORY BUILDING - A detached BUILDING, which is located on the same LOT with the main BUILDING or USE and which is subordinate and customarily incidental to the USE of the main BUILDING or the land.

ACTIVE ADULT NEIGHBORHOOD (AAN) - A group of DWELLING UNITS for only adult residents of which at least one resident per DWELLING UNIT is 55 years of age or older. Such developments shall have this age restriction as part of the deed or other documents of record and running with the land for the dwellings and/or property and are permitted as exception to the Fair Housing Act pursuant to 42 USC Section 3607 B.2.c.

AFFORDABLE DWELLING UNIT - A DWELLING UNIT the value of which is determined by the Department of Housing and Community Development (DHCD) to be affordable by a low income or moderate income family and thus to be included in DHCD's Subsidized Housing Inventory of low income or moderate income housing DWELLING UNITS for the purposes of compliance with the provisions of Massachusetts General Laws Chapter 40B, §§ 20-23.

AQUIFER - A geologic formation, group of geologic formations, or part of a geologic formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

AREA OF SIGN:

- The area of a sign shall include all lettering and accompanying designs and symbols, together with the background on which they are displayed.
- The area of a sign consisting of individual letters or symbols shall be the area of the smallest rectangle or triangle which encompasses all the letters and symbols.
- The area of a three-dimensional form sign shall be the area of the four vertical faces of a cube which encompasses the form.

BED AND BREAKFAST ESTABLISHMENT - A private DWELLING with an on-site manager where no more than eight rooms are let and a breakfast is included in the daily rate.

BED AND BREAKFAST HOME - A private owner-occupied DWELLING where three or fewer rooms are let and a breakfast is included in the rent.

BUILDING - A structure having a roof or cover for the shelter, support, or enclosure of persons, animals, or property.

BUILDING INSPECTOR - The existing Inspector of Buildings under the State Building Code or other designated authority, or his duly authorized representative, appointed by the Selectmen, and charged with the enforcement of this Bylaw.

BUILDING LOT - A BUILDING LOT is that area of land described in an application for a building permit or an application to the Board of Appeals for a permit or a variance, or

otherwise defined as the area on which a structure is to be constructed or a use is to be carried on. A BUILDING LOT shall not include any part of a street. A corner LOT shall be any LOT abutting on two (2) or more streets at their intersection.

CHILD CARE FACILITY - A day care of school-age child care center or program as defined in Massachusetts General Laws, Chapter 40A.

COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION - A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum NAMEPLATE CAPACITY of 250 kW DC. A COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be considered a Principal Use as the Zoning Bylaw defines that phrase.

DEVELOPABLE SITE AREA - The DEVELOPABLE SITE AREA of existing or proposed LOT(s) shall be calculated by subtracting from the LOT area all land, which is located in:

- a wetland, which shall mean a "freshwater wetland" as defined in Chapter 131,Section 40 of the Massachusetts General Laws and the Stow Wetlands Protection Bylaw, Article 9 of the Stow General Bylaws;
- a Flood Plain District as defined in the Stow Zoning Bylaw;
- another zoning district in which the principal use of the LOT is not also permitted; and
- an access or right of way easement.

DIRECT LIGHT -Light that reaches a location from a light source or some part of the fixture containing the source, rather than reflecting off an illuminated surface. Light from filaments or other sources, surrounding glass, reflectors, diffusers, or similar components is DIRECT LIGHT. Light arriving from illuminated ground is not direct light.

DWELLING - Any BUILDING, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

DWELLING UNIT - One (1) or more rooms for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit, but not for more than five (5) persons unrelated by blood or marriage.

ERECTED - Attached, constructed, reconstructed, altered, enlarged or moved. ERECTED shall not mean repainted, cleaned, repaired or maintained. Altered includes changes in the structure or lettering or symbols of the sign, or replacement.

EXISTING CONDITIONS - As referred to in this Bylaw means conditions in existence on the date the first publication of notice of this Bylaw appears in accordance with Chapter 40A, Sections 5 and 6 of the Massachusetts General Laws.

EXTERIOR LIGHT - Any luminaire (light fixture) that is either not within a structure having a substantially opaque roof or is installed so that more than half the light output shines outside. A permanently-installed fixture in a screen- or glass-enclosed porch that is not normally climate-controlled or in a greenhouse or similar structure shall be considered an exterior light.

FAMILY DAY CARE HOME - A FAMILY DAY CARE HOME as defined in the Massachusetts General Laws, Chapter 40A.

FENCE - A structure made of wood, wire, metal or other durable material ERECTED so as to serve as an enclosure or a barrier against unobstructed passage from one side to another.

FLOOR AREA - The interior FLOOR AREA exclusive of basements, stair wells, halls, bathrooms, corridors, attics, walls, partitions, porches and attached ACCESSORY BUILDINGs.

FLOOR AREA, GROSS - The sum of the horizontal areas of the several floors of a BUILDING measured from the exterior face of exterior walls, or from the centerline of a common wall, but not including any space where the floor-to-ceiling height is less than six feet.

FLOOR AREA, NET - The sum of the horizontal areas of the several floors of a BUILDING, measured from the interior face of the exterior walls or common wall, but not including stairwells, elevator wells, bathrooms, hallways and corridors, designated and approved building service areas and areas used for a CHILD CARE FACILITY as defined in this Bylaw, provided that such CHILD CARE FACILITY is accessory to a principal use located in the same BUILDING or on the same LOT.

FLOOR AREA RATIO - The ratio of the sum of the GROSS FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.

FULL-CUTOFF FIXTURE - A luminaire having a light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. This kind of luminaire emits no light above the horizontal.

GARAGE, PRIVATE - Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls for commercial repair or commercial storage.

GROUND WATER - All water beneath the surface of the ground.

HAZARDOUS MATERIAL - A substance which because of quantity, concentration or physical or chemical characteristics poses a hazard to human health, safety, welfare or the environment, when improperly treated, stored, transported, used or disposed, or otherwise managed; this includes but is not limited to any substance set forth or deemed a HAZARDOUS MATERIAL in Massachusetts General Laws Chapter 21C and 21E, 310 CMR 30.00 of the Code of Massachusetts Regulations or pursuant to any Bylaws or regulations of the Town of Stow.

HOTEL, INN, MOTEL, TOURIST HOME or LODGING HOUSE - A BUILDING, or portion thereof, or a group of BUILDINGs on a single LOT, intended to be used for the temporary occupancy of three (3) or more persons who are lodged, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual room or suites.

IMPERVIOUS SURFACE - A surface impenetrable by water.

INDEPENDENT ADULT RESIDENCE - Any entity, however organized, which meets all of the following criteria: Provides room and/or board in a residential living environment; provides services to residents who do not require 24-hour skilled nursing care, but need assistance with activities of daily living; and in any event collects payments for the provision of these services.

INDEPENDENT ADULT UNIT - One (1) or more rooms for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit contained within an INDEPENDENT ADULT RESIDENCE.

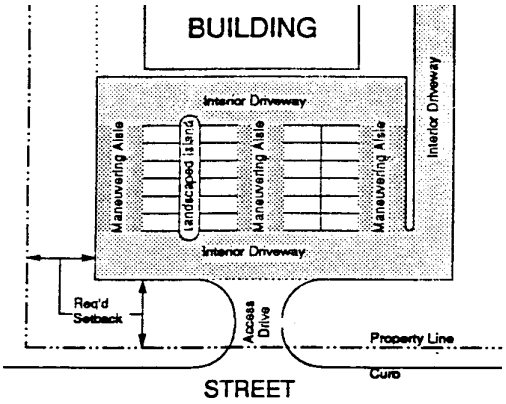
INITIAL DESIGN LIGHT OUTPUT - The luminous output of a fixture as determined by specifications of the fixture and lamps (bulbs) that are installed in it, rather than by measuring the actual light output.

INTERIOR DRIVEWAY - A travel lane located within the LOT which is not used to directly enter or leave parking spaces. An INTERIOR DRIVEWAY shall not include any part of the ACCESS DRIVEWAY.

LOADING SPACE, OFF-STREET - An off-street space or berth, on the same LOT with a BUILDING, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street, alley or other appropriate means of ingress or egress.

LOT - An area of land, undivided by any STREET, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) a deed recorded in Middlesex South District Registry of Deeds, or 2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry, or 3) title or record disclosed by any and all pertinent public documents or otherwise established by determination of a court. A corner LOT shall be any LOT abutting on two (2) or more streets at their intersection.

MANEUVERING AISLE - A travel lane located within the perimeter of a parking area by which motor vehicles directly enter and leave parking spaces.



MARINA - A public or commercial area with docking facilities for one (1) or more of the following: the launching, docking, storage, or servicing of pleasure boats; docks or related structures for the sale of fuel, boats, or marine accessories.

MARIJUANA - All parts of the plant Cannabis sativa L., whether growing or not; the seeds

thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. MARIJUANA also includes MARIJUANA-INFUSED PRODUCTS (MIPs) except where the context clearly indicates otherwise.

MARIJUANA-INFUSED PRODUCT (MIP) - A product infused with MARIJUANA that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by an RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

MEDICAL MARIJUANA TREATMENT CENTER – A not-for-profit entity registered under 105 CMR 725.100, to be known as a REGISTERED MARIJUANA DISPENSARY (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers MARIJUANA, products containing MARIJUANA, related supplies, or educational materials to registered qualifying patients or their personal caregivers, as those terms are defined under 105 CMR 725.004. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of MARIJUANA

MEDICAL USE OF MARIJUANA: The acquisition, cultivation, possession, processing (including development of related products such as tinctures, aerosols, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of MARIJUANA, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof, as those terms are defined under 105 CMR 725.004.

MEMBERSHIP CLUB - A private, non-profit organization, BUILDING or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

MINING OF LAND - The removal of geologic materials such as topsoil, sand and gravel, metallic ores and bedrock.

MULTI-FAMILY DWELLING - A BUILDING for residential USE, other than a DWELLING conversion or ACCESSORY APARTMENT, containing more than one DWELLING UNIT but not more than 4 DWELLING UNITs.

NAMEPLATE CAPACITY – The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

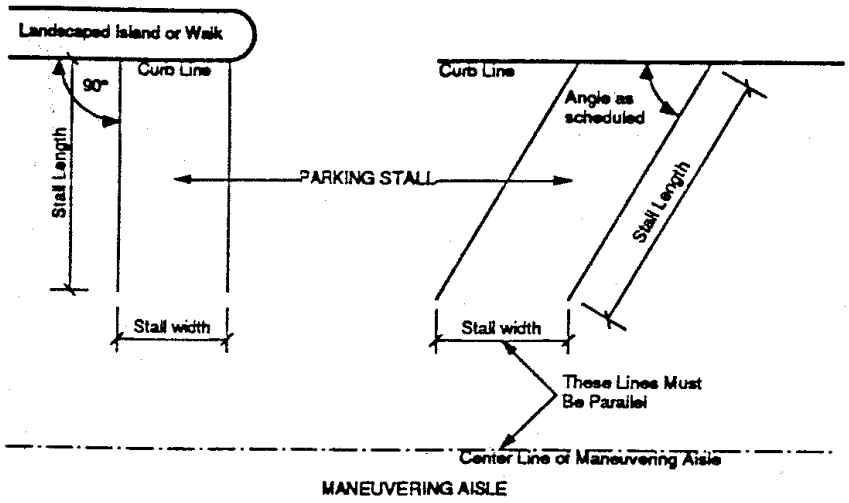
NON-CONFORMING USES, STRUCTURES and LOTS - A NON-CONFORMING USE, STRUCTURE or LOT shall be defined in Chapter 40A, Section 6 of the General Laws.

ON-SITE SIGN - A SIGN pertaining to products or activities located or offered at the same location as the SIGN.

OPEN SPACE – An area of natural or landscaped vegetated growth. This may include within said area recreation areas, playing fields, benches, trails, footpaths, bodies of water and certain other surfaces such as gravel, cobblestone, brick, pavers or other similar materials when used to construct permeable walkways as may be approved by the Special Permit Authority or Site Plan Approval Authority.

PARKING STALL LENGTH - The longitudinal dimension of the stall measured parallel to the angle of parking.

PARKING STALL WIDTH - The linear dimension measured across the stall and parallel to the MANEUVERING AISLE.



PERMANENT SIGN - Any sign other than a temporary sign.

PROCESS WASTES - Nondomestic, nontoxic, nonhazardous, liquid or solid waste by-products associated with the manufacture or preparation of a product, including but not limited to hardware, dry goods, foodstuffs and printed material.

PUBLIC STREETLIGHT - An exterior light shining primarily onto a STREET, which is both authorized by the Board of Selectmen and paid for from the Town budget or which is required by the Planning Board.

QUALIFIED AFFORDABLE HOUSING PURCHASER - An individual or family with household incomes that do not exceed 80% of the median income (this shall be referred to as "moderate income") or 50% of the median income (this shall be referred to as "low income"), with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

RECHARGE AREA - An area in which water is absorbed that eventually reaches the zone of saturation in one or more AQUIFERs.

REFUSE - All solid or liquid waste materials, including garbage and rubbish, but not including sewage.

REGISTERED MARIJUANA DISPENSARY (RMD) - has the same meaning as MEDICAL MARIJUANA TREATMENT CENTER.

ROOMING or BOARDING HOUSE - A BUILDING or premises, other than a HOTEL, INN, MOTEL, tourist court, or LODGING HOUSE, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests; in contrast to HOTELs, restaurants, and TOURIST HOMEs, open to transients.

SANITARY WASTES - Waste waters arising from ordinary domestic water use from toilets, sinks and bathing facilities and containing normal wastes. For purposes of this Bylaw, all references to disposable volume(s) of sanitary wastes refer to design standards as outlined in Title V of the State Environmental Code (310 CMR 15.00).

SIGN - Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

SLOPE - For the purposes of the erosion control provision, slope shall be measured using the two-foot contours on the topographic map supplied with the site plans. The slope percentage will be the change in elevation divided by the shortest distance between two contour lines. Upon written permission of the permit granting authority, slope percentages may be averaged across specified horizontal distances.

SOLID WASTES - Any discarded solid material, putrescible or non-putrescible, consisting of all combustible and noncombustible solid material including, but not limited to, garbage and rubbish.

STREET - A street shall be (1) an approved public way laid out by the Town of Stow, or Middlesex County Commissioners, or the Commonwealth of Massachusetts; or (2) A way which the Stow Town Clerk certifies is maintained by public authority and used as a public way; or (3) a public or private way shown on a plan theretofore approved and endorsed in accordance with the Subdivision control Law; or (4) a way in existence as of June 15, 1956 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicle traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon. A public or private way shall not be deemed to be a STREET as to any lot of land that does not have rights of access and passage over said way.

STREET LINE - The dividing line between a street and a LOT and, in the case of a public way, the street line established by the public authority laying out the way upon which the LOT abuts.

STRUCTURE - Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land, swimming pools which require a permit under the Building Code and parking lots, driveways, road and septic systems.

TEMPORARY SIGN - Any SIGN which is displayed for a continuous period of not more than twenty-one (21) days and not replaced by a SIGN of a similar intent within sixty (60) days.

TRACT OF LAND - An area consisting of a single LOT or parcel of land, or several contiguous lots or parcels of land.

TRAILER or MOBILE HOME - TRAILER or MOBILE HOME shall mean any vehicle or object which is drawn by or used in connection with a motor vehicle and which is so designed and constructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations. It shall include the type of vehicle commonly known as MOBILE HOME, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

USE, ACCESSORY - Any USE which is incidental and subordinate to a PRINCIPAL USE.

USE, PRINCIPAL - The main or primary USE of any land or LOT.

WALL - A STRUCTURE of stone, masonry, wood or other durable material constructed so as to retain soils or to serve as an enclosure or barrier against unobstructed passage from one side to another.

YARD - An OPEN SPACE, other than an enclosed court, on the same LOT with a BUILDING or group of BUILDINGs, which OPEN SPACE lies between the BUILDING or group of BUILDINGs and a LOT line, and is not occupied or obstructed from the ground upward by a BUILDING or a STRUCTURE.

YARD, FRONT - A YARD extending across the full width of the LOT and lying between the STREET LINE of the LOT and the nearest line of the BUILDING. The depth of a front yard shall be the minimum distance between the BUILDING and front LOT line.

YARD, REAR - A YARD extending across the full width of the LOT and lying between the BUILDING and the REAR LOT line.

YARD, SIDE - A YARD between the side LOT line of the LOT and the nearest line of the BUILDING, and extending from the FRONT YARD to the REAR YARD, or, in the absence of either such YARDS, to the front or rear LOT lines, as may be. The width of a SIDE YARD shall be the minimum distance between the BUILDING and the side LOT line.

ZONE OF SATURATION - The subsurface zone occurring below the water table where the soil pores are filled with water and the moisture content equals the porosity.

SECTION 2

ESTABLISHMENT OF ZONING DISTRICTS

2.1 Classification of Districts

For the purposes of this Bylaw, the Town of Stow is divided into the following zoning districts and overlay districts:

2.1.1 Zoning Districts

Recreation-Conservation District

Residential District

Business District

Compact Business District

Commercial District

Industrial District

Refuse Disposal District

2.1.2 Overlay Districts

Flood Plain District

Water Resource Protection District

Wireless Service Facility District

Active Adult Neighborhood District

REGISTERED MARIJUANA DISPENSARY District

2.2 Zoning Map

Said districts are hereby established as shown, located, defined and bounded on a map entitled "Town of Stow Zoning District Map", prepared by Metropolitan Area Planning Council dated May 1, 1995 and amended May 12, 2015 and filed with the office of the Town Clerk; which map shall also constitute an index map of all zoning districts, and together with all the maps referred to in Section 2.3 and all explanatory matter thereon shall constitute the Zoning Map of the Town, herein incorporated by reference and made a part of this Bylaw.

2.3 Location of Boundaries of Districts:

2.3.1 Where the boundary lines are shown upon said map within the STREET LINES or utility transportation lines, the center lines of such rights-of-way or lines shall be the boundary lines unless otherwise indicated.

2.3.2 Boundary lines located outside of such STREET LINES or transmission lines, and shown approximately parallel thereto, shall be regarded as parallel to such lines, and dimensions shown in figures placed upon said map between such boundary lines and such

transmission lines are the distance in feet of such boundary lines from the center line of such lines, such distances being measured at right angles to such lines unless otherwise indicated.

2.3.3 Where the boundary lines are shown approximately on the location of property or LOT lines, and the exact location of property, LOT or boundary lines is not indicated by means of dimensions shown in figures, then the property or LOT lines shall be the boundary lines in existence and as recorded at the time of the adoption of or amendment to the Zoning Map.

2.3.4 Contour lines used as boundary lines are the elevation above the datum mean sea level as indicated by the U. S. Geological Survey map dated 1952.

2.3.5 Soil association lines used as boundary lines are the soil association boundary lines as shown on the Soil Association Map, prepared by the U. S. Soil Conservation Service, dated 1964, on file with the Planning Board.

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

2.3.7 Intentionally left blank.

2.3.8 Boundary lines outlining the Flood Plain shall include all lands designated in the following maps and reports. In the event there is a discrepancy in the flood plain boundary designation, the boundary that includes a larger area of flood plain shall apply.

Boundary lines outlining the flood plain of the Assabet River shall be the limits of the Standard Project Flood Modified delineated on the plan entitled "Flood Plains & Profiles", sheets 2, 3, and 4 of the Assabet River Technical Report, Department of the Army, Corps of Engineers, dated June, 1966 and on file with the Town Clerk.

Boundary lines outlining the flood plain of Heath Hen Meadow Brook shall be the limits of the 100-year design storm flood plain delineated on the plan entitled "Flood Plain - Plan and Profile Heath Hen Meadow Brook, Stow, Massachusetts", by BSC Engineering, Inc., dated February 21,1975, revised May 2, 1975, and on file with the Town Clerk.

All special flood hazard areas within the Town of Stow designated as Zone A and AE 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. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Stow are panel numbers 25017C0333F, 25017C0334F, 25017C0341F, 25017C0342F, 25017C0343F, 25017C0344F, 25017C0353F, 25017C0354F, 25017C0361F and 25017C0363F dated July 7, 2014. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Planning Board.

2.3.9 Where the limit of the Standard Project Flood Modified, referenced above, is used as a district boundary, the district boundary shall be determined by the elevations delineated on said plan.

2.3.10 The boundaries of the Water Resource Protection District are as delineated on a map entitled "Water Resource Protection District Map - Town of Stow, Massachusetts" dated May 1, 1987, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.

2.3.11 The boundaries of the Wireless Service Facility District are as delineated on a map entitled "Wireless Service Facility District - Town of Stow, Massachusetts" dated January 23, 2001, at a scale of 1 inch = 1,000 feet, on file in the office of the Town Clerk.

2.3.12 The boundaries of the Active Adult Neighborhood District are as delineated on a map entitled "Active Adult Neighborhood District - Town of Stow, Massachusetts" dated May 13, 2002, at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk.

2.3.13 The boundaries of the REGISTERED MARIJUANA DISPENSARY District are as delineated on a map entitled “Registered Marijuana Dispensary Overlay District – Town of Stow, Massachusetts” dated May 5, 2014, on file in the office of the Town Clerk.

SECTION 3

USE REGULATIONS

3.1 Recreation-Conservation District Uses

This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, wetlands, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare.

3.1.1 Uses allowed, provided that no BUILDINGs are located within one hundred (100) feet of a district boundary line:

3.1.1.1 Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose;

3.1.1.2 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur;

3.1.1.3 Orchards, nurseries, forests and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries;

3.1.1.4 Non-commercial recreation, including municipal cross c ountry ski areas, county or state parks and boat landings, but not an amusement park; and

3.1.1.5 Display and sale or offering for sale, of farm produce from uses permitted in paragraphs 3.1.1.2 and 3.1.1.3 above, and products normally sold therewith, provided that:

1. At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is from farm produce;
2. No stand for such sale is located within twenty-five (25) feet of the street sideline; and
3. Provision is made for off-street parking in accordance with the Parking Section of this Bylaw.

3.1.1.6 ACCESSORY BUILDINGs and USES

3.1.1.7 Uses or structures for religious purposes or for 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; provided that such use or structure complies with the dimensional requirements of the Bylaw and is not primarily used as a residential dwelling.

3.1.1.8 Uses or structures by a PUBLIC SERVICE CORPORATION pursuant to the requirements of G.L. c.40A, s.3.

3.1.2 Uses permitted subject to special permit, granted by the Planning Board, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in the parking section of this Bylaw:

3.1.2.1 Restaurants, provided that their use is in connection with a permitted use, and provided that no such BUILDING be located within one hundred (100) feet of a district boundary line;

3.1.2.2 Country Clubs or other MEMBERSHIP CLUBs;

3.1.2.3 Commercial picnic areas and swimming areas;

3.1.2.4 Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp BUILDING or site for each 3500 square feet of grass area;

3.1.2.5 Recreation, including golf courses, ski areas and tows, MARINAs and commercial boat landings, but not an amusement park.

3.1.2.6 Golf carts, but no other motorized recreational vehicles are permitted.

3.1.2.7 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.2 Residential District Uses

The Residential District is intended as a district for typical rural, single-family residential and non-commercial uses.

3.2.1 Uses permitted:

3.2.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;

3.2.1.2 Single-family detached BUILDINGs;

3.2.1.3 BOARDING HOUSES or ROOMING HOUSES for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner;

3.2.1.4 Playgrounds where approved as part of a subdivision plan;

3.2.1.5 Keeping of pets and animals for use of the residents of the premises;

3.2.1.6 Storage of farm vehicles, and, subject to the provisions of Section 7.7.5.1, school buses;

3.2.1.7 Professional office or home occupation, provided that:

1. The profession or home occupation is conducted by a resident of the premises;
2. The use is clearly incidental to and secondary to the use as a residence;
3. There is no exterior evidence of a non-residential use of the premises except as otherwise permitted in this section;
4. No additional noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which is discernible from other properties;
5. There is no public display of goods or wares, and there is no additional exterior storage of material or equipment;
6. One SIGN, not exceeding three (3) square feet, is permitted subject to the provisions of this Bylaw regulating SIGNS;
7. There is no on-street parking permitted for any employee or visitor in connection with such use; and
8. The use does not present a safety or health hazard to the public;

3.2.1.8 ACCESSORY USES and BUILDINGs, including such normal ACCESSORY USES as PRIVATE GARAGEs, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses;

3.2.1.9 BED AND BREAKFAST HOME, provided that off-street parking, one parking space per guest room, is available;

3.2.1.10 CHILD CARE FACILITY, provided that the facility complies with the standards set forth in the Table of Dimensional Requirements and the following standards:

1. Minimum OPEN SPACE, including outdoor play areas of 35%;
2. Maximum NET FLOOR AREA of 4,000 square feet.

3.2.1.11 FAMILY DAY CARE HOMEs if such FAMILY DAY CARE HOME is accessory to the residential use.

3.2.1.12 For parcels of five (5) acres or greater, the provisions of Massachusetts General Law Chapter 40A, Section 3 shall apply.

3.2.2 Uses permitted subject to special permit, granted by the Board of Appeals:

3.2.2.1 Private schools and colleges, with or without dormitory facilities, including nursery and kindergarten schools, dance and music studios, provided adequate parking areas are provided;

3.2.2.2 Playgrounds, unless approved as part of a subdivision plan;

3.2.2.3 Conversion of a one-family DWELLING, existing at the time of the original adoption of this section of the Bylaw, into a two-family DWELLING, provided that the exterior appearance is not altered and that there is sufficient floor and ground area above the minimum requirements as provided in Section 4.3 and 4.4;

3.2.2.4 Non-commercial recreation, including municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), MARINAs, landings, and other non-commercial recreation use;

3.2.2.5 Veterinary hospitals, and kennels, provided that no such BUILDINGs are located within one hundred (100) feet of a LOT line;

3.2.2.6 BED AND BREAKFAST ESTABLISHMENT, provided that off-street parking, one parking space per guest room, is available; and

3.2.2.7 Nursing homes.

3.2.2.8 For parcels of less than five (5) acres, stables, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGs are located within one hundred (100) feet of a LOT line. The Special Permit Granting Authority may allow BUILDINGs to shelter or maintain animals as defined in Massachusetts General Law, Chapter 128, Section 1A, within the one hundred foot (100') setback, provided that the BUILDING was in existence on or before November 13, 1968, was historically used for such purpose, and the use meets the requirements of the Board of Health; and provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.

3.2.3 Uses permitted by special permit, granted by the Planning Board:

3.2.3.1 ACCESSORY APARTMENTs in a Residential District as permitted in Section 8.1;

3.2.3.2 Duplex Residential Uses in a Residential District as permitted in Section 8.2;

3.2.3.3 Cross-Country Ski Uses in the Residential District as permitted in Section 8.3;

3.2.3.4 Golf Course Uses in the Residential District as permitted in Section 8.4; and

3.2.3.5 Uses not otherwise permitted in the Residential District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Residential District. This Section shall not eliminate the requirements of Section 3.2.2.5, which shall remain intact as written.

3.2.3.6 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.3 Business District Uses

The Business District is intended to meet local needs for retail goods and services primarily within a BUILDING.

3.3.1 Uses Permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:

3.3.1.1 TOURIST HOMEs, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSEs;

3.3.1.2 Business or professional offices;

3.3.1.3 Retail stores, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING;

3.3.1.4 CHILD CARE FACILITY.

3.3.2 Uses Permitted, subject to special permit granted by the Planning Board:

3.3.2.1 Retail stores or service establishments, the principal activity of which shall be the offering of goods or services at retail within the BUILDING;

3.3.2.2 Business or professional offices, banks, U. S. Post Office;

3.3.2.3 Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment, provided there is no outside display or storage;

3.3.2.4 Restaurants or other places for serving food within the BUILDING. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant BUILDING or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle;

3.3.2.5 Parking areas for use of employees, customers or visitors, subject to the requirements of the Parking Section of this Bylaw;

3.3.2.6 ACCESSORY BUILDINGs and USES which are customary and incidental to the uses permitted;

3.3.2.7 SIGNS as provided in the Sign Section of this Bylaw; and

3.3.2.8 INDEPENDENT ADULT RESIDENCE.

3.3.2.9 Uses not otherwise permitted in the Business District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Business District.

3.3.2.10 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.3.2.11 Retail component of a REGISTERED MARIJUANA DISPENSARY

3.3.3 Uses permitted, subject to a special permit, granted by the Board of Appeals, which shall be based on satisfaction that said use will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness:

3.3.3.1 HOTELs, MOTELS, TOURIST HOMEs, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSEs;

3.3.3.2 Theatres, bowling alleys, skating rinks, clubs or other places of amusement or assembly which occur within the BUILDING; and

3.3.3.3 Gasoline service stations, garages or repair shops, provided that:

1. Repairs shall be limited to minor repairs and adjustments, with all repairs occurring within a BUILDING;
2. There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or required in the operation of the service station, garage or repair shop; and
3. The area used to service, repair or store vehicles shall be paved and provided with traps to catch and retain (until removal in accordance with an approved maintenance plan) any grease, oil or other fluids.
4. There shall be an area at least twenty (20) feet deep between the STREET LINE and the paved area which shall be separated from the STREET by a curb, and which shall be seeded and landscaped, and maintained as such, except at an entrance/exit which shall be at least twenty (20) feet but no more than thirty (30) feet wide, and at least fifty (50) feet apart, and further provided that there shall be only two curb cuts for each one hundred and fifty (150) feet of street frontage.

3.3.4 Access to Industrial Zoned Land - Access over Business Zoned Land is allowed.

3.4 Compact Business District Uses

The Compact Business District is intended as a district to provide certain limited business uses within a STRUCTURE.

3.4.1 Uses permitted:

3.4.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests, and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;

3.4.1.2 Single-family detached BUILDINGs;

3.4.1.3 BOARDING HOUSES or ROOMING HOUSES for not more than two (2) persons, provided that the house is also occupied as a private residence by the owner;

3.4.1.4 Playgrounds where approved as part of a subdivision plan;

3.4.1.5 Keeping of pets and animals for use of the residents of the premises;

3.4.1.6 ACCESSORY USES and BUILDINGs, including such normal ACCESSORY USES as PRIVATE GARAGEs, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses; and

3.4.1.7 CHILD CARE FACILITY.

3.4.2 Uses permitted, subject to special permit granted by the Planning Board:

3.4.2.1 Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the BUILDING;

3.4.2.2 Business or professional offices, banks, U. S. Post Office;

3.4.2.3 Parking areas or garages for use of employees, customers or visitors, subject to design standards in the parking section of this Bylaw;

3.4.2.4 ACCESSORY BUILDINGs and USES and

3.4.2.5 SIGNS as provided in the Sign Section of this Bylaw.

3.4.2.6 Uses not otherwise permitted in the Compact Business District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Compact Business District.

3.5 Commercial District Uses

The Commercial District is intended to meet local needs for goods and services.

3.5.1 Uses Permitted:

3.5.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;

3.5.1.2 CHILD CARE FACILITY; and

3.5.1.3 Wireless Communication Facilities.

3.5.1.4 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.5.2 Uses permitted, provided that the BUILDING is less that 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:

3.5.2.1 TOURIST HOMEs, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSEs;

3.5.2.2 Business or professional offices;

3.5.2.3 Retail store, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING; and

3.5.2.4 Salesrooms for bicycles, boats and farm implements, provided that no more than 30% of the LOT area is used for BUILDING, parking and display areas.

3.5.3 Uses permitted, subject to special permit granted by the Planning Board:

3.5.3.1 Funeral homes, mortuaries or crematories;

3.5.3.2 Salesrooms for automobiles, bicycles, boats, farm implements, and similar equipment;

3.5.3.3 Building materials salesrooms and yards, utility structures, contractor's yards, storage warehouses, BUILDINGs and yards and wholesale distribution plants, provided that all loading and unloading is done at the rear of the BUILDING in covered berths with WALLS on three (3) sides, and provided all materials and equipment stored outside are screened from view from public ways or abutting properties by an opaque FENCE or screening at least six (6) feet high but not more than twenty (20) feet high except that items on display for retail sales need be screened only from properties in a Recreation-Conservation or Residential District on the same side of the STREET;

3.5.3.4 Utility structures, passenger depots and terminals;

3.5.3.5 Printing, publishing or commercial reproduction or photo-processing establishments, offices, medical or dental laboratories, and research laboratories with incidental assembly or manufacture;

3.5.3.6 Restaurants or other places for serving food within the BUILDING. Specifically excluded is any establishment whose principal method of operation includes sale of food and beverages in paper, plastic or other disposable containers; and where consumption of foods and beverages on the premises outside the restaurant BUILDING or within parked motor vehicles on the premises is allowed and encouraged; or where food and beverages are served directly to the customer in a motor vehicle;

3.5.3.7 Screened storage, ACCESSORY BUILDINGs and USES;

3.5.3.8 Parking areas or garages for use of employees, customers or visitors, subject to design standards in the Parking Section of this Bylaw;

3.5.3.9 TOURIST HOMEs, BED AND BREAKFAST ESTABLISHMENT or HOME, or LODGING HOUSEs;

3.5.3.10 Business or professional offices; banks, U. S. Post Office; and

3.5.3.11 Retail store, the principal activity of which shall be the offering of goods but not food at retail within the BUILDING.

3.5.3.12 Uses not otherwise permitted in the Commercial District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the

opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation measures, are in harmony with the character and uses permitted in the Commercial District.

3.6 Industrial District Uses

The Industrial District is intended for use by research laboratories, office BUILDINGs and selected light industries which are compatible with a low-density, rural residential community.

3.6.1 Uses permitted:

3.6.1.1 Conservation areas, farming and horticulture, orchards, nurseries, forests and tree farms, display and sale, or offering for sale, of farm produce, all as permitted in the Recreation-Conservation District;

3.6.1.2 CHILD CARE FACILITY; and

3.6.1.3 Wireless Communication Facilities.

3.6.1.4 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.6.2 Uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA, all parking spaces are located only in the REAR YARD, and 50% of the LOT area is OPEN SPACE:

3.6.2.1 Research laboratories with incidental assembly or manufacture; and

3.6.2.2 Office BUILDINGs.

3.6.3 Uses permitted, subject to special permit granted by the Planning Board:

3.6.3.1 Research laboratories with incidental assembly or manufacture;

3.6.3.2 Office BUILDINGs;

3.6.3.3 Manufacturing enterprises, provided that such activities will not be offensive, injurious, dangerous to the public health or noxious because of sewage or REFUSE, vibration, smoke or gas, fumes, dust or dirt, odors, dangers of combustion or unsightliness;

3.6.3.4 Parking areas or garages for use of employees, customers or visitors, subject to the design standards in the Parking Section of this Bylaw;

3.6.3.5 Screened storage, ACCESSORY BUILDINGs and USES;

3.6.3.6 Cafeterias for employees, when contained in the same STRUCTURE as a permitted use;

3.6.3.7 All uses as permitted in the Recreation-Conservation District; and

3.6.3.8 Conversion of existing residence to BED AND BREAKFAST ESTABLISHMENT or HOME.

3.6.3.9 Uses not otherwise permitted in the Industrial District, if such uses preserve historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such uses, with any necessary mitigation

measures, are in harmony with the character and uses permitted in the Industrial District.

3.7 Refuse Disposal District Uses

The REFUSE Disposal District is intended to provide for the safe and sanitary disposal of REFUSE which is generated within the Town of Stow.

3.7.1 Uses permitted, subject to special permit granted by the Planning Board:

3.7.1.1 All uses permitted in the Industrial District, subject to all requirements and limitations contained in this Bylaw for construction or use in the Industrial District, or otherwise applicable to all districts or any overlying district.

3.7.2 Uses permitted, subject to special permit granted by the Board of Selectmen, collectively or individually called a "refuse disposal facility" for REFUSE:

Such special permit may be granted by the Selectmen only upon making such findings as are necessary therefor under Chapter 40A of the Massachusetts General Laws, as amended, and on such further terms, conditions, safeguards and limitations on time or use as are necessary and appropriate therefor. Provided, however, that only one such permit shall exist at any time, except that two or more may be issued for "refuse disposal facilities" located adjacent to an existing "refuse disposal facility for which a special permit under this section has been granted, or, if at the sole discretion of the Selectmen, a need exists for the issuance of more than one such permit for non-adjacent site during a transition period from use of one site to another.

Such special permit shall lapse within two (2) years from the issuance thereof if a substantial use or construction has not commenced, except that for good cause shown, the Selectmen may in their sole discretion grant an extension thereof. Such special permit shall limit the intended use to a "refuse disposal facility" for municipal purposes, to be used solely by the Town of Stow.

3.7.2.1 Sanitary landfill;

3.7.2.2 REFUSE transfer station;

3.7.2.3 REFUSE incinerator; and

3.7.2.4 Any other facility for treating or disposing of REFUSE.

3.7.3 Uses permitted subject to Site Plan Approval by the Planning Board:

3.7.3.1 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

3.8 General Use Regulations Pertaining to All Districts

3.8.1 Pertaining to all Districts:

3.8.1.1 BUILDING construction - All BUILDINGS shall be constructed as prescribed by the State Building Code.

3.8.1.2 Odor, dust and smoke - No such offensive emissions shall be discernible beyond the property line or, in the case of an industrial park development or of multiple use of the property, beyond one hundred (100) feet of the BUILDING generating the emission, except that in no case shall the discharge from any source exceed the following limits:

1. Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U. S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three (3) minutes in any one (1) hour.
2. Lime dust, as Ca0, measured at the property line of any LOT on which the activity creates such dust, shall not exceed ten (10) micrograms per cubic meter of air.
3. Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the LOT.
4. Odors shall not exceed the smallest values given in Table III (Odor Thresholds) in Chapter 5 of the "Air Pollution Manual" Manufacturing Chemists Association, Inc., Washington, D.C., 1951.
5. All measurements of air pollution shall be by the procedures, and with equipment, approved by the BUILDING INSPECTOR, which procedures and equipment shall be of the latest generally recognized development and design readily available.

3.8.1.3 Noise - The noise generated on any LOT, measured at any point beyond the property lines of the LOT on which the noise source is located, shall not cause the total sound level to be more than three (3) decibels above the natural ambient sound level except as provided below:

1. For not more than five (5) minutes in any one (1) hour the noise generated shall not cause the total sound level to be more than ten (10) decibels above the natural ambient sound level.
2. For not more than sixty (60) minutes in any seven (7) day period the noise generated shall not cause the total sound level to be more than thirty (30) decibels above the natural ambient sound level.
3. Noise making devices which are maintained and are utilized strictly to serve as safety warning devices are excluded from these regulations.

Measurements shall be conducted by personnel approved by the BUILDING INSPECTOR using the "A" weighting on a standard commercial total sound level instrument approved by the BUILDING INSPECTOR. For the purpose of this Bylaw the natural sound level shall be assumed to be forty (40) decibels above 0.0002 microbar during hours of daylight, and thirty (30) decibels above 0.0002 microbar at all other times.

3.8.1.4 Heat, glare, vibration, and radiation - No heat, glare, or vibration shall be discernible without instruments from the outside of any STRUCTURE, and no radiation shall be discernible from the outside of the STRUCTURE with or without instruments.

3.8.1.5 Exterior lighting - No exterior lighting, or other street lighting approved by the Selectmen, shall shine on adjacent properties or towards any STREET in such a manner as to create a nuisance or hazard.

3.8.1.5.1 The INITIAL DESIGN LIGHT OUTPUT of all exterior lighting on a LOT shall be subject to a cap of 25,000 lumens/acre or 10,000 lumens, whichever is greater. Fixtures under an opaque covering such as a canopy or in a parking garage shall count as 0.25 of their output if 5-10 feet from the nearest edge, 0.1 at 10-30 feet and 0 for more than 30 feet.

3.8.1.5.2 A Special Permit from the Planning Board is required when installing new fixtures or replacing existing fixtures and the total resulting INITIAL DESIGN LIGHT OUTPUT would be more than 100,000 lumens on any LOT. However, a Special Permit shall not be required when replacing existing fixtures with FULL-CUTOFF fixtures and the total INITIAL DESIGN LIGHT OUTPUT of the replacement fixtures is less than half the total INITIAL DESIGN LIGHT OUTPUT of the removed fixtures.

The Special Permit application shall show the location, type and output of all fixtures. The Planning Board shall impose mitigating conditions to protect abutters not only from DIRECT LIGHT but also reflected light, and shall limit the total light output and hours of use to that which is reasonably necessary. The Planning Board shall require remediation of existing lighting.

3.8.1.5.3 Lighting of athletic fields shall be only by Special Permit from the Planning Board, and shall be exempt from the 25,000 lumens/acre cap. The Planning Board shall require full engineering plans with a design average illuminance of no more than 200 lux. No DIRECT LIGHT shall shine off the LOT containing the field. Athletic field lighting shall be illuminated only while in use and shall not be illuminated between 10 p.m and sunrise under any circumstances. All lighting fixtures shall be set back 500 feet from any RESIDENTIAL or RECREATION/CONSERVATION LOT, and 200 feet from any other LOT.

3.8.1.5.4 The Planning Board may issue a Special Permit for lighting that does not conform to the conditions of the table in Section 3.8.1.5.6 up to 4,000 additional lumens of nonconforming lighting if the lighting is found to provide a public benefit. The Planning Board shall impose mitigating conditions such as limiting lighting levels, hours of operation, and requiring shielding to protect abutters from unwanted light.

3.8.1.5.5 Shining lasers in excess of 5 mW at wavelengths within the range of human vision or searchlighs into the sky, for advertising or any other purpose, is prohibited. Airfield beacons required by the FAA are exempt from this prohibition.

3.8.1.5.6 Each EXTERIOR LIGHT fixture shall comply with the following specific conditions:

Fixture-Specific Conditions

Fixture Type:	***Conditions:***
All EXTERIOR LIGHT Fixtures with a rated output of 2,000 lumens or more (other than PUBLIC STREETLIGHTs)	Must be FULL-CUTOFF FIXTUREs. Must be installed in the proper orientation so as to emit no light above the horizontal. Must be no more than 35 feet above ground. Must not be used to illuminate a LOT, which is across any STREET.

Fixture-Specific Conditions

Fixture Type:	*Conditions:*
EXTERIOR LIGHT Fixtures (other than PUBLIC STREETLIGHTS) with an INITIAL DESIGN LIGHT OUTPUT of more than 4,000 lumens	Must comply with all above conditions and: Must not shine DIRECT LIGHT onto any other LOT or STREET located within a RESIDENTIAL or RECREATION-CONSERVATION district. Must not shine DIRECT LIGHT onto any body of water not on the same LOT as the fixture.
EXTERIOR LIGHT Fixtures (other than PUBLIC STREETLIGHTS) with an INITIAL DESIGN LIGHT OUTPUT of more than 10,000 lumens	Must comply with all above conditions and: Must not shine DIRECT LIGHT onto any other LOT located within any district. Must not shine DIRECT LIGHT onto any STREET. Must not shine DIRECT LIGHT onto any body of water.
PUBLIC STREETLIGHTS	Must be FULL-CUTOFF FIXTURES. Must be installed in the proper orientation so as to emit no light above the horizontal. Must be no more than 35 feet above ground. Must not shine DIRECT LIGHT onto any DWELLING.
All floodlights, spotlights, or similar EXTERIOR LIGHT FIXTURE that are not full cutoff	Must be aimed at least 45 degrees below horizontal.

3.8.1.5.7 The following table provides exemptions to both fixture-specific conditions and the cap in 3.8.1.5.1

Exemptions

Situation:	*Exemption:*
Emergency Lighting Fixtures	Emergency lighting fixtures operated by a public safety agency are exempt. Lighting fixtures with an INITIAL LIGHT OUTPUT of less than 200 lumens, which are intended to signal the location of emergency services, rather than provide illumination and which are authorized by a public safety agency, are exempt.
Greenhouse Lighting Fixtures for the purpose of supporting plant growth.	Exempt from the 25,000 lumens per acre requirement. Exempt from the 100,000 lumen Special Permit requirement (Section 3.8.1.5.2).
Lighting fixtures required by the FAA	Lighting fixtures required to comply with FAA requirements may be installed, but shall not emit more light above horizontal or shine more DIRECT LIGHT onto any other LOT than is required to comply with the FAA regulations.

Exemptions

Situation:	***Exemption:***
Seasonal Holiday Lighting	Seasonal holiday lighting may be installed and illuminated, provided that it is illuminated for no more than 90 days in any 270 day period. *(This allows nonconforming holiday lighting even if the property is not eligible for the nonconforming fixture exemption. Conforming holiday lighting is not restricted in any way.)*

3.8.1.6 Screening, surfacing, parking, and SIGNS - As provided in the sign section and Parking Section of this Bylaw.

3.8.1.7 Waste disposal and water supply - Regulations of the State Board of Health and the Stow Board of Health shall be met and shall be indicated on a site plan, when a site plan is required.

3.8.1.8 Scientific Uses - Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit granted by the Planning Board provided the granting authority finds that the proposed ACCESSORY USE does not substantially derogate from the public good.

3.8.1.9 Drainage - When a subdivision approval or a Site Plan Approval or a Special Permit is required drainage shall be designed so that the following conditions shall be met during and after construction and development:

1. Pre-development surface water runoff rates and volumes shall not be increased;
2. Pre-development erosion and sedimentation rates shall not be increased; and
3. No building permit, special permit or subdivision approval shall be granted if these conditions cannot be met.

3.8.1.10 Erosion control - Site design and materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface water run-off.

1. Grading or construction which will result in SLOPES of twenty-five percent (25%) or greater on fifty percent (50%) or more of the LOT area or on thirty-two thousand (32,000) square feet or more on a single parcel, even if less than half of the LOT area, shall be allowed only under special permit from the Planning Board. This shall be granted only under demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled degradation. Applications and plans for such special permits shall be referred to the Conservation Commission.
2. Where 3.8.1.10.1 and 3.8.1.10.3 apply, all slopes exceeding fifteen percent (15%) resulting from site grading shall be covered with topsoil to a depth of at least six inches and planted with vegetative cover sufficient to prevent erosion.
3. No area totaling one acre or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six

inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless within STREETS which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Planning Board on the condition that run-off will be controlled, erosion prevented and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity when such temporary cover would be infeasible.

4. The BUILDING INSPECTOR shall require information of the applicant as necessary for him to ensure compliance with these requirements, including if necessary, elevation at key locations, description of vegetative cover and the nature of impoundment basins proposed, if any.

5. Where resultant site grades will exceed fifteen percent (15%) the Town shall require a performance bond to ensure compliance with these requirements.

6. Where 3.8.1.10.1 and 3.8.1.10.3 apply, hillside areas shall be retained with vegetative cover as follows:

Average Slope	Minimum % of Land to Remain in Vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 +	85

7. Before a project disturbs one acre or more of land, either by itself or as part of a larger development, and storm water could run off the site in a directed manner (via a culvert, ditch, storm sewer system, roadway, storm dug channel, etc) and reach a surface water (pond, stream, wetland, etc.), a copy of the Stormwater Pollution Prevention Plan (SWPP) and the Notice of Intent filed with the Environmental Protection Agency (EPA) under the National Pollutant Discharge Elimination System (NPDES) shall be submitted to the Planning Board.

3.8.1.11 Special Provisions to Enhance Access for Handicapped Persons - Attempts to provide and improve handicapped access on LOTS with established residential or non-residential uses often create conflicts with various dimensional requirements of this Bylaw. Therefore, the following partial exemptions shall apply in order to facilitate the installation of handicapped parking spaces, handicapped access ramps and other amenities designed to improve access for the handicapped to existing BUILDINGs and STRUCTURES. The requirements listed in (1) through (3) below may be reduced only to the degree necessary to be consistent with the requirements of the Massachusetts Architectural Access Board.

1. Any minimum number of required parking spaces.

2. Any minimum required OPEN SPACE.

3. Any minimum required FRONT, SIDE and REAR YARD.

4. No special permit shall be required for the installation of handicapped access amenities and for the implementation of any exemption provided herein.

5. All proposed handicapped access amenities and any of the exemptions provided herein shall be approved by the BUILDING INSPECTOR prior to any work or construction.

3.8.1.12 Wireless Communication Facility - A transmission facility for the purpose of personal wireless communication services such as satellite dishes or antennae, with or without a BUILDING that shelters associated electronic or mechanical equipment.

3.8.2 Use Regulations Pertaining to the Business, Commercial, and Industrial Districts

3.8.2.1 Storage - All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties by an opaque FENCE or screening at least six (6) feet but not more than twenty (20) feet high.

3.8.2.2 No open burning is permitted, unless in an incinerator of a type approved by the Board of Selectmen.

3.8.3 Use Regulations Pertaining to the Residential District

3.8.3.1 Exterior lighting shall conform with the requirements of Section 3.8.1.5, except that the use of exterior lighting by a commercial or business activity or operation during the period from one-half hour after sunset to one-half hour before sunrise shall not be permitted. This provision shall not preclude the use of emergency lighting required by a public agency in the performance of its duties, lighting of SIGNS in conformance with the general regulations included in Section 6.3.1, customary holiday lighting or low level illumination of entranceways, exits and driveways.

Signs shall not be illuminated unless the business is open to the general public and employees are present and ready to receive customers, and shall not be illuminated between 9 p.m. and 7 a.m. Any fixture with an INITIAL DESIGN LIGHT OUTPUT of more than 2,000 lumens shall not be considered low level illumination. Any peak illuminance on the ground, a building or a sign, of more than 10 lux shall not be considered low level illumination.

3.9 NON-CONFORMING USES AND STRUCTURES

3.9.1 A pre-existing NON-CONFORMING USE or STRUCTURE may continue. However, other than Wireless Service Facilities, which may not be altered or extended unless specifically allowed in Section 3.11 of the Bylaw, no lawful pre-existing NON-CONFORMING USES or STRUCTURES may be extended or altered except in conformance with Sections 3.9.6 and 3.9.7 below. All applications for extensions and/or alterations shall include a scaled floor plan of the STRUCTURE(S) in question showing FLOOR AREA and ground coverage prior to and following the proposed changes in order to determine the degree to which the use has expanded from its original size. All applications for such special permits shall include such information and plans as required for a special permit as required in Section 9.2. Applicants shall also comply with the following site planning standards for “NON-CONFORMING USES or STRUCTURES”:

3.9.1.1 It shall comply with the parking requirements of the Parking Section of this Bylaw, except as superseded by 3.9.1.4., 3.9.1.5. and 3.9.1.6. below;

3.9.1.2 It shall comply with the SIGN section of this Bylaw;

3.9.1.3 It shall comply with the General Use Regulations section of this Bylaw;

3.9.1.4 No parking, BUILDING or outdoor storage facility of materials or products shall be closer than 35 feet from the side or rear LOT line, nor closer than 50 feet from the STREET LINE;

3.9.1.5 Parking and outdoor storage of materials or products shall be screened from the view of abutting properties and the view from public ways by vegetative screens, opaque fencing or topography; and

3.9.1.6 There shall be sufficient space and provision on site for the maneuvering of vehicles so as to allow loading and unloading of materials and products without impeding the flow of traffic along public ways or blocking pedestrian sidewalks, paths and rights of way.

3.9.2 If said NON-CONFORMING USE has been changed to a more restricted use, it shall not again be changed to a less restricted use.

3.9.3 If the NON-CONFORMING USE is discontinued or abandoned for a period of two (2) years or more, it shall not be re-established except upon a special permit granted by the Board of Appeals.

3.9.4 A non-conforming single or two-family DWELLING or agricultural STRUCTURE which has been damaged or removed may be rebuilt or restored at the same location and again used as previously, provided that the owner shall start operations for restoring and rebuilding on said premises within twelve (12) months after such damage or removal and reconstruction is completed and occupancy begun within two (2) years of start of restoration except upon a special permit for a longer period of time granted by the Board of Appeals.

3.9.5 An amendment to the Zoning Bylaw shall not apply to structures or uses lawfully in existance or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such bylaw required by Section 5, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the non-conforming nature of said structure. In cases involving construction, such construction shall be carried through to completion continuously and expeditiously. If such construction has ceased for a period of two or more years, it shall be considered abandoned, and exemptions from zoning bylaw amendments shall cease to apply.

3.9.6 Changes of Use and Limitation on Intensity and Size of Use - Other Than Single or Two-Family Residential Dwellings:

3.9.6.1 As provided in G. L. c. 40A, sec. 6, a lawfully preexisting nonconforming use and/or structure, other than a single or two-family residential dwelling, may be reconstructed, altered or extended only if:

1. said reconstruction, alteration or extension itself conforms with all the provisions of the Zoning Bylaw;

2. there is a finding by the Board of Appeals that such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use;
3. that said extension, alteration or change is in accordance with the guidelines noted below; and
4. that the Board of Appeals grants a special permit as provided in Section 9.2.

3.9.6.2 Guidelines for Review of Extensions, Alterations or Changes to Preexisting, Nonconforming Uses and Structures: Recognizing the need to provide guidelines for determining relative impacts upon the Town and the immediate neighborhood from an expansion, alteration or change of preexisting nonconforming uses and structures, and recognizing the basis and consistent principles of zoning with respect to minimizing nonconforming uses and structures, the following shall apply to the review of special permit applications under this Section:

1. the Board of Appeals shall encourage extensions, alterations or changes to nonconforming structures and uses toward greater, if not complete, conformance with the provisions of the Zoning Bylaw and to reduce the degree of nonconformity;
2. the Board of Appeals shall not encourage the expansion of a nonconforming structure or use as measured by either the:
   a) amount of floor space or land area used, or
   b) volume of activity, including but not limited to an increase in the intensity of use and/or a change in the nature or purpose of the use;
3. the Board of Appeals shall prohibit the expansion of nonconforming structures and uses unless there will be no demonstrable adverse impacts on abutting properties and those properties that generally characterize the neighborhood or locus within which the expansion is sought, and;
4. the Board of Appeals shall not encourage the expansion of nonconforming structures and uses if the expansion will negatively impact the Town of Stow's ground or surface waterbodies.

3.9.6.3 Table of Presumptively Not More Detrimental Extensions, Alterations, or Changes to Preexisting, Nonconforming Uses and Structures:

An extension, alteration or change to a lawfully preexisting nonconforming use or structure shall be presumed not to be substantially more detrimental to the neighborhood if the guidelines of Section 3.9.6.2 are considered and if the extension, alteration or change also is in compliance with the following:

TABLE OF PRESUMPTIVELY NOT MORE DETRIMENTAL EXTENSIONS, ALTERATIONS, OR CHANGES TO OTHER THAN SINGLE OR TWO-FAMILY RESIDENTIAL DWELLINGS

Issue	**Presumptively Allowable Changes, Alterations, or Extensions**
If maximum floor area ratio requirements are exceeded and/or minimum open space requirements are not met.	The extension, alteration, or change does not: 1) increase the floor area ratio

Issue	Presumptively Allowable Changes, Alterations, or Extensions
	requirements; 2) decrease the existing floor area ratio and/or; 3) results in an increase of the open space requirements of Section 4.4.
If the structure or use exceeds current parking or loading area requirements.	The requirements of Section 7 of the Zoning Bylaw are met or if the Board of Appeals determines that the existing use and proposed expansion or site conditions do not warrant the number of parking spaces required by Section 7.3.3.
If the structure or use exceeds, or is in violation of, or violates any other provision of the Zoning Bylaw.	The extension, alteration, or change meets the guidelines specified in Section 3.9.6.2 above.

3.9.7 Alteration, Reconstruction, Extension or Structural Changes to Preexisting Nonconforming Single and Two-Family Residential Structures.

3.9.7.1 As provided for in G. L. c. 40A sec. 6, a nonconforming single or two-family dwelling or structure accessory thereto may be altered, reconstructed, extended or otherwise structurally changed provided that:

1. the proposed alteration, extension or structural change itself conforms to the requirements of the present Bylaw, and does not intensify any existing non-conformities or result in any additional non-conformities, in which event the Building Inspector may issue a building permit and an application to the Board of Appeals need not be made; or
2. the proposed alteration, extension or structural change itself does not conform to the requirements of the present Bylaw, and does intensify existing non-conformities or results in additional non-conformities, in which event a Petition for Special Permit must be made to the Board of Appeals, and the Board of Appeals must find that:
   a) there is no substantial increase in the nonconforming nature of said structure; and
   b) such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

3.9.7.2 In determining the meaning of the phrases “increase the nonconforming nature of said structure” and “substantially more detrimental to the neighborhood,” the following shall apply to the review of Special Permit Petitions subject to this provision to alter, reconstruct, extend or structurally change a preexisting nonconforming single- or two-family residential structure:

1. The Board of Appeals must make a determination as to the particular respect or respects in which the existing structure or lot does not conform to the requirements of the present Bylaw;

2. Should the Board of Appeals conclude that the proposed change would substantially increase the nonconforming nature of the structure or lot, the applicant will not be entitled to the issuance of a special permit;
3. If the Board of Appeals determines, that the proposal will not substantially increase the nonconforming nature of the structure or the lot, the applicant will also be required to show that the change will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood;
4. If the Board of Appeals determines that the proposal will be more substantially detrimental to the neighborhood, the special permit sought will be denied unless the Board of Appeals determines that a special permit can be approved with conditions that would make the change substantially not more detrimental, in which case the Board of Appeals may approve a special permit with such conditions.
5. For the purposes of this Section, determination of “substantially more detrimental to the neighborhood” shall include consideration of and impacts to, the general and immediate neighborhood from the resulting height, building coverage, impervious coverage, and width of the altered, reconstructed, extended or structurally changed structure. Additionally, a determination whether an altered, reconstructed, extended or structurally changed structure will be “substantially more detrimental to the neighborhood” shall include the resulting impacts to views and vistas from abutting properties and public and private ways, increase in traffic, noise, surface water runoff and related site planning issues.

3.10 Table of Principal Uses

3.10.1 Provisions Applicable to Table of Principal Uses - No land, STRUCTURE or BUILDING shall be used except for the purposes permitted in the district as set forth in this Bylaw and further indicated on the Table of Principal Uses. Each use set forth in the principal use column shall be subject to any conditions or limitations that are set forth in this Bylaw and in the Table of Principal Uses. If there is a discrepancy between the Table of Principal Uses and the text of this Bylaw, the provisions set forth in the text of this Bylaw shall take precedent.

3.10.1.1 A use listed in the Table of Principal Uses is permitted in any district denoted by the letter "Y" and is not permitted in any district denoted by the letter "N". If denoted by the letters "SPA", "SPP" or "SPS", the use is permitted only if the designated Special Permit Granting Authority grants a special permit as provided herein and makes such specific findings as may be required by the Bylaw in respect of such use. For the purposes of the Table of Principal Uses, "SPA" shall mean a special permit authorized by the Board of Appeals; "SPP" shall mean a special permit authorized by the Planning Board; and "SPS" shall mean a special permit authorized by the Board of Selectmen.

3.10.1.2 Site plan approval in accordance with Section 9.3 is required for a use where the letter "R" appears and is not required where the letters"NR" appear.

3.10.1.3 A special permit is required for any increase in intensity of a site or use for which a special permit is required, except as to lawful pre-existing NON-CONFORMING USES.

Table of Principal Uses

All Principal Uses listed in this Table are subject to provisions in corresponding Section 3.1, Section 5.1 and Section 5.2.

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
General Uses									
Agriculture	Y (4)	N	Y	Y	Y	Y	Y	Y	NR
Conservation	Y	Y (5)	Y	Y	Y	Y	Y	Y	NR
Recreation	SPA (4)	N	N	SPP	N	SPP	SPA	SPP	(3)
Residential Uses									
Single Family DWELLING	Y (4) (11)	N	Y SPP(11)	N	N	N	N	N	(3)
Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7) (11)	N	SPP (7) (11)	N	N	N	N	N	(3)
Duplex DWELLINGs	SPP (4) (11)	N	N	N	N	N	N	N	(3)
Multi-Family DWELLING	SPP(4) (11)	N	N	N	N	N	N	N	(3)
Conversion to 2-Family DWELLING	SPA (4)	N	N	N	N	N	N	N	(3)
Combined Residence/ Home Occupation	Y (4)	N	Y	N	N	N	N	N	NR
Bed & Breakfast Home	Y (4)	SPA (1)	N	N	SPP (3)	N	N	N	R
Bed & Breakfast Home or Establishment	SPA (1) (4)	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Boarding House or Rooming House	Y (4)	N	Y	N	N	N	N	N	R
Playgrounds	SPA (4)	N	N	N	N	N	N	N	(3)
Conservation Areas, Farming and Horticulture, Orchards, Nurseries, Forests, Tree Farms, Sale of Farm Produce	Y (4)	N	Y	Y	Y	Y	Y	Y	R
Storage of Farm Vehicles	Y (4)	N	N	N	N	N	N	N	NR
ACCESSORY BUILDINGs & Uses	Y (4)	Y	Y	SPP	SPP	Y	SPA	SPP	(3)
Hammerhead LOTs	SPP (4)	N	N	N	N	N	N	N	(3)

Table of Principal Uses (Continued)

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
INDEPENDENT ADULT LIVING RESIDENCE	N	SPP (9) (11)	N	N	N	N	N	N	(3)
ACTIVE ADULT NEIGHBORHOOD	N	N	N	SPP (10)	SPP (10)	N	N	N	(3)
Common Drives	Y	N	N	N	N	N	N	N	R
Institutional Uses									
CHILD CARE FACILITY	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
FAMILY DAY CARE HOME	Y (6) (4)	N	Y	N	N	N	N	N	R
Private Schools & Colleges, Dance & Music Studios	SPA (4)	N	N	N	N	N	N	N	(3)
Nursing Homes	SPA (4)	N	N	N	N	N	N	N	(3)
Day Camps, Overnight Camps, and Camp Sites	N	N	N	SPP	N	SPP	N	SPP	(3)
Municipal	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Public Service Corporation	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Religious	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Educational (Non-Profit)	Y (5) (4)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	Y (5)	R
Wireless Communication Facilities	SPP (8)	N	N	SSP(8)	SSP(8)	SPP (8)	N	SSP(8)	(3)
Business & Commercial Uses									
TOURIST HOMES, or LODGING HOUSEs	N	SPA (1)	N	N	SPP (1)	N	N	N	(3)
Business or Professional Offices	N	SPP (1)	SPP	SPP (2)	SPP (1)	N	N	SPP (2)	(3)
Retail Stores or Service Establishments	N	SPP (1)	SPP	N	SPP (1)	N	N	N	(3)
Banks	N	SPP	SPP	N	SPP	N	N	N	(3)
U.S. Post Offices	N	SPP	SPP	N	N	N	N	N	(3)
Salesrooms for Automobiles, Bicycles, Farm Implements, Boats, and Similar Equipment	N	SPP	N	N	SPP (1)	N	N	N	(3)

Table of Principal Uses (Continued)

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Restaurants	N	SPP	N	SPP	SPP	SPP	N	SPP	(3)
Country Clubs or Other MEMBERSHIP CLUBs	N	SPA	N	SPP	N	SPP	N	SPP	(3)
Golf Courses	SPP (4)	N	N	SPP	N	SPP	N	SPP	(3)
Ski Areas, MARINAs & Boat Landings	SPA(4)	N	N	SPP	N	SPP	N	SPP	(3)
Cross Country Ski Areas	SPP (4)	N	N	N	N	N	N	N	(3)
Parking Areas for Employees, Customers or Visitors	N	SPP	SPP	SPP	SPP	N	N	SPP	(3)
HOTELS MOTELS	N	SPA	N	N	N	N	N	N	(3)
Theaters, Bowling Alleys, Skating Rinks, Clubs or Assembly within the BUILDING	N	SPA	N	N	N	N	N	N	(3)
Funeral Home, Mortuaries or Crematories	N	N	N	N	SPP	N	N	N	(3)
Veterinary Hospitals, Stables & Kennels, Raising or Breeding of Animals for Sale, and Boarding Animals	SPA (4)	N	N	N	N	N	N	N	(3)
Printing, Publishing or Commercial Reproduction or Photo Processing Establishments,Offices, Medical or Dental Labs, and Research Laboratories	N	N	N	N	SPP (2)	N	N	N	(3)
Building Materials Salesrooms & Yards, Contractor's Yards, Wholesale Distribution Plants, Storage Warehouses	N	N	N	N	SPP	N	N	N	(3)
Gasoline Service Stations, Garages or Repair Shops	N	SPA	N	N	N	N	N	N	(3)
Utility Structures, Passenger Depots and Terminals	N	N	N	N	SPP	N	N	N	(3)
Screened Storage	N	N	N	SPP	SPP	N	N	SPP	(3)
Cafeterias for Employees	N	N	N	SPP	N	N	N	SPP	(3)
Access to Industrial Zoned Land	N	Y	N	N	N	N	N	N	(3)

Table of Principal Uses (Continued)

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Retail Store as part of a REGISTERED MARIJUANA DISPENSARY	N	SPP (1) (12)	N	N	N	N	N	N	(3)
Industrial Uses									
Manufacturing Enterprises	N	N	N	SPP	N	N	N	SPP	(3)
Research Laboratories with Incidental Assembly or Manufacture	N	N	N	SPP (2)	N	N	N	SPP (2)	(3)
Sanitary Landfill	N	N	N	N	N	N	N	SPS	(3)
Refuse Transfer Station	N	N	N	N	N	N	N	SPS	(3)
Refuse Incinerator	N	N	N	N	N	N	N	SPS	(3)
COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION	SPP	SPP	N	Y	Y	SPP	N	Y	(3)

(1) Uses permitted by right provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.

(2) Uses permitted by right provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA, there is only one BUILDING per LOT, all parking spaces are located only in the rear yard, Site Plan Approval is granted, and 50% of the LOT area is open space.

(3) All uses requiring a Special Permit are subject to Site Plan Approval requirements as part of the special permit process.

(4) Refer to Section 7.3.3.3 of this Bylaw to determine parking requirements for uses permitted in the Residential District.

(5) Allowed in accordance with the provisions of M.G.L., Ch. 40A, Section 3.

(6) Allowed as accessory use only.

(7) Allowed without special permit in accordance with Section 8.1.2 of this Bylaw.

(8) Wireless Service Facilities shall be allowed by special permit only on land located in the Wireless Service Facility District.

(9) The total number of INDEPENDENT ADULT UNITs shall not exceed 6% of the total single family DWELLING UNITs in Stow.

(10) An Active Adult Neighborhood shall be allowed by Special Permit only on land located in the Active Adult Neighborhood District.

(11) Provisions of Section 8.9, Inclusion of Affordable Housing, may apply.

(12) Retail component of a REGISTERED MARIJUANA DISPENSARY is allowed by Special Permit within the REGISTERED MARIJUANA DISPENSARY Overlay District, in accordance with section 5.5 of the BYLAW and pursuant to Department of Public Health Regulations 105 CMR 725.000.

Prohibited Uses - All uses not specifically named in the text of the bylaw are prohibited.

3.11 Intentionally left blank

3.12 Intentionally left blank

SECTION 4

DIMENSIONAL REGULATIONS

4.1 Standard Dimensional Provisions:

4.1.1 No BUILDING, STRUCTURE or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which violates any section of this Bylaw or any of the provisions of the bylaws of the Town of Stow.

4.1.2 Only one main BUILDING may be built or placed on any LOT within the Town except within a business, commercial, or industrial district. Any main BUILDING hereafter ERECTED shall be on a LOT which has frontage upon a STREET as defined in this Bylaw.

4.1.3 A LOT on which there existed at the time of the adoption of this Bylaw two (2) or more DWELLING houses may be divided into as many LOTS as there were DWELLING houses thereon, providing the LOT is divided in such manner that the resulting LOTS shall conform to the area and frontage requirements of this Bylaw, except upon special permit granted by the Board of Appeals. No other LOT may be changed so as to result in a LOT or LOTS having less than the minimum area and frontage requirements.

4.1.4 No BUILDING except piers, wharfs and other STRUCTURES to service boats shall be ERECTED below the flood contour lines as shown on the maps and plans set forth in Section 2.3.8 of this Bylaw, as indicated on and incorporated in by reference on the zoning map accompanying this Bylaw, except upon a special permit granted by the Board of Appeals as hereinafter provided for in Section 5.1.1.7.

4.1.5 Any construction or use for which a permit was legally issued prior to the adoption of this bylaw or any amendment thereto shall be permitted, notwithstanding non-compliance with the requirements of this bylaw or amendment thereto, provided such construction or use was commenced within six (6) months after the issuance of the permit and carried on to completion within two (2) years, unless a special permit for a longer period of time is granted by the Board of Appeals.

4.1.6 This section is intended to provide additional rights to build single family DWELLINGS on certain LOTS in the Residential District that do not conform to zoning area and frontage requirements in effect, and is in no way intended to limit any rights set forth as to such LOTS in Chapter 40A, as from time to time amended. The Board of Appeals shall grant a special permit for the construction of a single-family DWELLING to the owner of any LOT of at least 40,000 square feet area and at least 150 feet of contiguous LOT frontage in the Residential District, which was separately shown, laid out or described in a plan, deed or certificate of title duly recorded or registered at the Middlesex South District Registry of Deeds, and met all requirements of the Bylaw then in effect, prior to the first publication of notice of the public hearing required before any amendment of the Zoning

Bylaw pursuant to said Chapter 40A, increasing such area or frontage requirements, or both, for a residential LOT, and situated on a STREET as defined in the Zoning Bylaws open for use by the public at such date of publication, upon a finding that the conditions in Section 4.1.6.1 are met.

4.1.6.1 Any adjoining LOT to the LOT described in the application for a special permit, held in common ownership with the LOT described in the application for the special permit, had an existing lawful BUILDING thereon, or a building permit had issued for such a BUILDING (on which construction was commenced within six [6] months from the date of the permit and continued through to completion as continuously and expeditiously as reasonable) before the date of the publication of the first notice of the public hearing on the amendment to the Zoning Bylaw, increasing such area or frontage requirements, so that such adjoining LOT is not available for use in combination with the LOT which is the subject of the application at the time of filing the application.

4.1.6.2 Provided, however, that the Board of Appeals shall grant such special permit for only one LOT to any owner owning such LOT in common with a LOT unavailable for use in combination therewith as defined in this section which permit shall run with the land; and shall impose as conditions to such special permit that any proposed DWELLING is to be located on such LOT so as to conform with all other minimum requirements of FRONT, SIDE and REAR YARD setbacks of the Zoning Bylaws in effect; and the further condition that, unless the LOT is sold and thereafter is in separate ownership, a special permit granted under this section shall lapse within a specified period of time, not more than two (2) years thereafter if a building permit has not been issued and construction has not begun by such expiration date except for good cause shown and an extension of such special permit by the Board of Appeals granted upon a showing of good cause.

4.1.6.3 Provided further, that the Board of Appeals may impose additional conditions and safeguards, where appropriate, to assure harmony with the general purpose and intent of the Zoning Bylaws.

4.1.7 No BUILDINGS and STRUCTURES, except for driveways, roads and septic systems, shall be located outside the DEVELOPABLE SITE AREA.

4.2 Height Regulations:

4.2.1 The height of any BUILDING or STRUCTURE shall not exceed thirty-five (35) feet unless a special permit has been granted by the Planning Board when there is no obstruction to scenic views from public ways or properties, except that in no case shall the height exceed the limits permitted by Section 35A of Chapter 90 of the General Laws as inserted by Chapter 756 of the Acts of 1960 and any more restrictive amendments thereto. Radio towers, chimneys, broadcasting and television antennae, bulkheads, cooling towers, water towers, ventilators and other appurtenances shall in no event exceed one hundred (100) feet in height, and amateur radio towers and antennae shall not exceed one hundred fifty (150) feet in height, and further provided that if the use requires a permit or license for the intended use from any governmental authority, one has been granted.

4.2.2 Height shall be measured as the vertical distance from the average ground elevation around the exterior WALLS of the STRUCTURE, or, in the case of built-up land, the highest elevation at the site prior to such change in contour, to the highest point of the roof surface in the case of a flat roof, and to the mean height between eaves and ridge in the case of a pitched roof.

4.2.3 Limitations of height shall not apply to spires, domes and steeples.

4.3 Area, Frontage, YARD, and FLOOR AREA Requirements

4.3.1 No BUILDING shall be ERECTED unless in conformity with the requirements on the Table, following, except:

4.3.1.1 eaves, sills, cornices, belt cornices and window awnings may project up to two feet into the required YARD;

4.3.1.2 on a corner LOT in order to provide unobstructed visibility at intersection, no SIGN, FENCE, WALL, tree, hedge, or other vegetation, and no BUILDING or other STRUCTURE more than three (3) feet above the established STREET grades measured from a plane through the curb grades or the height of the crown of the STREET, shall be ERECTED, placed or maintained within the area formed by intersecting STREET LINES and a straight line joining said STREET LINES at points which are twenty-five (25) feet distant from the point of intersection, measured along said STREET LINES; and

4.3.1.3 further, no YARD, LOT area or OPEN SPACE required for a BUILDING by this Bylaw, shall, during the existence of such BUILDING, be occupied by or counted as OPEN SPACE for another BUILDING. No LOT area shall be so reduced or diminished that the YARDS or other OPEN SPACES shall be smaller than prescribed by this Bylaw.

4.3.1.4 A detached ACCESSORY BUILDING or a swimming pool may be ERECTED in the REAR or SIDE YARD area in conformance with the YARD requirements of the district in which it is located. An ACCESSORY BUILDING attached to its principal BUILDING shall be considered an integral part thereof, and as such shall be subject to the FRONT, SIDE and REAR YARD requirements applicable to the principal BUILDING;

4.3.2 Methods for Calculating Dimensional Requirements - The following shall apply:

4.3.2.1 LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that:

- no area within a STREET shall be included in determining minimum LOT area.
- water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area;
- at least 50% of the minimum required LOT area shall be land which is not in a wetlands resource area (excluding the buffer zone) as defined by Article 9,Wetlands Protection, of the Town of Stow General Bylaw or Flood Plain District

4.3.2.2 Frontage shall be contiguous and measured along the STREET LINE.

a) For a corner LOT, frontage shall be measured along one STREET only, including one half of the corner arc, or that portion of the corner arc not exceeding twenty-five (25) feet, whichever is less.

b) If a LOT has frontage on more than one STREET, the frontage on one STREET only may be used to satisfy the minimum LOT frontage.

4.3.2.3 Area Suitable for BUILDINGs - Except in the case of hammerhead LOTS as permitted in a Residential District, each LOT in a Residential District shall have sufficient area suitable for BUILDINGs. The area suitable for BUILDINGs shall be considered sufficient if: (a) a circle of 150 feet in diameter, or, (b) a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan without overlapping any LOT line or any wetlands or Flood Plain District.

4.3.2.4 LOT Width - In the Residence District, each LOT shall have a minimum width of at least 100 feet between the STREET LINE and the area suitable for BUILDINGs. A LOT meets the minimum width requirement if a 100-foot diameter circle can move on the LOT plan from the STREET LINE to the area suitable for BUILDINGs without overlapping any side or rear LOT line or any Flood Plain District line.

4.3.2.5 LOT Shape - No LOT shall be laid out which is substantially irregular in shape. For purposes of this provision, substantially irregular is defined as a LOT having an index of regularity lower than four-tenths (0.4) as determined by the following formula.

When the LOT is a hammerhead LOT, the index of regularity shall not be lower than 0.25.

$$r = \frac{16a}{p^2}$$

Where:

r	=	The index of regularity
a	=	The area of the LOT in square feet.
p	=	The perimeter of the LOT in linear feet.

Provisions of this section shall not apply to LOTs shown on a plan and part of an application for a special permit or subdivision, the application for which has been duly filed as required by this Zoning Bylaw or the Massachusetts General Laws before the first publication of notice of the public hearing on such amendment required by Massachusetts General Laws Ch. 40A, s. 5.

4.3.2.6 Front YARDS - Front YARDS shall be the distance measured in a straight line between the LOT frontage and the nearest point of any BUILDING or STRUCTURE, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required front YARD.

1) A LOT having frontage on two or more STREETS shall have two or more front YARDS, each of which shall comply with the requirements of the front YARD provisions.
2) In no case shall any BUILDING or STRUCTURE be located closer to the sideline of a STREET than the minimum required front YARD.
3) Driveways are allowed within FRONT YARDS.
4) Septic system STRUCTUREs are allowed within the FRONT YARD and shall comply with requirements established by the Board of Health.

4.3.2.7 Side and Rear YARDS - Side and rear YARDS shall be the distance measured in a straight line from the nearest point of any BUILDING or STRUCTURE to each side or rear LOT line, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required SIDE or rear YARD.

1) Septic system STRUCTUREs are allowed within the SIDE and REAR YARD and shall comply with requirements established by the Board of Health.
2) Intentionally left blank.

3) Driveways are allowed within the SIDE and REAR YARD setbacks.

4.3.2.8 FLOOR AREA RATIO - The ratio of the sum of the GROSS FLOOR AREA of all BUILDINGs on a LOT to the DEVELOPABLE SITE AREA of the LOT.

4.4 Table of Dimensional Requirements

These requirements shall be satisfied entirely within each district.

Zoning District	Minimum LOT Area in sq. ft.	Minimum LOT Frontage in ft.	Minimum FRONT YARD in ft.	Minimum SIDE YARD in ft.	Minimum REAR YARD in ft.	Minimum OPEN SPACE in percent	Maximum FLOOR AREA RATIO
R/C	40,000	150 (2)	100	50	100	80%	.10
Res	65,340	200 (2)	30	25	40	10%	NR
Bus	40,000	150 (2)	50	None (1)	50 (1)	20%	.30
Comm	40,000	150 (2)	50	25 (1)	50 (1)	30%	.30
Ind	40,000	150 (2)	100	25 (1)	50 (1)	40%	.30
C/B	65,340	200	50	None (1)	40 (1)	30%	.30
R/D	300,000	150	300 (3)	150 (3)	150 (3)	80%	.10

NR = Not Regulated

Footnote to Table of Dimensional Requirements

(1) If the LOT abuts a residential or recreation-conservation district, whether directly or separated by a public or railroad right-of-way, the side and rear YARDS abutting the residential or recreation-conservation district shall be increased as follows and shall include a 50' landscaped buffer that consists of an opaque screen as defined in Section 7.7.4.1 of the Zoning Bylaw.

Minimum Side or Rear YARD	
Compact Business District	50 feet
Business District	50 feet
Commercial District	50 feet
Industrial District	100 feet

(2) The minimum frontage on Route 117 (Great Road) shall be 200 feet.

(3) In the Refuse Disposal District, one hundred feet (100') of the FRONT, REAR and SIDE YARDS must be densely planted with natural screening, or otherwise screened. YARD requirements may be waived as a condition of the special permit for that portion of a parcel of land abutting an operational REFUSE disposal facility. Such YARD requirements are to be measured from the LOT boundaries and the outer-most limits of the excavation or any BUILDING for the REFUSE disposal facility.

(4) Wireless Service Facilities shall be exempt from the provisions of Section 4 but shall be subject to minimum front, side and rear YARD setbacks stated in Section 4.4 and setbacks and other limitations estabished in Section 3.11 of the Zoning Bylaw.

(5) An Active Adult Neighborhood shall be exempt from the provisions of Section 4 and shall be subject to minimum front, side and rear YARD setbacks and other limitations established in Section 8.8 of the Zoning Bylaw.

4.5 Special Provisions and Exceptions to Dimensional Regulations

4.5.1 Dimensional Regulations for INDEPENDENT ADULT RESIDENCE

In the Business District, an INDEPENDENT ADULT RESIDENCE shall be built according to the following dimensional standards.

minimum LOT area	-	217,800 sq. ft.
minimum LOT frontage	-	200 ft.
minimum LOT width	-	As otherwise set forth in this Bylaw
minimum FRONT, SIDE and REAR YARDS	-	50 ft.
minimum setback of pavement areas other than ACCESS DRIVEWAYS and walkways from the front LOT line	-	50 ft.
minimum separation of BUILDINGs within the LOT	-	20 ft.
maximum height of STRUCTURES	-	35 ft.
minimum OPEN SPACE	-	30 %
maximum FLOOR AREA RATIO (business district only)	-	0.30

4.5.1.1 Dimensional Regulation of INDEPENDENT ADULT RESIDENCEs in the Business District shall be subject to FLOOR AREA RATIO.

4.5.1.2 All privileges and exemptions provided to single-family residential uses or BUILDINGs under this Bylaw as set forth in Section 3.8.1.11 or otherwise, shall also apply to INDEPENDENT ADULT RESIDENCEs.

4.5.1.3 Where the requirements of INDEPENDENT ADULT RESIDENCEs differ from or conflict with other requirements of the Bylaw, the requirements established herein shall prevail. The above requirements shall be met and where appropriate, the Planning Board may impose additional requirements as a condition of the Special Permit.

4.5.2 The provisions of Sections 4.1, 4.2 and 4.3 of the Zoning Bylaw shall not apply to Wireless Service Facilities. The height provisions of Section 4.2 shall not apply to Wireless Service Facilities which shall be governed by the provisions of Section 3.11.7.1.

4.5.3 The provisions of Sections 4.1, 4.2, and 4.3 of the Zoning Bylaw shall not apply to an Active Adult Neighborhood.

SECTION 5

OVERLAY DISTRICTS

5.1 Flood Plain District

The Flood Plain District is intended to protect the public health and safety and persons and property against the hazards of flood water inundation; to preserve and maintain the GROUND WATER table and to protect the community from the costs which may be incurred when unsuitable development occurs in areas subject to floods. The provisions applicable to the Flood Plain District shall be considered as overlying other zoning districts. In those cases where the Flood Plain District overlies another zoning district, the provisions of the Flood Plain District shall be controlling.

5.1.1 Uses Permitted:

5.1.1.1 Conservation areas for water, water supply, plants and wildlife, and dams necessary for achieving this purpose;

5.1.1.2 Farming and horticulture, including raising and harvesting crops, truck gardening, grazing and livestock raising, but not including piggeries or the raising of animals for fur;

5.1.1.3 Nurseries, forests and tree farms, provided that any equipment necessary for these uses is normally stored so it is not visible from district or property boundaries;

5.1.1.4 Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, hunting (where legally permitted), MARINAs, landings and any non-commercial recreation use;

5.1.1.5 In a business, commercial or industrial district, any of the foregoing uses which are conducted for profit, or for which a fee or similar charge is made, and allowed within the Flood Plain District, provided that such uses are otherwise permitted in the district overlain by the Flood Plain District;

5.1.1.6 Subject to General Laws, Chapter 131, Section 40 and 40A access across land within the district overlapped; and

5.1.1.7 The Board of Appeals may grant a special permit to allow any use or STRUCTURE otherwise permitted in the district overlain by the Flood Plain District if it is clearly shown that the land intended for said use or structure is included within the Flood Plain District through mapping error, or that no portion of said proposed new use or structure will be below the flood plain elevation as defined in this Bylaw. Where a mapping error is claimed, the petitioner claiming the same shall bear the burden of demonstrating that the Flood Plain District is incorrect as it relates to the land subject to the special permit application.

5.1.2 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.

5.1.2.1 Base Flood Elevation Data - Base flood elevation data is required for land divisions or proposed developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered A zones.

5.1.3 Notification Of Watercourse Alteration

In a riverine situation, the Town of Stow shall notify the following of any alteration or relocation of a watercourse:

• Adjacent Communities

• NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

• NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

5.1.4 Other Regulations

In Zones AE, along watercourses that have a regulatory floodway within the Town of Stow designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway, which would result in any increase in flood levels during the occurrence of the base flood discharge. All land division or development proposals must be designed to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

5.1.5 Reference To Existing Regulations

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

5.2 Water Resource Protection District

The Water Resource Protection District is intended to protect, preserve and maintain the existing and potential GROUND WATER supply and GROUND WATER RECHARGE AREAS within the town; to preserve and protect present and potential sources of GROUND WATER supply for the public health and safety; and to conserve the natural resources of the town. The Water Resource Protection District shall be considered as overlying other zoning districts and the provisions of the Water Resource Protection District shall be controlling, and any uses permitted in the portions of the underlying districts shall be permitted subject to all the provisions of this Section. Prohibitions of land use in the underlying districts shall not be modified by the conditions of the Water Resource Protection District.

5.2.1 Uses permitted provided that all necessary permits, orders or approvals required by local, state or federal law shall have been obtained:

5.2.1.1 All uses of the underlying district provided that no such use on any LOT or parcel shall as to that portion of said LOT or parcel within the Water Resource Protection District:

1. Result in the disposal of any waste material, solid or liquid, other than SANITARY WASTES, brush or stumps.
2. Generate on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of LOT area, except as provided in Section 5.2.2.3. For the purposes of this Bylaw, such volumes are to be estimated as provided in Title 5, Sanitary Sewage, of the State Environmental Code.
3. Conduct any activity which involves as a principal or ACCESSORY USE the manufacture, process, storage, application, transportation and/or disposal of toxic or HAZARDOUS MATERIALs where such activity would involve outside storage, on-site waste disposal except as provided in Section 5.2.2, or uncontrolled drainage facilities which would allow discharge to surface or GROUND WATER.
4. Dispose of snow brought in from outside the District.
5. Involve the storage for sale of fuel, oil or gasoline or, except as allowed by special permit, involve outdoor storage of road salt, or other deicing chemicals, fertilizers, herbicides or pesticides.
6. Store underground and/or transmit oil, gasoline or other liquid petroleum products, excluding liquified petroleum gases.
7. Involve MINING of the land, except as allowed in Section 5.2.5.3.
8. Render impervious, by any means, more than ten percent (10%) of the LOT area proposed for development within the Water Resource Protection District or 5,000 square feet of said district, whichever is greater.
9. Use septic system cleaners containing HAZARDOUS MATERIAL.
10. Damage to underlying GROUND WATER. For the purpose hereof the following uses shall be considered to damage the underlying GROUND WATER: automotive service and repair shops; junk and salvage yards; truck and bus terminals; car wash establishments; painting, wood preserving or furniture stripping establishments; dry cleaning establishments; metal plating, finishing, polishing or etching establishments; or any other similar use determined by the Board of Health or its sanitary agent to damage the underlying GROUND WATER.

5.2.1.2 Conservation of soil, water, plants and wildlife;

5.2.1.3 Outdoor recreation, foot, bicycle and/or horse paths, nature study, boating, landings, bridges, fishing or hunting where otherwise legally permitted;

5.2.1.4 Proper operation and maintenance of existing dams, splash boards and other water control, supply and conservation devices;

5.2.1.5 Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, orchards, nurseries, forests and tree farms, and poultry and livestock raising but not including piggeries or the raising of animals for fur, provided that fertilizers, herbicides, pesticides and other leachable materials are not

stored in any manner which would permit leakage thereof; the appropriateness of the management practices shall be governed by USDA or Soil Conservation Service, or Cooperative Extension Service or Massachusetts Department of Food and Agriculture's guidelines and use regulations;

5.2.1.6 Necessary public utilities and facilities, provided they are designed to prevent contamination of GROUND WATER;

5.2.1.7 Construction of BUILDINGs, STRUCTURES and other facilities for parking and other uses are as appurtenant thereto, provided that except to the extent of naturally occurring PH and temperature components of surface water quality and GROUND WATER quality standards, runoff waters leaving the developed site via surface flow shall remain unimpaired as to quality;

5.2.1.8 Maintenance, replacement and repair of existing BUILDINGs or STRUCTURES;

5.2.1.9 Home heating storage tanks, provided that the contents thereof are for heating the premises and that the tanks are contained within the BUILDING; and

5.2.1.10 Liquified petroleum gas storage tanks.

5.2.2 Uses permitted where allowed in the underlying zoning district, subject to a special permit granted by the appropriate Special Permit Granting Authority:

5.2.2.1 Expansion of existing NON-CONFORMING USES to the extent allowed in the underlying district. The Special Permit Granting Authority shall not grant such approval unless it shall find that such expansion shall not be more detrimental to the GROUND WATER supply than the existing use;

5.2.2.2 Any use involving on-site disposal of PROCESS WASTES;

5.2.2.3 Generation of on-site sewage disposal exceeding 110 gallons per day per 10,000 square feet of LOT area; and

5.2.2.4 Above ground or indoor storage of toxic or HAZARDOUS MATERIALs totaling more than fifty gallons of liquid volume or twenty-five pounds per dry weight, except as allowed in Section 5.2.1.9.

5.2.3 In addition to the usual requirements in applying for a special permit, each applicant for a special permit hereunder shall provide the following additional information at the time the application is filed:

5.2.3.1 A complete list of all chemicals, pesticides, fuel or other potentially toxic or HAZARDOUS MATERIALs to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/facilities from vandalism, corrosion and leakage and to provide for control of spills;

5.2.3.2 A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods;

5.2.3.3 Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system or any waste water treatment system subject to 310 CMR 15.02; and

5.2.3.4 Analysis by a technically qualified expert certifying that during the normal operation of the proposed use the quality and supply of the underlying GROUND WATER resources will not be degraded from EXISTING CONDITIONS.

5.2.4 The Special Permit Granting Authority may grant such a special permit provided that it finds in addition to such other findings as are otherwise required by the Bylaw that such use permitted thereby:

5.2.4.1 Meets the purpose and intent of this Bylaw and will not derogate from the purpose of the Water Resource Protection District;

5.2.4.2 Satisfies the requirements for design set forth in Section 5.2.5 below;

5.2.4.3 Will not, during construction or thereafter, impair existing GROUND WATER quality or reduce existing recharge capacity beyond that allowed in Section 5.2.1.1.8 of this Bylaw; and

5.2.4.4 Will not adversely affect the quality or the yield of an existing or potential GROUND WATER supply.

5.2.5 The above uses shall be permitted only upon satisfaction of the following design requirements:

5.2.5.1 Where a portion of the LOT is located partially outside the Water Resource Protection District, site design shall to the extent feasible, locate potential pollution sources, such as on-site disposal systems, outside the district boundaries.

5.2.5.2 Roof, parking and drive runoff shall be recharged on the site, diverted toward areas covered with vegetation for surface infiltration to the maximum extent practicable. Runoff from parking areas of 5,000 square feet or more shall be discharged to oil-gas trap catch basins with appropriate sumps prior to recharge.

5.2.5.3 MINING OF LAND or excavation for earth, sand, gravel and other soils shall not extend closer than five feet above the maximum GROUND WATER elevation, except to provide for structural foundations, holding ponds for drainage purposes and utility conduits. Exposed land shall be returned to its natural vegetative state when excavation is complete.

5.2.5.4 Any additional net runoff volume shall not be diverted beyond the boundaries of this District.

5.2.5.5 Risk of pollution through accidental spillage of HAZARDOUS MATERIALs shall be reduced through the use of secure storage areas, impermeable diked catchments, separated drainage systems from an area where toxic or HAZARDOUS MATERIALs are stored or handled, or similar measures, which shall at the minimum meet any requirements of any governmental agency and shall in general conform to any standards established for such purpose by any industry or other private organization.

5.2.5.6 PROCESS WASTES from other operations other than personal hygiene and food for residents, patrons and employees shall be treated so that contaminant levels in GROUND WATER resulting from such disposal will not exceed those levels specified in 310 CMR 22.00, or existing levels where such existing levels are higher.

5.2.5.7 All runoff from IMPERVIOUS SURFACEs shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. No discharge directly into surface waters without intervening mitigative measures will be allowed.

5.3 Wireless Service Facility

5.3.1 Objectives

This Section permits the construction and use of Wireless Service Facilities within Stow, regulates their impacts and accommodates their location and use in a manner intended to:

A. Protect the scenic, historic, natural and man-made resources of the town;

B. Preserve the general safety, welfare and quality of life in the community;

C. Protect property values;

D. Protect the environment;

E. Guide sound development and encourage the most appropriate use of the land;

F. Encourage the use of certain existing Towers and structures;

G. Limit the total number and height of such facilities to what is essential to meet the need;

H. Promote shared use of facilities where appropriate to reduce the need for new facilities, and

I. Comply with the Communication Act of 1936 as amended by the Federal Telecommunications Act of 1996.

5.3.2 Applicability

A. No Wireless Service Facility shall be ERECTED or installed except in compliance with the provisions of this Section.

B. The requirements of this section shall apply to all Wireless Service Facilities, except where Federal or State Law or Regulations exempt certain users or uses from all or portions of the provisions of this section.

C. No Wireless Service Facility shall be considered exempt from this section by sharing a MOUNT or FACILITY SITE with such exempt uses.

5.3.3 Definitions

In addition to the terms defined in Section 1.3, Definitions, of this Bylaw, the following words, which are technical terms applying to Wireless Service Facilities, shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 1.3, Definitions.

A. ACT: The Federal Telecommunications Act of 1996.

B. ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site, prior to disturbance, to the highest point of a structure with appurtenances.

C. ANTENNA: A device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).

D. APPLICANT: The applicant or co-applicant for any special permit or site plan approval for a Wireless Service Facility shall be a provider of WIRELESS SERVICES, as defined herein, or other entity that has authority from the FCC to provide WIRELESS SERVICES for the facility being proposed. The applicant shall

submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.

E. AVAILABLE SPACE: The space on a Tower or other structure to which ANTENNAS of a Carrier are able to fit structurally and to be technologically feasible.

F. CAMOUFLAGED: A Wireless Service Facility or components that are disguised, painted, colored or hidden by a purpose-built decoy that is made part of an existing or proposed structure or made to resemble an architectural feature of the building or structure on which it is placed.

G. CARRIER: An entity that provides Wireless Services, as defined herein, to individuals, businesses or institutions. Synonymous with Wireless Service Provider.

H. CHANNEL: One of the assigned sub bands of radio frequencies as defined in the ACT, licensed to the CARRIER for wireless service use.

I. CO-LOCATION: The use of a single MOUNT by more than one CARRIER and/or several MOUNTS on a building or structure by more than one CARRIER. Each service co-located at a site is a separate Wireless Service Facility. CARRIERS operating more than one service at a site will be considered to have more than one facility co-located at the site.

J. CONCEALED: A Wireless Service Facility or components are CONCEALED when they are within parts of a building or other structure that was built for another purpose and that is not visible from outside the structure.

K. ENVIRONMENTAL ASSESSMENT: An EA is the document required by the National Environmental Policy Act (NEPA) when a Wireless Service Facility is placed in certain designated areas.

L. EQUIPMENT SHELTER: An enclosed structure, cabinet, shed or box at the base of the Mount within which are housed batteries, generators and electrical equipment.

M. FACILITY SITE: A lot or parcel, or any part thereof, that is owned or leased by one or more CARRIERS and upon which one or more Wireless Service Facility(s) and required landscaping are located.

N. MODIFICATION OF AN EXISTING FACILITY: Any material change or proposed change to a facility including but not limited to power input or output, number of ANTENNAS, change in ANTENNA type or model, repositioning of ANTENNA(s), or change in number of channels per ANTENNA above the maximum number approved under an existing permit or special permit.

O. MONITORING: The measurement, by the use of instruments away from the ANTENNA, including measurements at the lot/leasehold boundary, of the electromagnetic radiation from a site as a whole, or from individual Wireless Service Facilities, Towers, ANTENNAS, or associated power supplies and generators.

P. MONOPOLE: A single, self-supporting vertical pole with no guy wires, and hollow such that the ANTENNA cables are CONCEALED within the structure.

Q. MOUNT: The structure or surface upon which ANTENNAS are Mounted, including the following four types of Mounts:

1. Roof-mount. A mount attached to a building roof to which ANTENNAS are mounted.

2. Side-mount. A mount attached to the side or other non-roof portion of a building to which ANTENNAS are mounted.
3. Ground-mount. A mount anchored into the ground to which ANTENNAS are mounted. Ground mounts include purpose built structures such as poles, bases, posts, MONOPOLES, and towers.
4. Structure-mount. A mount, attached to a structure other than a building, to which ANTENNAS are mounted.

In the absence of a separate structural component to hold an ANTENNA, the ANTENNA shall be considered to be its own ground, roof, side or structure mount.

R. RADIO FREQUENCY ENERGY (RFE): The electromagnetic emissions from 9 kHz to 3,000 GHz.

S. SECURITY BARRIER: A locked fence, a wall or berm that completely seals an area from unauthorized entry or trespass.

T. TOWER: A ground or building MOUNT that is significantly taller than it is wide, built for the purpose of supporting wireless service transmitting, and/or receiving, ANTENNAS and/or related equipment. Components of the Wireless Service Facility used only to attach, contain, or support other elements of that facility are excluded from this definition provided such components are not integrated with, or attached directly to, the tower structure.

U. WIRELESS SERVICES: Commercial mobile radio services, unlicensed Wireless Services, and common Carrier wireless exchange access services, as defined in the ACT. These services include, but are not limited to, cellular services, personal communication services (PCS), specialized mobile radio services, and paging services.

V. WIRELESS SERVICE FACILITY: A complete system operated by one entity on one communications service that is installed at one site, which system contains ANTENNAS, transmission and/or reception equipment, and related equipment for the purpose of supporting wireless communications. A site may contain one or more Wireless Service Facilities.

5.3.4 Location of Facilities, Priorities

5.3.4.1 Wireless Service Facilities shall only be permitted by Special Permit from the Planning Board, acting as the Special Permit Granting Authority, in accordance with MGL Ch. 40A, s.9 on land located in the Wireless Service Facility District.

5.3.4.2 APPLICANTS shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and make a showing that demonstrates that the alternatives are singly or in aggregate insufficient to provide the necessary coverage and/or singly or in aggregate more visible or otherwise have more of a detrimental impact on the community than use of the proposed location. A WIRELESS SERVICE FACILITY, ANTENNAS and MOUNTS shall be permitted according to the following priorities: (a. being the highest priority)

a. on property occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force;
b. within an existing structure, CONCEALED;
c. CAMOUFLAGED on an existing structure, such as but not limited to an existing electric transmission Tower or an existing radio Antenna, a water Tower or building

provided that the installation of the new facility does not increase the height of the existing structure, and of a compatible design;

d. on an existing structure and not to increase the height of the structure by more than 10 feet. In no case shall the height exceed 100 feet AGL except on land occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force;

e. co-located with existing Wireless Service Facilities located within the WIRELESS SERVICE FACILITY District where deemed appropriate by the Special Permit Granting Authority;

f. co-located on a new MOUNT within the Wireless Service Facility District as deemed appropriate by the Special Permit Granting Authority, and

g. if adequately demonstrated to the Planning Board in the special permit process that each of the above types of locations is not feasible, erection of a new facility that complies with the requirements of this section and where visual impact can be eliminated or minimized and mitigated to the maximum extent feasible, including height reductions, camouflaging and other means.

5.3.5 Wireless Service Facility District

This district shall be an overlay district and shall include all parcels of land located in the Industrial and Refuse Disposal Districts and on certain parcels of land in the Commercial and Residential Districts, and on land occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force as depicted on a map dated January 23, 2001 and entitled “Wireless Service Facility District”.

5.3.6 Special Permit

Any new WIRELESS SERVICE FACILITY and any proposed modification of a WIRELESS SERVICE FACILITY shall be allowed only by special permit from the Planning Board as the Special Permit Granting Authority in accordance with MGL Ch. 40A, s.9, subject to the following requirements, conditions and limitations.

5.3.7 Dimensional, Screening and Other Site Development Requirements

5.3.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height

a. Except on land occupied by the State Fire-fighting Academy, the State Entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.

b. On land occupied by the State Fire-Fighting Academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.

c. The height of all wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES FACILITY, the height and

density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual and economic impacts to residential properties off-site, and proposals to screen the visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.

d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL and shall not result in adverse visual or economic impact.

e. Deleted at October, 2009 Special Town Meeting

5.3.7.2 Setbacks – No TOWER, MONOPOLE, or WIRELESS SERVICE FACILITY shall be located within:

a. 1000 feet, measured on a horizontal plane, to all existing residential Buildings and schools or the footprint of a future residential building for which a Building Permit has been issued, except those residential buildings located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use;

b. 1000 feet, measured on a horizontal plane, to all existing municipal buildings, except those located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed, provided, however, that the Special Permit Granting Authority may allow a setback of 900 feet measured on a horizontal plane when it finds that a substantially better design will result from such reduction. In making such a finding, the Special Permit Granting Authority shall consider the visual and safety impacts of the proposed use; and

c. 200 feet from existing non-residential buildings except those located on the LOT upon which the WIRELESS SERVICE FACILITY is to be constructed;

d. Any WIRELESS SERVICE FACILITY shall comply with front, side, and rear YARD dimensional requirements of Section 4.4, Table of Dimensional Requirements, except that such dimensional requirements may be altered by the Planning Board if it finds that a substantially better design will result. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed WIRELESS SERVICE FACILITY.

5.3.7.3 Shelters and Accessory Buildings - EQUIPMENT SHELTERS for Wireless Service Facilities shall be designed to be consistent with one of the following design standards:

a. EQUIPMENT SHELTERS shall be located in underground vaults; or

b. EQUIPMENT SHELTERS shall be designed to be consistent with traditional New England architectural styles and materials. Alternative materials may be used provided that the Special Permit Granting Authority finds the materials to be consistent with character of the neighborhood; or

c. EQUIPMENT SHELTERS shall be screened behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Special Permit Granting Authority shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

5.3.7.4 Security, Signs

a. All Ground Mounted Wireless Service Facilities shall be surrounded by a SECURITY BARRIER to ensure they are completely secure from trespass or vandalism.

b. A one square foot sign shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a 24-hour emergency telephone number(s).

c. Advertising on any ANTENNA, TOWER, fencing, accessory building or communication EQUIPMENT SHELTER is prohibited.

5.3.7.5 Lighting - No exterior night lighting of TOWERS or the WIRELESS SERVICE FACILITY is permitted except for manually operated low intensity security lights installed at or near ground level for use when operating personnel are on site.

5.3.7.6 Historic Buildings and Structures

1) Any WIRELESS SERVICE FACILITY located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building, or

2) Any alteration made to a historic BUILDING or STRUCTURE to accommodate a WIRELESS SERVICE FACILITY shall be fully reversible.

5.3.7.7 Environmental Standards

a. Existing vegetation shall be preserved to the maximum extent practicable.

b. Electric utilities and all network interconnections from the WIRELESS SERVICE FACILITY via land lines shall be via underground lines.

c. No hazardous waste shall be discharged on the site of any WIRELESS SERVICE FACILITY. If any hazardous materials are to be stored or used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

d. Storage of any materials other than those customarily used at the site shall be prohibited.

5.3.7.8 Noise - Ground-Mounted, Roof-Mounted or Side-Mounted equipment for WIRELESS SERVICE FACILITY shall not generate acoustic noise in excess of those levels allowed by the Massachusetts Department of Environmental Protection noise regulation, 310 CMR 7.10 or its successor.

5.3.7.9 RADIO FREQUENCY ENERGY (RFE) Standards - All equipment proposed for a WIRELESS SERVICE FACILITY shall be evaluated for safety compliance per the FCC *Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation* or their successor.

5.3.8 New WIRELESS SERVICE FACILITY - Any new freestanding MOUNT in the Wireless Service Facility District shall be of a MONOPOLE construction with internal ANTENNAS designed to be visually unobtrusive or with surface MOUNT ANTENNAS as determined to be appropriate for the circumstances by the Planning Board or other less obtrusive design as it becomes available.

5.3.9 Justification of Need

5.3.9.1 Coverage Area - The APPLICANT shall provide a map of the geographic area in which the proposed facility will provide Wireless Service. Said map shall be provided as a colored hard copy and in a digital format that is compatible with the Town of Stow

Geographic Information System program(s). The APPLICANT shall provide documentation of the criteria and methodology employed to establish coverage area.

5.3.9.2 Adequacy of Other FACILITY SITES and Controlled by the APPLICANT - The APPLICANT shall provide written documentation of any FACILITY SITES in the town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these FACILITY SITES do not already provide, or do not have the potential to provide WIRELESS SERVICES by site adjustment.

5.3.9.3 Capacity of Existing FACILITY SITES and Potential FACILITY SITES - The APPLICANT shall provide written documentation that it has examined all FACILITY SITES located in the town and in abutting towns or cities in which the APPLICANT has no legal or equitable interest to determine whether those existing facilities can be used to provide Wireless Service. In addition, the APPLICANT shall provide written documentation that it has examined existing commercial Buildings and Structures for opportunities to construct roof and side MOUNTS, or otherwise demonstrate that such a facility is not technologically feasible as a potential FACILITY SITE. The APPLICANT shall demonstrate that potential FACILITY SITES will not provide similar coverage to the APPLICANT'S confirmed Co-locators.

5.3.9.4 Wireless Service Through the Least Disruptive Means –The APPLICANT shall provide written documentation that the proposed facility uses the least disruptive technology (through the creative use technology and materials) in which it can provide WIRELESS SERVICES in conjunction with all FACILITY SITES listed above.

5.3.10 Application

5.3.10.1 APPLICANT - The APPLICANT or co-APPLICANT for any special permit or site plan approval for a WIRELESS SERVICE FACILITY shall be a CARRIER that has authority from the FCC to provide WIRELESS SERVICES for the facility being proposed. The APPLICANT shall submit documentation of the legal right to install and use the proposed facility at the time of the filing of the application for the permit or approval.

5.3.10.2 Pre-Application Conference - Prior to the submission of an application for a Special Permit under this bylaw provision, the APPLICANT is strongly encouraged to meet with the Special Permit Granting Authority at a public meeting to discuss the proposed WIRELESS SERVICE FACILITY in general terms and to clarify the filing requirements.

5.3.10.3 Pre-Application Filing Requirements - The purpose of the conference is to inform the Special Permit Granting Authority as to the preliminary nature of the proposed WIRELESS SERVICE FACILITY. As such, no formal filings are required for the pre-application conference. However, the APPLICANT is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Special Permit Granting Authority of the location of the proposed facility, as well as its scale and overall design.

5.3.10.4 Demonstrated Co-Locators – If proposing CO-LOCATION, the APPLICANT shall submit written proof of commitment.

5.3.11 WIRELESS SERVICE FACILITY Regulations

The Special Permit Granting Authority shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section. At a minimum, such regulations shall require the APPLICANT to provide the following materials with the application:

a. A town-wide map showing all existing Wireless Service Facilities in Stow and those within two miles of its corporate limits, including those recently approved but not constructed.
b. The proposed locations of all future Wireless Service Facilities known to be under consideration in the Town on a Town-wide map for this CARRIER.
c. An appraisal, prepared by a state-certified real estate appraiser, of the economic impact on property values within view of the proposed facility, based upon the impact of substantially similar wireless facilities in substantially similar communities. For the purposes of this paragraph, substantially similar communities shall include communities from the Commonwealth of Massachusetts, with similar market demand, population density and rural character.
d. The results of a drive test conducted by the APPLICANT and based on the pre-application conference.
e. Sight lines, photographs and other visual materials as described below:
    1) Sight line representation. A sight line representation shall be drawn from any public road within 1500 feet and the closest facade of each residential building (viewpoint) within 1500 feet to the highest point (visible point) of the WIRELESS SERVICE FACILITY. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and Buildings. In the event there is only one (or more) residential building within 1500 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.
    2) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit.
    3) Proposed (after condition). Each of the existing condition photographs shall be based on crane or balloon tests and shall have the proposed WIRELESS SERVICE FACILITY superimposed on it to show what will be seen from key locations on any roadways determined by the Special Permit Granting Authority to be relevant to the requested special permit if the proposed WIRELESS SERVICE FACILITY is built. Original photos of crane or balloon test shall be supplied to verify authenticity of the digital simulations.
    4) The APPLICANT shall submit a map of the town that has been annotated with the data collected during the crane or balloon test. The roadways, determined by the Planning Board to be relevant to the requested special permit, shall be highlighted in one color, the points where the crane or balloon was visible at all shall be highlighted in another color, and the points where there is an unscreened view of the crane or balloon shall be highlighted in a third color. The APPLICANT shall designate on the map the location from which the photographs were taken.
    5) The APPLICANT shall submit a map showing the broadcast footprints coverage areas created by varying antenna heights at 50, 75 and 100 feet AGL and at 150 feet AGL where the latter height is permitted. The map shall indicate the different signal strengths and the parameters used to arrive at the data. An explanation of the reasons for selecting the signal strength(s) used to characterize coverage shall be provided. As a minimum the following shall be provided with each map: frequency in MHz, transmitter power output per channel, transmit and receive antenna gains, line loss and amplifier gains (if any), effective radiated power per channel in watts, all quality-of-service assumptions used (including factors for attenuation through foliage and/or structures), signal strength required to meet the stated quality-of-service assumptions, and identification of the computer software used to generate the

footprints. The applicant shall also include, on a separate map of the same scale, signal-strength footprints indicating any existing coverage within the Town of Stow from any applicant-owned or -operated sites in Stow and any existing coverage from adjacent towns that meet the stated quality-of-service assumptions.

f. Within 21 days of filing an application for a Special Permit, the APPLICANT shall arrange for a crane or balloon test, satisfactory to the Planning Board, at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in two newspapers of general circulation in the Town at least 14 days, but not more than 28 days prior to the test. Notification of the test shall be mailed to all postal patrons in Stow. Notification shall also be sent via certified mail with return receipt requested to all parties in interest. The test shall illustrate the proposed height and each subsequent ten-foot interval downward to the vegetation line, or ground, whichever is earlier.

g. Noise Filing Requirements: The APPLICANT shall provide a statement demonstrating the impact of the proposed facility on the acoustic noise environment in the vicinity of the facility. The following conditions shall apply:

1) Existing ambient conditions: characterize existing acoustic noise conditions in the area.

2) Existing plus proposed conditions: characterize acoustic noise produced by the proposed WIRELESS SERVICE FACILITY in relation to the existing ambient conditions as it would affect nearby parcels.

3) If the acoustic noise levels produced by the proposed WIRELESS SERVICE FACILITY are expected to approach or exceed the Massachusetts Department of Environmental Protection requirements, the Planning Board may require a more detailed analysis and/or field measurements prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate.

h. RADIO FREQUENCY ENERGY (RFE) Filing Requirements: The APPLICANT shall provide a statement listing the existing and maximum future projected levels of RFE from the proposed WIRELESS SERVICE FACILITY, for the following situations:

1) Existing, or ambient: characterize existing RFE sources in the area;

2) Existing plus proposed wireless service facilities: characterize RFE from the proposed WIRELESS SERVICE FACILITY plus the existing RFE environment and estimated cumulative RFE impacts, and

3) Certification, signed by a Radio Frequency (RF) engineer, experienced in the field of evaluating RF standards, stating that RFE characterizations are accurate and meet FCC Guidelines as specified in the RFE Standards sub-section of this Bylaw.

5.3.12 Approval Criteria

5.3.12.1 A special permit shall be granted under this section only if the Special Permit Granting Authority finds that the project is in harmony with the general purpose and intent of the Bylaw and the Special Permit Granting Authority's Rules & Regulations. In addition, the Special Permit Granting Authority shall make all of the applicable findings before granting the special permit, as follows:

a. that the APPLICANT is not already providing coverage or is unable to maintain coverage, to the extent that the town is required to accommodate such coverage under federal law, without the special permit;

b. that the APPLICANT is not able to use existing FACILITY SITES within the overlay district to provide coverage to the extent that the town is required to accommodate such coverage under federal law; and that the proposed WIRELESS SERVICE FACILITY minimizes or prohibits, as appropriate, any adverse impact on historic resources, scenic views, residential property values, natural or man-made resources, and the public welfare;

c. that the APPLICANT has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;

d. that the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic energy and that MONITORING shall be paid for by the APPLICANT;

e. that the proposed MOUNT is designed to accommodate the maximum number of users technologically practical but not less than three (3) unless a lesser number is deemed appropriate by the Special Permit Granting Authority;

f. that the APPLICANT has agreed to rent or lease AVAILABLE SPACE on any TOWER it controls within Stow or its contiguous towns, under the terms of a fair-market lease, without discrimination to other Wireless Service CARRIERS;

g. that the facility is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations, and

h. that the proposed WIRELESS SERVICE FACILITY complies with all applicable requirements of this Bylaw.

5.3.12.2 If a special permit is granted, the Special Permit Granting Authority may impose such additional conditions and safeguards as public safety, welfare and convenience may require.

5.3.12.3 Any decision by the Special Permit Granting Authority to deny a special permit under this section shall be in conformance with the ACT, in that it shall be in writing and supported by substantial evidence contained in a written record.

5.3.13 (Intentionally left blank)

5.3.14 Term of Permit

Any Special Permit issued for any WIRELESS SERVICE FACILITY shall be valid for not more than three (3) years, unless such time is extended by the Planning Board, by a period not to exceed one year, to accommodate the coordinated review of special permits for WIRELESS SERVICE FACILITIES. At the end of that time period, the WIRELESS SERVICE FACILITY shall be removed by the CARRIER or a new Special Permit shall be required.

5.3.15 Removal Requirements

5.3.15.1 At such time that a licensed CARRIER plans to abandon or discontinue operation of a WIRELESS SERVICE FACILITY, such CARRIER shall notify the Town by certified mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed CARRIER fails to give such notice, the WIRELESS SERVICE FACILTIY shall be considered abandoned upon such discontinuation of operations.

5.3.15.2 Upon abandonment or discontinuation of use, the CARRIER shall physically remove the WIRELESS SERVICE FACILITY within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

a. Removal of ANTENNAS, MOUNT, EQUIPMENT SHELTERS and SECURITY BARRIERS from the subject property.

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

c. Restoring the location of the WIRELESS SERVICE FACILITY to its natural condition, except that any landscaping and grading shall remain in the after-condition.

5.3.15.3 If a CARRIER fails to remove a WIRELESS SERVICE FACILITY in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility.

5.3.15.4 The Special Permit Granting Authority may require the APPLICANT to post a bond at the time of construction to cover costs for the removal of the WIRELESS SERVICE FACILITY in the event the Town must remove the facility.

5.3.16 Modifications - Modification of a WIRELESS SERVICE FACILITY may be considered equivalent to an application for a new WIRELESS SERVICE FACILITY and will require a Special Permit when the following events apply:

5.3.16.1 The APPLICANT and/or co-APPLICANT wants to alter the terms of the Special Permit by changing the WIRELESS SERVICE FACILITY in one or more of the following ways:

a. Change in the number of facilities permitted on the site;

b. Change in the facilities that materially changes the facilities approved by the Massachusetts Department of Public Health, and

c. Change in the operating parameters of a facility, including, but not limited to, ANTENNAS and cables that increases their quantity or size, that changes in a material way their orientation or other visible characteristics, or that exceeds specifications on the special permit.

5.3.16.2 The APPLICANT and/or co-APPLICANT propose to add any equipment or additional height not specified in the original approval.

5.3.17 Monitoring and Maintenance

5.3.17.1 Upon review of the RFE data submitted by the applicant pursuant to Sections 5.3.7.9 and 5.3.11.h, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of RFE safety compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board shall also determine whether the application as proposed would be compliant with the Federal Communications Commission's regulations concerning environmental effects of radio frequency emissions. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.

5.3.17.2 Upon review of the acoustic noise data submitted by the applicant pursuant to Sections 5.3.7.8 and 5.3.11.g, the Planning Board shall determine if the applicant must provide additional analysis or field monitoring of acoustic noise compliance. The Planning Board may require additional information to be submitted prior to rendering its decision on an application, or as a condition of the Special Permit, or in other such manner as deemed by the Planning Board to be appropriate. The Planning Board may engage the services of independent consultants at the expense of the applicant to evaluate the submissions of the applicant and make recommendations to the Planning Board.

5.3.17.3 The APPLICANT and co-APPLICANT shall maintain the WIRELESS SERVICE FACILITY is safe and in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the MOUNT and SECURITY BARRIER, and maintenance of the buffer areas and landscaping.

5.3.18 WIRELESS SERVICE FACILITY Operating Permit

Any WIRELESS SERVICE FACILITY installed in compliance with this Bylaw shall require an annual Operating Permit from the BUILDING INSPECTOR. No WIRELESS SERVICE FACILITY shall be constructed, operated, altered, repaired or maintained except in exact conformance with such Permit.

5.3.18.1 Application - All applications shall be made to the BUILDING INSPECTOR in such form as he may require, and such applications shall include at least: 1) the location, by STREET number, of the proposed WIRELESS SERVICE FACILITY; 2) the name and address of the WIRELESS SERVICE FACILITY operator in charge and the owner of the LOT where the facility is to be located; 3) a scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the WIRELESS SERVICE FACILITY on the site, and illumination, if any; 4) such other pertinent information as the BUILDING INSPECTOR may require to ensure compliance with the Bylaw and any other applicable law; 5) a copy of the Special Permit, as amended, granted by the Special Permit Granting Authority under this Bylaw; and 6) the application must be signed by the property owner. The BUILDING INSPECTOR shall have the authority to reject any Permit application that is not complete when submitted.

5.3.18.2 Time Limitations - The BUILDING INSPECTOR shall approve or disapprove any application for a Permit within 30 days of receipt of the application. If the BUILDING INSPECTOR should fail to approve or disapprove an application for a Permit within such 30-day period, the application shall be deemed to be approved.

5.3.18.3 Fees - The Board of Selectmen of the Town of Stow shall establish and from time to time review the Permit fee for Wireless Service Facilities which shall be published as part of the Permit application form.

5.3.18.4 Certifications - The owner or operator in charge of the WIRELESS SERVICE FACILITY shall certify annually to the BUILDING INSPECTOR that he is in compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, the Massachusetts Aeronautics Commission, the Massachusetts Department of Public Health regulations, and the American National Standards Institute and evidence of required maintenance shall be filed with the BUILDING INSPECTOR by the special permit holder.

5.3.19 Non-Wireless Facility Structures

Municipal wireless uses, amateur radio uses, and home viewer and listener uses shall not exceed a maximum height sufficient to reasonably accommodate those uses, as required

by Title 47 CFR Part 1 Subpart S Section 1.40000, Title 47 CFR 97.15 (as further defined by FCC PRB-1 101 FCC 2nd 952 (1985) and M.G.L. Chapter 40A, Section 3.

5.4 ACTIVE ADULT NEIGHBORHOOD (AAN)

5.4.1 Purpose - Stow cherishes the wisdom and experience of our citizens, and encourages continuity and participation in the town by its residents. This bylaw is intended to provide housing designed for adult residents age 55 and older who no longer want to maintain a single-family home. Preference shall be given to Stow residents and shall be achieved by local preference requirements as established, in accordance with all applicable law, by the Town of Stow Planning Board under its Rules and Regulations. An AAN shall be designed to:

- promote a sense of community among its residents;
- fit into the surrounding neighborhood while minimizing visual impacts;
- be in harmony with the natural terrain and consistent with Stow's rural New England architectural and village traditions;
- promote community through clustering of BUILDINGS, provision of community gathering spaces such as gardens and commons;
- emphasize protection of existing resources on the site, including natural resources, agriculture, recreation and trail linkages.

5.4.2 Applicability - An AAN shall only be permitted by Special Permit, and any amendments thereto from the Planning Board, acting as the Special Permit Granting Authority, in accordance with MGL Ch. 40A, s.9 on land located in the AAN District.

5.4.3 AAN District

This district shall be an overlay district and shall include parcels of land depicted on a map dated May 13, 2002 and entitled “Active Adult Neighborhood District”, or any amendments thereto. This map is hereby adopted coincident with the adoption of this Bylaw. Development in an AAN District is subject to all provisions of the remainder of the Zoning Bylaw, except to the extent provided in Section 5.4, ACTIVE ADULT NEIGHBORHOOD (AAN). Section 8.9, Inclusion of Affordable Housing, applies to the AAN District, except for the restriction in Section 8.9.5.1.C.iii, which states that the total number of MULTI-FAMILY DWELLINGS shall not exceed 10% of the lots in the development.

5.4.4 Permitted Uses - There shall be permitted in any AAN:

5.4.4.1 Single-family DWELLINGS, single-family DWELLINGS with ACCESSORY APARTMENTS. For the purposes of this Bylaw, an ACCESSORY APARTMENT shall be considered a DWELLING UNIT; and

5.4.4.2 MULTI-FAMILY DWELLINGS that are designed to be consistent in character with the single-family DWELLINGS in the same development. Such MULTI-FAMILY DWELLINGS may be allowed, provided there shall be no more than four (4) DWELLING UNITS in any residential BUILDING; and

5.4.4.3 Accessory uses and structures incidental to principal uses indicated above.

5.4.5 Procedural Requirements

5.4.5.1 Any new AAN and any proposed modification of an AAN shall be allowed only by Special Permit from the Planning Board in accordance with MGL Ch. 40A, s.9, subject to the

requirements, conditions and limitations contained herein and in the regulations adopted by the Planning Board.

5.4.5.2 AAN Regulations
The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section.

5.4.5.3 Application for an AAN Special Permit
An application for an AAN Special Permit shall be submitted in writing that meets the requirements set forth herein and all other information that may be required by the Planning Board under its Rules and Regulations.

5.4.6 Dimensional Requirements - There shall be no minimum LOT area, FRONTAGE, FLOOR AREA RATIO, LOT width or YARD requirements within an AAN or for any LOT or BUILDING within an AAN except as provided in this section. However, an AAN shall comply with the applicable requirements of the Water Resource Protection and Flood Plain Districts. The Planning Board may impose appropriate additional conditions on the location, layout and size of BUILDINGS, STRUCTURES and OPEN SPACE.

An AAN shall be built according to the following dimensional standards:

Minimum TRACT OF LAND area	25 acres
Minimum frontage of TRACT OF LAND	No Minimum Required
Minimum TRACT OF LAND width	No Minimum Required
Minimum SIDE and REAR YARDs of TRACT OF LAND	No Minimum Required
Minimum setback of BUILDINGS, pavement areas other than ACCESS DRIVEWAYs and walkways from all boundaries of the TRACT OF LAND	50 feet
Minimum separation between BUILDINGS and/or STRUCTURES	20 feet
Maximum height of Principal and Accessory STRUCTURES	35 feet
Minimum OPEN SPACE	40% (OPEN SPACE shall not contain more than 50% wetlands, as defined in MGL Ch. 131, S.40 and the Stow Wetlands Protection Bylaw.)
Maximum density	3 DWELLING UNITS per acre of DEVELOPABLE SITE AREA
Maximum DWELLING UNITS per BUILDING	4

5.4.7 Special Standards

5.4.7.1 No more than 66 on-site DWELLING UNITS may be permitted under an AAN Special Permit. In no case shall the total number of DWELLING UNITS in the AAN Overlay District exceed six percent (6%) of the total number of single-family DWELLING UNITS in the Town of Stow.

5.4.7.2 Access Roads and Driveways - In the event that the land that comprises an AAN is located in different zoning districts, it shall be a permitted use in each such zoning district not in the Active Adult Neighborhood Zoning District for roadways and driveways

to provide access to land and BUILDINGS in the Active Adult Neighborhood Zoning District.

5.4.7.3 Each DWELLING UNIT in an AAN shall have at least one separate ground floor entrance/exit, unless the Planning Board permits otherwise as part of its Special Permit. In addition, the Planning Board may establish design guidelines for AANs.

5.4.7.4 The Planning Board, in granting a Special Permit for an AAN, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the tertiary treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential water resources.

5.4.7.5 DWELLING UNITS for Handicapped Persons - The Planning Board may require that some of the DWELLING UNITS be constructed so as to be suited for access and occupancy by a handicapped person or persons.

5.4.7.6 Performance Guarantee - Before the issuance of any building permits for the AAN, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land to the extent applicable and/or the regulations adopted pursuant to the Active Adult Neighborhood Bylaw for this purpose. Exceptions to the Regulations that may be adopted pursuant to this bylaw may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 5.4 of the Bylaw.

5.4.7.7 Revisions and Amendments of an AAN Special Permit - Any change which, in the sole opinion of the Planning Board, would alter the character of an AAN, including, but not limited to, an increase in number of total DWELLING UNITS within the AAN, an increase in the number of parking spaces, a decrease or cessation of any recreation amenities or similar use, structural change or alteration, shall require an amendment of the Special Permit or the filing of an application for a new Special Permit, as the Planning Board may determine.

5.4.7.8 Streets and Utilities - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the Active Adult Neighborhood is a subdivision.

5.4.8 Occupancy - Each DWELLING UNIT in an AAN shall be occupied by at least one person age fifty-five (55) or older.

5.4.8.1 Children under the age of eighteen (18) may not reside in a DWELLING UNIT located in an AAN for more than six (6) months in any nine (9) month period.

5.4.9 Occupancy Income Range - The AAN shall be designed to provide housing for occupants earning a broad range of incomes, as defined by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD) for the Town of Stow. The AAN shall comply with the provisions of Section 8.9 Inclusion of Affordable Housing. In addition, at least 5% of the DWELLING UNITS shall be built to sell at a price affordable to

middle income households, as defined by Executive Order 418 for the Town of Stow. All low income and moderate income and middle income DWELLING UNITS shall contain deed restrictions and comply with the provisions of MGL Ch. 184, s.31 as to resale price and shall provide for notice of any proposed resale and a right of first refusal to the Town of Stow, prior to any such sale.

A. Low income or moderate income DWELLING UNITS created under this section shall be restricted as such in perpetuity and comply with the provisions of MGL Ch. 184, s.31. Middle income DWELLING UNITS created under this section shall be restricted as such in perpetuity and comply with the provisions of the Regulations promulgated in accordance with this Section 5.4.

B. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*

C. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*

D. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*

E. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*

F. *This subsection deleted at the May 4, 2009 Annual Town Meeting.*

G. Rights and privileges - QUALIFIED AFFORDABLE HOUSING PURCHASERS and middle income purchasers shall have all rights, privileges and responsibilities given to owners or renters of market rate DWELLING UNITS, including access to all amenities within the development.

H. A Special Permit issued under this Bylaw shall include the provision that no building permit shall be issued in reliance on said Special Permit, unless and until the Town of Stow has received written correspondence from the Department of Housing and Community Development (DHCD) that the low or moderate income DWELLING UNITS, authorized as a result of the Special Permit, will be included in DHCD's Subsidized Housing Inventory of low income or moderate income housing DWELLING UNITS for the purposes of compliance with the provisions of Massachusetts General Laws Chapter 40B, § 20-23. The correspondence from DHCD must provide documentation that the low or moderate income DWELLING UNITS will be treated as if they were created pursuant to an application for a Comprehensive Permit and qualifying programs thereunder.

I. Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Stow or its designee.

J. Timing of commitments - All contractual agreements with the Town of Stow and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any Special Permit required to commence construction.

K. Timing of construction - As a condition of the issuance of a Special Permit under this Section, the Planning Board may set a time schedule for the construction of both low income or moderate income and market-rate DWELLING UNITS. No Certificate of Occupancy shall be issued for any market-rate DWELLING UNIT in a development, subject to the requirements of this Section, until there have been issued Certificates of Occupancy for low income or moderate income DWELLING UNITS in an amount equal to the percentage of low income or moderate income UNITS, which are to be constructed in the development or provided off-site.

L. The above provisions apply to all on-site, off-site, buildings and existing housing stock made affordable with AAN provided funds.

5.4.10 Planning Board Action

5.4.10.1 In evaluating the proposed AAN, the Planning Board shall consider the general objectives of this Bylaw and of AAN in particular: the existing and probable future development of surrounding areas, the appropriateness of the proposed layout, the configuration, and use of the OPEN SPACE in relation to the characteristics of the tract of land in question. The Planning Board may grant a Special Permit for an AAN if it finds that the AAN meets the purposes of this Bylaw as set forth herein:

A. meets the intended purposes of this Bylaw as set forth herein;

B. provides a useful addition to the housing inventory of Stow;

C. protects and enhances the rural character and environment of Stow;

D. provides OPEN SPACE which is of a size, shape and location and has adequate access so as to benefit the town and the residents of the AAN;

E. is appropriate to the natural terrain of the tract of land to be developed;

F. provides for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;

G. the application set forth a specific plan for maintenance of all common facilities including but not limited to waste disposal and drainage facilities, roadways and other improvements to be constructed in an AAN;

H. will result in the creation of DWELLING UNITS that count toward the Town's "quota" requirements as established by MGL Ch. 40B s. 20-23;

I. complies with all other legal requirements for a Special Permit and the Zoning Bylaw, including those for an AAN; and

J. is consistent with the Stow Master Plan or succeeding plan, as amended.

5.4.10.2 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Town's consulting engineer, and other Boards, Departments and experts, in making said findings.

5.4.10.3 The Planning Board may require changes to the "AAN Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary, to secure the objectives of this Bylaw.

5.4.11 The provisions of this Bylaw are severable from each other, and the invalidity of any provisions or section shall not invalidate any other provision or section thereof.

5.4.12 ACTIVE ADULT NEIGHBORHOOD UNITs constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.

5.5 REGISTERED MARIJUANA DISPENSARY DISTRICT (RMD)

5.5.1 Purpose - This bylaw is intended to provide for the limited establishment of REGISTERED MARIJUANA DISPENSARIES (RMD) in accordance with the Humanitarian Use of Medical Marijuana Act, M.G.L c.94C, App. §1-1 et seq., and as they are authorized pursuant to Massachusetts Department of Public Health (DPH) regulations set forth in 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. The Medical Marijuana Overlay District Bylaw and the Rules and Regulations for RMDs are designed to provide safe and efficient access to regionally and locally appropriate locations for RMDs, and to minimize the adverse impacts of such facilities on abutting properties in the Town of Stow through controls on site design, location, hours of operation and setbacks from USES incompatible with RMDs as established in accordance with all applicable law.

5.5.2 Applicability - Notwithstanding the limitations of the base zoning or any other overlay district, a REGISTERED MARIJUANA DISPENSARY shall only be allowed within the RMD district upon the granting of a Special Permit by the Planning Board in accordance with the M.G.L. c.40A §9, on land located in the RMD District and subject to the requirements set forth in this section, the Zoning Bylaw and the Rules and Regulations for REGISTERED MARIJUANA DISPENSARIES adopted by the Planning Board.

5.5.2.1 Notwithstanding the limitations stated in section 5.5.2, the establishment and operation of a RMD, limited to the retail component, may be permitted in the Business District under section 3.3 of this BYLAW and in accordance with all applicable DPH regulations as stated in 105 CMR 725.000.

5.5.3 REGISTERED MARIJUANA DISPENSARY OVERLAY DISTRICT

5.5.4 Permitted Uses – There shall be permitted in any RMD District:

5.5.4.1 REGISTERED MARIJUANA DISPENSARIES subject to Special Permit granted by the Planning Board pursuant to 105 CMR 725.000.

5.5.4.2 Accessory structures incidental to the principal uses indicated above.

5.5.5 General Requirements

5.5.5.1 RMD Regulations
The Planning Board shall adopt and maintain a set of regulations that contain the necessary policies, procedures and requirements to implement the provisions of this Bylaw.

5.5.5.2 Application for a RMD Special Permit

An application for a RMD Special Permit shall be submitted in writing pursuant to the requirements set forth Section 5.5, et seq., the RMD Rules and Regulations and Town of Stow Site Plan Approval Rules and Regulations.

5.5.5.3 Limitation of Approval

A Special Permit authorizing the establishment of a REGISTERED MARIJUANA DISPENSARY shall be valid only for the registered entity to which the Special Permit was issued, and only for the site on which the RMD has been authorized to locate. If the registration for an RMD has been revoked, transferred to another controlling entity, or relocated to a different site within the RMD, the Special Permit shall become null and void and a new Special Permit shall be required to reestablish the use of the RMD.

5.5.5.4 Hours of operation for the RMD shall be set by the Special Permit Granting Authority.

5.5.6 Location Requirements

5.5.6.1 All RMDs shall be contained within a building or structure.

5.5.6.2 No RMD, including the retail component of a RMD in the Business District, shall be located within a building which houses residential units.

5.5.6.3 No RMD shall be located within a moveable structure or trailer, not limited to a mobile home or truck. All sales shall be conducted within the building or through home deliveries to qualified patients consistent with the regulations pursuant to 105 CMR 725.000.

5.5.6.4 No RMD shall be permitted within (300') three hundred feet of the lot line of the following uses:

- Daycare facilities
- Schools
- Public Parks
- Playgrounds
- Drug or alcohol rehabilitation facility
- Correctional facility, half-way house, or similar facility
- Any other REGISTERED MARIJUANA DISPENSARY not involved in the processing, selling or retailing of MARIJUANA products for which the Special Permit is being issued.

The distance under this section is measured in a straight line from the nearest point of the property line of a use fitting the criteria of Section 5.5.5.8 to the nearest building footprint of the proposed RMD.

5.5.7 Site and Dimensional Requirements

5.5.7.1 Dimensions – RMDs shall conform to the dimensional requirements of the underlying district set forth in the Section 4.4 of the Stow Zoning Bylaw, Table of Dimensional Requirements.

5.5.7.2 Height – RMDs shall conform to the height regulations set forth in Section 4.2 of the Stow Zoning Bylaw.

5.5.7.3 Parking and Loading – The required number of parking and loading areas servicing the RMD shall conform to Parking Regulations in Section 7 of the Zoning Bylaw. The Planning Board, at its sole discretion, may require a copy of projected need and patient population studies pursuant to the DPH Regulations to determine whether there is sufficient parking and loading area on site for the expected traffic and demand. Based on the transportation analysis, or other relevant documents, not limited to market analyses and/or trade area studies submitted as part of the Special Permit application, the Planning Board may deviate from the required number of parking spaces to ensure an adequate number of parking spaces and to preclude an excess amount of traffic on site.

5.5.7.4 Signage – RMDs shall meet the requirements of Section 6.3 of Zoning Bylaw regulating signs, in addition to conforming to sign regulations pursuant to 105 CMR 725.000.

5.5.7.5 Lighting – Lighting for the RMD, including all accessory structures, parking and security requirements, shall comply with Section 3.8.1.5 (exterior lighting) of the BYLAW, unless upon review of a lighting plan, the Planning Board determines that additional light is needed to facilitate exterior surveillance in accordance with the DPH Regulations 105 CMR 725.110 A10.

5.5.8 Planning Board Action

5.5.8.1 In evaluating the proposed RMD Special Permit application, the Planning Board shall consider the general objectives of the Zoning Bylaw, as well as the degree to which the following criteria are met:

a) The RMD is located to serve a population that does not have reasonable access to RMD services.
b) The RMD site is located at least (300') three hundred feet distant from areas where children commonly congregate, as well as land uses containing a rehabilitation or group home.
c) The site is designed to create safe, secure and efficient access and egress to customers and employees using multiple modes of transportation, including vehicle, bicycle and pedestrians.
d) Traffic generated by clients, employees and delivery schedules from the RMD shall not create a substantial adverse impact on nearby residential uses.
e) The RMD proposal complies with all legal requirements for a Special Permit, including the Stow Zoning Bylaw, the Site Plan Approval Rules and Regulations for a REGISTERED MARIJUANA DISPENSARY and all requirements pursuant to the

Department of Public Health Regulations 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana.

f) Loading and refuse disposal areas are designed to be safe, secure and shielded from abutting uses.

g) The building and site have been designed in a manner consistent and compatible with nearby structures of a similar size and use and in a manner that mitigates any negative aesthetic impact imposed by the required security conditions, measures and restrictions stated in the Department of Public Health Regulations pursuant to 105 CMR 725.000.

5.5.8.2 The Planning Board shall consider the recommendation of the Board of Health, the Conservation Commission, the Town's consulting engineer, and other Boards, Departments and agents, in making said findings.

5.5.8.3 The Planning Board may require changes to the "RMD Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary, to secure the objectives of this Bylaw.

5.5.9 If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, or the application of those provisions to persons or circumstances other than those to which it is held invalid, the remaining provisions of this Bylaw shall not be affected thereby, and to this end the provisions of this Bylaw are severable.

5.5.10 A REGISTERED MARIJUANA DISPENSARY permitted under this Bylaw shall as a condition of its special permit file an annual report to the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the Dispensary and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

SECTION 6

GENERAL REGULATIONS

6.1 Hammerhead LOTs

In a Residential District, a LOT known as "Hammerhead LOT" may be granted by special permit by the Planning Board, under the requirements and process for a special permit, provided that the Board is able to make a finding that all the following conditions have been met:

6.1.1 The LOT has a frontage of at least 50 feet;

6.1.2 The LOT has an area of at least 180,000 square feet;

6.1.3 The LOT has sufficient area suitable for BUILDINGs. The area suitable for BUILDINGs shall be considered sufficient if

6.1.3.1 a circle of 150 feet in diameter, or

6.1.3.2 a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan within the buildable area and not overlap any LOT line or any wetlands or Flood Plain District;

6.1.4 The LOT has a minimum width of 50 feet between the STREET LINE and the buildable area. A LOT means the minimum width requirement if a 50-foot diameter circle can move on the LOT plan from the STREET LINE to the buildable area without overlapping or crossing any LOT line or any Flood Plain District line;

6.1.5 Any BUILDING on the LOT be set back at least 40 feet from every property line;

6.1.6 A condition of the permit be that the LOT shall not be further divided; and

6.1.7 Sufficient sight distance to permit safe access to the way is provided in both directions at the point of access from the LOT across its frontage. Sight distance shall be deemed sufficient if, in feet, it is equal to at least six times the posted or allowable speed (miles per hour) of the way onto which access is provided.

6.2 Common Drive

Common drives are encouraged and may be allowed as provided in this section. In the Residential District, construction of a private drive to be shared by more than one LOT, but not more than three (3) LOTS, is permitted subject to the following specifications:

6.2.1 The common drive surface shall be twelve (12) feet wide. It shall have an 11-inch gravel base and a 4-inch compacted dense graded surface.

6.2.2 The maximum length of the common drive shall be five hundred (500) feet and shall be measured from the near side line of the street along the center line of the common drive to the throat of the furthest junction. As part of an approved subdivision or special permit granted by the Planning Board, the length of a common drive may be longer than five hundred (500) feet.

6.2.3 The common drive shall lie entirely within the LOTs being served.

6.2.4 Use of the common drive by vehicle traffic shall be limited to ingress and egress and does not include the parking of vehicles on the common drive, except that occasional overflow parking of guests' vehicles shall be permitted, provided that such vehicles are parked in a manner that does not impede traffic flow and that such parking does not extend overnight.

6.2.5 The owners of the LOTS shall bear and have joint and several responsibilities and obligations for the repair, maintenance, reconstruction and snowplowing of the common drive, so as to provide continuous year-round access for vehicle traffic for the convenience of the owners of the LOTS, and to provide continuous year-round access for all emergency, fire, rescue, police, moving, construction and maintenance vehicles. No building permit shall be issued until a restriction or covenant to run with the land has been approved by the Planning Board in a form satisfactory to assure compliance with this provision and a copy of the document received by the BUILDING INSPECTOR.

6.2.6 An Erosion Control and Sedimentation Plan, in accordance with Planning Board Rules and Regulations governing the same, shall be submitted to and approved by the Planning Board.

6.2.7 As part of an approved subdivision or special permit granted by the Planning Board, the number of LOTs served by a common drive may be increased to five (5).

6.3 SIGNS

6.3.1 The following general regulations shall apply to all SIGNS in all districts:

6.3.1.1 No SIGN shall be ERECTED except as provided in this Bylaw;

6.3.1.2 No SIGN shall be ERECTED to in any way create a traffic hazard or confuse traffic control;

6.3.1.3 Only continuous white lights shall be used for illumination of a SIGN. The illumination for any SIGN shall be shielded, directed and maintained so as to cast no direct beam up into the sky, on a public or private way, pedestrian way, or adjacent property, and shall be of sufficiently low intensity that it shall not cause a glare or reflection that may constitute a traffic hazard or a nuisance. SIGNS shall not be illuminated between 9:00 p.m. and 5:00 a.m., except during business hours;

6.3.1.4 Any SIGN, including pre-existing signs, not properly maintained or which applies to products or activities which are no longer offered shall be removed;

6.3.1.5 SIGNS which are oscillating, internally illuminated, flashing or operating with moving parts are not permitted;

6.3.1.6 Each PERMANENT SIGN shall display its permit number at a location readily visible to the inspector;

6.3.2 Pre-existing SIGNS - Any SIGN legally ERECTED prior to the adoption of this Bylaw may continue to be maintained, provided, however, that no such SIGN shall be enlarged or altered except in conformance with a permit issued in accordance with the provisions of this Bylaw.

6.3.3 On Site - Permanent - PERMANENT SIGNS are permitted subject to the General Regulations of following subsections:

6.3.3.1 Residential and Recreation-Conservation Districts:

1. One (1) ON-SITE SIGN is permitted not exceeding five (5) square feet in area on State numbered highways and three (3) square feet in area elsewhere.
2. One (1) ON-SITE SIGN pertaining to the rent, lease or sale of land or BUILDING(s) not exceeding three (3) square feet in area. All such SIGNS shall be removed within seven (7) days of rental, lease or sale of land or BUILDING.
3. One ON-SITE SIGN pertaining to agriculture, as permitted in Sections 3.1.1.2, 3.1.1.3, 3.1.1.5, and Section 3.2.1,1, each not exceeding sixteen (16) square feet in area, may be ERECTED.

6.3.3.2 Business, Compact Business, Commercial, Industrial and Refuse Disposal Districts:

1. For each establishment, one (1) ON-SITE SIGN attached to the facade of the BUILDING not exceeding the lesser of one square foot for each one lineal foot of business, commercial or industrial BUILDING frontage or eighty (80) square feet in area.
2. Window SIGNS in total may be the larger of 30% of the window or three (3) square feet.
3. One (1) primary free standing SIGN visible from the main public way not exceeding twenty (20) square feet in area.
4. In the case of multiple businesses in the same BUILDING or sharing the same access and/or parking facilities, only one SIGN is permitted per principal access.
5. If the business is on a corner LOT and the primary SIGN is not visible from the intersecting road, a secondary SIGN not larger than 50% of the primary SIGN is permitted.
6. One (1) ON-SITE SIGN pertaining to the rent, lease or sale of land or BUILDING(s) not exceeding six (6) square feet in area. All such SIGNS shall be removed within seven (7) days of rental, lease or sale of land or BUILDING.

6.3.4 Off-site SIGNS - The following off-site SIGNS are permitted subject to any required approvals of the State Department of Public Works or the Outdoor Advertising Board.

6.3.4.1 Seasonal Agriculture:

1. SIGNs for uses permitted/allowed in Sections 3.1.1.2, 3.1.1.3, 3.1.1.5 and Section 3.2.1.1, one not to exceed sixteen (16) square feet in area, and other such SIGNs not to exceed twelve (12) square feet, with a total square footage of all such SIGNs not to exceed seventy five (75) square feet.
2. One (1) slot on each community agricultural ladder SIGN posted at the Town entrances, subject to dimension and format requirements of the Planning Board and written approval of the Stow Agricultural Commission.
3. Seasonal agriculture SIGNs may be ERECTED one (1) week prior to the beginning of sales and must be removed one (1) week after sales are completed.
4. The Planning Board may grant a waiver from the requirements of this Section.

6.3.4.2 Directional SIGNs for Businesses located in Stow: A free-standing pole may be ERECTED at intersections of town roads, located not to obstruct vision on the right of way and affixed with directional SIGNS, with the approval of the Board of Selectmen;

1. Non-agricultural directional SIGNS shall be 6" x 24" and have a dark green background. Lettering shall be yellow and no more than 4" in height.
2. A directional SIGN may bear only the name of a business, logotype, distance and directional arrow.
3. Directional SIGNS shall not be illuminated.
4. The maximum number of SIGNS per business shall not exceed three (3) located at different intersections.
5. Maximum of two (2) direction SIGN poles per intersection, excluding agricultrual directional SIGNs.
6. The maximum height of a direction SIGN pole is eight (8) feet above the road surface.
7. Direction SIGN poles and locations will be subject to the approval of the BUILDING INSPECTOR and Superintendent of Streets.
8. A maximum of eight (8) businesses may share a pole for direction SIGNS.
9. The cost of the SIGNS, pole and maintenance shall be the sole responsibility of the SIGN owners.
10. Agricultural directional SIGNS shall be 6" x 24". The colors for the background and lettering and logos may be consistent with the marketing colors and logo used by the agricultural businesses. There is no restriction to lettering or logo size.

6.3.5 TEMPORARY SIGNS - TEMPORARY SIGNS up to three (3) square feet in area may be placed on private or public land. Each SIGN shall include the name, address and telephone number of the person responsible for the SIGN and date of posting. Any SIGN without this information is in violation of this Bylaw and shall be removed at the owner's expense. Failure of the owner to remove any SIGN within twenty-one (21) days of posting is a violation of this Bylaw.

Each event shall be allowed up to ten (10) TEMPORARY SIGNS. Similar events which occur at the same location and on consecutive days shall be deemed to be one event.

6.3.6 Exceptions - In all districts the following exceptions shall apply, but these SIGNS should reasonably comply with Town bylaws where possible. No permit is required unless otherwise specified:

6.3.6.1 Federal, state and Town of Stow SIGNS are exempt from the provisions of this section;

6.3.6.2 Religious and charitable organizations are permitted up to three (3) SIGNS with a combined area not exceeding forty (40) square feet, but require a permit;

6.3.6.3 Historical markers or tablets, if approved by the Stow Historical Commission, are exempt;

6.3.6.4 Window SIGNS stating hours of operation, affiliations, credit cards and emergency information are exempt, provided each such SIGN does not exceed one half (1/2) square foot;

6.3.6.5 SIGNS regulating the use of or access to land are exempt if less than one (1) square foot in area;

6.3.6.6 SIGNS endorsing political campaigns or issues are exempt, provided such SIGNS are no larger than six (6) square feet and are removed within seven (7) days after the election to which they pertain; and

6.3.6.7 SIGNS showing the name only of the resident for identification are not exempt, but shall not require a permit.

6.3.7 Administration and Enforcement

6.3.7.1 Administration - There is hereby created a Sign Officer who shall be appointed annually by the Board of Selectmen.

6.3.7.2 Permits - No PERMANENT SIGN shall be ERECTED unless a permit has been issued by the Sign Officer. TEMPORARY SIGNS do not require a permit. The permit fee shall be $2.00 per square foot payable to the Town of Stow when the permit application is submitted. There shall be no charge for seasonal agricultural SIGNS.

6.3.7.3 Application - Permit applications shall be submitted to the Building Department and shall include at least:

1. the location, by street number, of the proposed SIGN;
2. the name and address of the SIGN owner and of the owner of the premises where the SIGN is to be located;
3. a scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the SIGN on the site and method of illumination;
4. all existing SIGNS maintained on the premises;
5. such other pertinent information as the BUILDING INSPECTOR and/or Sign Officer may require to ensure compliance with this Bylaw and any other applicable law; and
6. the signature of the owner of the SIGN and the owner of the premises where the SIGN is to be located.

The Sign Officer shall have the authority to reject any SIGN permit application which is not complete when submitted.

6.3.7.4 Approval - The Sign Officer shall approve or disapprove any application for a SIGN permit within thirty (30) days of receipt of the application by the Building Department. If the Sign Officer should fail to approve or disapprove an application for a SIGN permit within such thirty (30) day period, the application shall be deemed to be approved. The Sign Officer shall issue a permit number with each approval or deemed approval.

6.3.7.5 Enforcement -

1. The BUILDING INSPECTOR and/or Sign Officer shall, at reasonable times, have the power to enter upon the premises on which any SIGN is ERECTED or maintained in order to inspect said SIGN.
2. If the BUILDING INSPECTOR determines that a SIGN is in violation of this Bylaw, he shall give written notice to the owner of such SIGN, and to the owner of the premises on which such SIGN is located, to remove or modify the SIGN within thirty (30) days to be in accordance with the provisions of this Bylaw. Failure to comply with the notice or appeal the decision constitutes a violation of this Bylaw. Immediate removal may be ordered for any SIGN requiring a permit

which is ERECTED without first obtaining such permit, or which is a safety hazard.

3. All SIGNS without a permit number displayed will be removed at the owner's expense, except any SIGN legally ERECTED prior to the adoption of this Bylaw.

6.3.7.6 Right of Appeal - Any person who is dissatisfied with the decision of the BUILDING INSPECTOR or Sign Officer may appeal to the Board of Appeals within thirty (30) days from the date of such refusal, order or decision. If the action of the Inspector is modified or annulled, the BUILDING INSPECTOR shall issue a permit or order in accordance with the decision of the Board.

6.3.7.7 Variation in Specific Cases - The Board of Appeals may vary the provisions of this Bylaw in specific cases which appear to them not to have been contemplated by this Bylaw, and in cases wherein its enforcement would involve practical difficulties or unnecessary hardship, if, in each instance, desirable relief may be granted without substantially derogating from the intent of this bylaw but not otherwise. Any decision to vary the provisions of this Bylaw shall be by at least a 4/5 vote of the Board and shall specify any variance allowed and the reasons therefor.

6.3.7.8 Penalties - Any SIGN owner or property owner who violates this Bylaw shall be subject to a fine of not more than $50.00 per day. Each day that a violation continues shall constitute a separate offense.

6.4 TRAILERS and MOBILE HOMES

No TRAILER or MOBILE HOME shall be moved onto any LOT within the Town for use as a DWELLING except as provided in MGL Ch. 40A, s.3.

6.5 Earth Removal

Except for earth removal operations in existence at the time notice was given of the public hearing on the amendment of the Zoning Bylaw by adoption of this section, no soil, loam, sand or gravel may be removed from any land in Stow, except for earth removal operations in existence under a permit duly issued under the Earth Removal Bylaw (Police Regulations, Article 6, Section 22) and except as provided under Section j. of said bylaw.

6.6 FENCES

6.6.1 In residential districts, no FENCE or WALL shall exceed eight feet in height.

6.6.2 In residential districts, FENCES shall be set back a minimum of one foot from the property lines. In instances when the FENCE is primarily intended to enclose animals, it shall be set back a minimum of three (3) feet from the property line.

6.6.3 Swimming Pools Fencing:

6.6.3.1 Every outdoor swimming pool, whether or not filled with water, shall be completely surrounded at all times by a FENCE or WALL, in compliance with The Massachusetts State Building Code, 780 CMR, Section 421.

SECTION 7

PARKING REGULATIONS

7.1 Purpose

The purpose of this section is to ensure that all uses be provided with sufficient off-street parking and loading facilities to meet the needs of the proposed and actual uses; to ensure that off-street parking and loading facilities are designed so as to reduce hazards to pedestrians and drivers; to reduce congestion in the STREETS; to reduce nuisance to abutters from noise, fumes and headlight glare ordinarily associated with parking and loading areas; to reduce the environmental deterioration to surrounding neighborhoods resulting from glare, storm water runoff, heat, dust and unattractive views associated with large expanses of pavement and vehicles.

7.2 General Provisions

An adequate number of off-street parking spaces shall be required in all districts to accommodate residents and visitors. Therefore, no BUILDING or STRUCTURE shall be located upon any LOT and no activity shall be conducted upon any LOT unless the required parking facilities are provided on site in accordance with this Section.

7.2.1 Changes - Any change to a BUILDING, STRUCTURE or USE, or a change from one permitted USE to another permitted USE shall comply with the requirements of the Schedule of Minimum Parking for the entire BUILDING, STRUCTURE or USE as changed.

7.2.2 Undetermined Uses - Where the use of a BUILDING or BUILDINGs has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the district where such undetermined use is to be located shall apply provided, however, that the number of parking spaces actually built need not exceed the number required by the actual use or uses of the BUILDING when established to the satisfaction of the permit granting authority by calculation and/or appropriate condition or covenant in recordable form.

7.2.3 Relief from Parking Regulations - Relief from the Parking Regulations as otherwise required in the Bylaw may be obtained as follows:

7.2.3.1 Special Permit from the Board of Appeals - Relief from the parking regulations may be granted by special permit from the Board of Appeals, where the Board finds that it is not practicable to provide the number of parking spaces required, if either (1) in the case of a change from a NONCONFORMING USE to a conforming USE, that the benefits of a change to a conforming USE outweigh the lack of parking spaces, or (2) in the case of a change from one conforming USE to another conforming USE, that the lack of parking spaces will not create undue congestion or traffic hazards on or off the site.

7.2.3.2 Industrial Uses - Relief from buffer and landscape requirements for Industrial Uses - In the case of a continuous parking lot(s) associated with a conforming use in an industrial district, the buffer and landscape requirements in Subsections 7.7.5, 7.7.6 and 7.7.7 may be varied in accordance with Planning Board Rules and Regulations governing the same or in accordance with the Planning Board's Design Review Approval of off-street parking and loading area design requirements. Design Review Approval shall include

the requirement for a landscape parking plan using Stormwater Best Management Practices.

7.2.4 Use of Required Parking as Commercial or Public LOT - No parking area designated as required parking in connection with a BUILDING, STRUCTURE or USE shall be operated as a commercial or public parking lot to provide spaces for the general public (excluding customers, clients, patients, guests or business invitees of the owner or tenant of each BUILDING or STRUCTURE) for a fee or other compensation.

7.2.5 Reserved Parking spaces - Where the total number of off-street parking spaces required are not immediately required for a particular intended USE as established to the satisfaction of the permit granting authority (or BUILDING INSPECTOR if no special permit or site plan approval is required), a phased development plan may be permitted requiring that only a portion of the parking area, but not less than sixty-five percent (65%) of the required spaces, be completed initially, subject to the following provisions:

7.2.5.1 The total number of spaces required to be shown on the plan shall be determined in accordance with the provisions of this Bylaw;

7.2.5.2 The spaces that are not intended for construction immediately shall be labeled "Reserve Parking" on the plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development, and in no case located within area counted as buffer, setback or OPEN SPACE under other provisions of this Bylaw;

7.2.5.3 Adequate drainage shall be provided for both the partial and total parking areas;

7.2.5.4 The portion of the parking areas not to be paved initially shall be landscaped with a ground cover to prevent erosion. The ground cover shall be appropriate for soil conditions, water availability and the environment;

7.2.5.5 An appropriate condition shall be in the special permit or other instrument, such as a covenant, in recordable form, which shall be recorded at the Registry of Deeds or filed with the Land Court, as the case may be, to establish the intended use and provisions for any future changes to the satisfaction of the Permit Granting Authority, which condition or covenant shall run with the land and be enforceable by the Town.

7.3 Schedule of Minimum Parking - General Requirements

7.3.1 Comparable USE Requirement - Where a USE is not specifically included in the Schedule of Minimum Parking, it is intended that the regulations for the most nearly comparable USE specified shall apply. Alternative off-street parking standards to those shown below may be accepted if the applicant demonstrates to the satisfaction of the Permit Granting Authority (or BUILDING INSPECTOR if no special permit or site plan approval is required), or their designee, that such standards are adequate for the intended USE.

7.3.2 Mixed Use Facilities - BUILDINGs or LOTS which contain more than one USE are considered mixed use facilities. In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each use, so that adequate space shall be provided to accommodate all vehicles anticipated on the premises at any one time. Parking spaces for one USE shall not be considered as providing the required spaces for any other USE, except when it can be clearly demonstrated that the need for parking occurs at different times.

7.3.3 Schedule of Minimum Parking

7.3.3.1 Agricultural

Greenhouse	1 space for each 250 sq. ft. of GROSS FLOOR AREA of inside sales or display room.

7.3.3.2 Recreation

Camps	1 space per 10 children of rated capacity of camp plus 1 space per employee and 1 space per camp vehicle kept on the premises.
Handball, racquetball, tennis courts	3 spaces per court plus 1 space per employee on the largest shift.
Golf Courses	5 spaces per hole plus 1 space per employee on the largest shift plus 50 percent of the spaces otherwise required for accessory uses (restaurants, bar, etc.).
Swimming pool	1 space per 75 sq. ft. of GROSS FLOOR AREA.
Bowling alley	4 spaces per alley.
Skating rink	1 space per 300 sq. ft. of GROSS FLOOR AREA of facility plus 1 space per employee on the largest shift.
Other outdoor recreational facilities	1 space per 4 persons generally expected on the premises at any one time.

7.3.3.3 Residential

DWELLINGS	2 spaces for each DWELLING UNIT containing less than 5 bedrooms plus one parking space for each additional bedroom and sufficient off-street parking for visitors.
BOARDING HOUSE	2 spaces plus 1 space per rentable room or suite.
Bed and Breakfast	1 space for each bedroom plus 1 space per employee on the largest shift.
Home Occupation	2 spaces for the DWELLING UNIT and sufficient spaces to comply with section 3.2.1.7.
INDEPENDENT ADULT LIVING RESIDENCE	1 space for each employee on the shift having the greatest number of employees, including resident staff. The number of resident spaces shall be 40% of the total units.

7.3.3.4 Institutional

Schools, elementary and middle	2 spaces for each classroom, but not less than 1 space per teacher and staff position plus 1 space for each 5 seats of rated capacity of the largest auditorium or gymnasium.
High schools	1 space per teacher and staff position plus 1 space per 5 students.
Other non-profit educational uses	To be determined by Permit Granting Authority (or BUILDING INSPECTOR if no special permit required) based upon the most comparable other use in the table.

Nursing home, elder care facility	1 space for each 2 beds plus 1 space for each employee on the largest shift and adequate spaces for delivery vehicles.
Religious	1 space per 3 seats or 1 space for each 4 persons to maximum rated capacity of the hall or meeting room, whichever is greater.
Libraries, museums, community centers	1 space per 300 sq. ft. of GROSS FLOOR AREA.
Lodge or club	1 space per 3 seats.
Day-care	1 space per 10 children of rated capacity of the day-care facility plus 1 space for each teacher and staff person on the largest shift.

7.3.3.5 Business

Retail stores not listed below, general and personal services, studio	1 space for each 200 sq. ft. of GROSS FLOOR AREA.
Business or professional office	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Restaurant, funeral home	1 space for each 3 seats plus 1 space for each employee on the largest shift.
Quick food restaurant, video rental store, other quick service establishments	1 space for each 30 sq. ft. of GROSS FLOOR AREA.
Motor vehicle service station, repair or body shop	4 spaces for each service bay and work area.
Shopping center	1 space per 250 sq. ft. of gross leasable area.
Vehicle dealership, boat sales, rentals	1 space per 1,500 sq. ft. of GROSS FLOOR AREA and 1 space per 1,500 sq. ft. of exterior display area
Veterinary, kennel	2 spaces per exam room plus 1 space for each additional employee on largest shift.
Medical center, laboratories	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Building trade shop	1 space for each 800 sq. ft. of GROSS FLOOR AREA.
Convenience store	1 space per 250 sq. ft. of GROSS FLOOR AREA.
Financial institutions	1 space per 300 sq. ft. of GROSS FLOOR AREA.
HOTEL, INN, MOTEL	1 space for each bedroom plus 10 per 1,000 sq. ft. of GROSS FLOOR AREA and adequate spaces for delivery vehicles.

7.3.3.6 Industrial

Manufacturing, packaging, processing and testing	1 space for each 800 sq. ft. of GROSS FLOOR AREA.
Warehouse	1 space per 5,000 sq. ft. of GROSS FLOOR AREA.

7.4 Off-Street Loading Areas

One or more off-street loading areas shall be provided for any business that may be regularly serviced by tractor-trailer trucks, SU-30 design vehicles or other similar delivery vehicles. Adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each BUILDING and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

7.5 Standard Parking Dimensional Regulations

7.5.1 Off-street parking areas shall be located on the same or adjacent parcel as the use they are designed to serve.

7.5.2 Access to parking and loading areas shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress and egress from all parking spaces and loading areas to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.

7.5.3 Where sidewalks occur in parking areas, parked vehicles shall not overhang the sidewalk unless an additional two (2) foot sidewalk width is provided in order to accommodate such overhang.

7.5.4 Parking areas shall comply with the requirements of the Architectural Access Board or other such regulatory authority.

7.5.5 Paved off-street parking areas shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking	Width of Parking Stall	Parking Stall Length of Line	Width of MANEUVERING AISLE
90° (two-way)	9.0'	18.0’	24.0'
75° (one-way)	9.0'	19.0'	22.0'
60° (one-way)	10.4'	22.0'	18.0'
45° (one-way)	12.7'	25.0'	14.0'
Parallel (one-way)	8.0'	22.0'	14.0'
Parallel (two-way)	8.0'	22.0'	18.0'

7.6 Small Car Stalls

In parking areas containing more than forty (40) parking stalls, thirty percent (30%) of such parking stalls may be for small car use, except for retail store, personal service facility, general services or restaurant uses. Such small car stalls shall be grouped in one or more contiguous areas and shall be identified by a SIGN(S).

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

Angle of Parking	Width of Parking Stall	Parking Stall Length of Line	Width of MANEUVERING AISLE
90° (two-way)	8.0’	16.0’	24.0'
75° (one-way)	8.5’	17.0'	22.0'
60° (one-way)	9.8’	18.5’	18.0'
45° (one-way)	12.0'	21.5’	14.0'
Parallel (one-way)	8.0'	18.0’	14.0'
Parallel (two-way)	8.0'	18.0'	18.0'

7.7 Off-Street Parking and Loading Area Design Requirements

Any parking area serving a USE or USEs other than a single-family DWELLING, duplex DWELLINGS, ACCESSORY APARTMENTs, SENIOR LIVING RESIDENCE or an INDEPENDENT ADULT RESIDENCE with ten (10) or fewer residents, shall be designed in compliance with the following standards. Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage which is suitable in accordance with good engineering practices. Any parking area containing five (5) or more parking spaces shall include landscaping as required below which is satisfactory to the Permit Granting Authority (if the parking area is related to a PERMITTED USE for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, in accordance with good engineering practices, located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety and to minimize the adverse effects of the parking or loading facility on the natural environment.

7.7.1 Setbacks: Except where greater setbacks may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS DRIVEWAYs, common driveways or walkways, shall be located within thirty (30) feet of the front LOT line and within ten (10) feet of the side and rear LOT lines.

7.7.2 ACCESS DRIVEWAYs: Each LOT may have one ACCESS DRIVEWAY through its FRONT YARD, which shall be twenty-four (24) feet wide, unless in the opinion of the Permit Granting Authority (if the parking area is related to a PERMITTED USE for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, in accordance with good engineering practice for safety or other reasons, a wider and/or greater number of ACCESS DRIVEWAY is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS DRIVEWAY for one-way traffic only may be a minimum of fourteen (14) feet wide. There shall be no more than one additional ACCESS DRIVEWAY for each 200 feet of frontage, and all such additional ACCESS DRIVEWAYs shall be at least 200 feet apart on the LOT, measured from the centerline of each ACCESS DRIVEWAY. Other than secondary access for emergency use, no driveway for a non-residential principal use shall cross land in a residential zoning district in which the principal use is not allowed.

7.7.3 INTERIOR DRIVEWAYs: INTERIOR DRIVEWAYs shall be at least twenty (20) feet wide for two-way traffic and fourteen (14) feet for one-way traffic.

7.7.4 Perimeter Landscaping Requirements: All parking areas with more than five (5) spaces and all loading areas shall be bordered on all sides with a minimum of a ten (10) foot wide buffer strip on which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area.

7.7.4.1 Off-street parking and loading areas which are located within or adjacent to a Residential District or a Recreation-Conservation District (whether on the side or rear) shall be screened from all adjacent LOTS in said district by a landscaped buffer strip of at least thirty (30) feet in width through the use of an opaque screen. Said screen shall be opaque from the ground to a height of at least six (6) feet with intermittent visual obstruction to a height of at least twenty (20) feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, FENCE, landscaped earth berm or densely planted vegetation in a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Stow. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide.

7.7.5 Interior Area Landscaping Requirements: A minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, must be planted as landscaped island areas. Planting required within the parking area is exclusive of other planting requirements, such as for shade trees planted along the STREET and shall not be included as part of any minimum OPEN SPACE required elsewhere in this Bylaw.

7.7.6 Plantings for Perimeter and Interior Area Landscaping Requirements shall consist of:

7.7.6.1 A minimum of one (1) shrub per thirty (30) square feet of landscaped island area and one (1) shade tree per every ten (10) parking spaces shall be installed, unless the Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, determines that there is sufficient existing vegetation to allow a reduction in the amount of new landscaping;

7.7.6.2 Shade trees shall be of a species tolerant to the climatic conditions of Stow and/or parking area conditions and be of at least two inch (2”) caliper.

7.7.6.3 Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Stow, and be at least eighteen (18) inches in height at time of planting. Snow storage areas shall be planted with shrubs that are tolerant to weight and extended duration of snow cover.

7.7.6.4 Except for the portion of the landscaped island that will be under the car overhang, which shall be mulched, the area between trees and shrubs shall be covered with loam to a depth of six inches (6”) and planted with turf grass or a hardy noninvasive, low-maintenance ground cover.

7.7.6.5 Wherever possible, the above requirements shall be met by retention of existing vegetation.

7.7.6.6 Planting shall be done in accordance with proper landscaping practices.

7.7.6.7 Trees, shrubs, grass and ground cover which die or become diseased shall be replaced.

7.7.6.8 All landscaping in parking areas shall be placed so that it will not obstruct sight distance. Final locations of all plantings shall be inspected and approved by the Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking areas), or their designee, including the viability of existing vegetation retained after development and any necessary replacements thereof.

7.7.7 Lighting - Off-street parking and loading areas used after sunset shall be illuminated while in use. The height and shielding of lighting standards shall provide proper lighting without hazard to drivers or nuisance to residents, and the design of lighting standards shall be of a type appropriate to the development and Stow and otherwise in compliance with Section 3.8.1.5 of this Bylaw.

A fixture with an INITIAL DESIGN LIGHT OUTPUT of more than 2,000 lumens that shines DIRECT LIGHT into the sky or onto any DWELLING on another LOT shall be considered a NUISANCE and not proper lighting under this section.

Parking lot and driveway lighting with a total INITIAL DESIGN LIGHT OUTPUT of more than 10,000 lumens shall be subject to a Special Permit, which shall show the location, output and type of all fixtures. The total INITIAL DESIGN LIGHT OUTPUT of all fixtures shall not be greater than 6 lumens per square meter of parking lot or driveway.

7.7.8 Bonds, Securities - The Permit Granting Authority (if the parking area is related to a permitted use for which a special permit or site plan approval is required), or the BUILDING INSPECTOR (for other parking area), or their designee, may require a bond or other form of security to ensure the satisfactory planting of required landscaping and to ensure the survival of such landscaping for up to two (2) years following such planting. All required landscaping and plantings must be maintained in a neat, attractive appearance as a condition of the continued PRINCIPAL USE of the LOT.

7.8 Structured Parking

The accommodation of required off-street parking spaces in a garage, deck or other STRUCTURE shall require, in addition to all other OPEN SPACE requirements of this Bylaw, the set-aside of OPEN SPACE of an area equal to the footprint of the structured parking facility. Structured parking facilities shall not be counted in calculating the NET FLOOR AREA of a BUILDING.

SECTION 8

SPECIAL REGULATIONS

8.1 ACCESSORY APARTMENTs

8.1.1 Purpose - As provided herein, one additional DWELLING UNIT may be allowed as an ACCESSORY APARTMENT in a single-family DWELLING or ACCESSORY BUILDING located on a LOT with a single-family DWELLING for the purpose of providing small additional DWELLING UNITs without adding to the number of BUILDINGs in the Town or substantially altering the appearance of BUILDINGs, the neighborhood or the Town; increasing the range of housing accommodations; encouraging a greater diversity of population; and encouraging a more efficient and economic use of existing housing stock by enabling owners of single-family DWELLINGS larger than required for their present needs to share space and the burdens of homeownership while maintaining the single-family appearance and character of BUILDINGs, the neighborhood and the Town.

8.1.2 ACCESSORY APARTMENTs Allowed by Right - The BUILDING INSPECTOR may grant a building permit for one ACCESSORY APARTMENT provided that:

8.1.2.1 The single-family DWELLING or ACCESSORY BUILDING was in existence on or before May 6, 1991, or

8.1.2.2 The ACCESSORY APARTMENT is attached to or within a single-family DWELLING constructed after May 6, 1991; and

8.1.2.3 provided that all of the following requirements are met:

1. The ACCESSORY APARTMENT shall be a use secondary and incidental to the single-family DWELLING and shall contain no more than 700 square feet of GROSS FLOOR AREA.
2. No more than one ACCESSORY APARTMENT shall exist on the LOT.
3. Either the single-family DWELLING or the ACCESSORY APARTMENT shall be occupied by the owner of the LOT. For the purposes of this section, the "owner" shall be one or more individuals who holds legal or beneficial title to said LOT and for whom the DWELLING is the primary residence for voting and tax purposes.
4. Both the single-family DWELLING and the ACCESSORY APARTMENT shall satisfy the requirements of 310 CMR 15.00 (Sanitary Code - Title 5) and Stow Board of Health regulations.
5. The LOT on which the single family DWELLING or ACCESSORY BUILDING is located shall contain no less than 1.5 acres.
7. Any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT.
8. Any modification to the existing entrances on the front facade of the single-family DWELLING shall result in the appearance of a single main entrance.
9. A minimum of two (2) off-street parking spaces shall be provided for each DWELLING UNIT. There shall be adequate provision for ingress and egress from all parking spaces.
10. There shall be no more than one (1) driveway per LOT.

8.1.3 ACCESSORY APARTMENTs Allowed by Special Permit - A special permit for an ACCESSORY APARTMENT may be granted by the Planning Board provided that:

8.1.3.1 All of the conditions and requirements of Section 8.1.2 are met, with the exception of Sections 8.1.2.3.5 and 8.1.2.3.10.

8.1.3.2 All conditions and requirements for approval of a special permit are satisfied.

8.2 Duplex Residential Uses in a Residential District Subject to a Special Permit by the Planning Board

8.2.1 Purposes: The duplex option is intended to achieve a broader range of housing choices within the community; to stimulate more affordable housing units through the creation of duplex development on individual LOTS within a subdivision; and to permit a developer, public agency, or developer in conjunction with a public agency, to propose duplex development in subdivisions which shall be affordable to households whose incomes meet the Town's criteria for affordable housing.

8.2.2 Dimensional Requirements - On LOTS that are proposed for subdivision, duplexes must be situated on individual LOTs which conform to the density and dimensional regulations of the Residential District. Each LOT shall require a minimum LOT size of 65,340 square feet, 43,000 square feet of which is "buildable" land. Under no circumstances will a special permit be granted for projects the construction of which is sited in whole or in part in the Water Resource Protection District. The maximum square footage of the total duplex STRUCTURE (both units combined) shall be no greater that 3,000 square feet of FLOOR AREA. In no event shall duplexes be permitted on more than 25% of the LOTS within a subdivision.

8.2.3 General Requirements - Two-family development in the Residential District may only occur within a proposed subdivision by obtaining a special permit and upon obtaining certification from the Board of Health that all waste disposal standards are met. Construction must commence within two years of obtaining the special permit and must be completed within the two years following the start, or the permit will expire.

8.2.4 Special Permit Requirements - Duplex development is subject to approval as provided in this subsection.

8.2.4.1 Application for a special permit under this Section shall be made to the Planning Board through the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee.

8.2.4.2 The application shall include the following:

1. The Special Permit Granting Authority shall specify a submission fee in its Rules and Regulations and in no case shall the fee be less than $350.00;
2. all information required for a special permit;
3. all information required for a subdivision;
4. a legally recordable document that details the long term provisions that are required for the retention of the affordable units for affordability purposes;
5. information describing the projected ownership pattern of the proposed development once completed;
6 a property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement; and

7. a site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common OPEN SPACE.

8.2.4.3 Public Hearing - The public hearing shall be held in accordance with the provisions of the Massachusetts General Laws.

8.2.4.4 Criteria of Approval - The special permit may be approved if the Special Permit Granting Authority finds that all the following conditions are met:

1. All of the criteria required for a special permit are met; and
2. There is a minimum of 10% or one DWELLING UNIT (whichever is more) and a maximum of 40% of all DWELLING UNITs within the proposed subdivision that are affordable according to the Town's published criteria.

8.3 Cross-Country Ski Uses in the Residential District subject to a Special Permit by the Planning Board:

Commercial cross-country ski courses on at least twenty-five (25) acres of land with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of store for the rental and sale of ski related items only, administrative office, and snack bar but not a restaurant), with a total GROSS FLOOR AREA not to exceed one thousand (1,000) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to cross-country ski related uses exceed twenty-five hundred (2,500) square feet; and a single family caretaker's residence, provided that:

8.3.1 no snow-making equipment shall be used;

8.3.2 the operation of the course, including ACCESSORY USES, trail grooming and maintenance equipment, shall be limited to the hours between 7:00 A.M. and one-half (1/2) hour after sunset;

8.3.3 new BUILDINGs, including improvements to existing BUILDINGs for ski related activities and new parking areas shall be screened year round from the adjacent property by evergreens and other vegetative growth of mixed variety;

8.3.4 no trail or new BUILDING including improvements to existing BUILDINGs for ski related activities and new parking area is within fifty (50) feet of any property line.

8.3.5 No so-called snowmobiles or other recreational motorized vehicles shall be permitted except for emergency or maintenance purposes.

8.4 Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board:

8.4.1 Commercial 18-hole golf courses of at least fifty-five hundred (5,500) linear yards and at least seventy-five (75) acres with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of pro shop for sale of golf related items only, administrative office, and snack bar, but not a restaurant), with a total GROSS FLOOR AREA not to exceed twenty-five hundred (2,500) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to golf related uses exceed three thousand (3,000) square feet; and a single family caretaker's residence, provided that:

8.4.1.1 no fairway, new BUILDING including improvements to existing BUILDINGs for golf related activities, and new parking area is within fifty (50) feet of any property line;

8.4.1.2 new BUILDINGs and improvements on existing BUILDINGs for golf related activities and new parking areas shall be screened year round from adjacent property by evergreens and other vegetative growth of mixed variety;

8.4.1.3 the operation of the course, including ACCESSORY USES, shall be limited to the hours between one-half (1/2) hour before sunrise and one-half (1/2) hour after sunset;

8.4.1.4 at least forty percent (40%) of the residential zoned area of the parcel(s) devoted to the golf course and ACCESSORY USES shall be placed under a conservation restriction to the Stow Conservation Commission and approved by the Stow Board of Selectmen. Such restriction shall be for a period of time not less than thirty (30) years in duration and be evidenced by a deed in proper form and duly recorded with the Middlesex County Registry of Deeds or Land Court. Ten percent (10%) of the total residential zoned area shall be placed under a permanent conservation restriction as allowed by the provisions of Mass. General Laws Chapter 184, Sections 31 and 32. Neither the 30% area placed under conservation restriction nor the 10% area placed under a permanent conservation restriction shall contain a greater percentage of wetlands, as defined in Mass. General Laws Chapter 131, Section 40 and the Town of Stow Wetlands Protection Bylaw, than the percentage of wetlands found in the overall tract of land on which the golf course is to be located.

8.4.1.5 The Planning Board may require as a condition a public access pedestrian right of way of at least ten (10) feet in width provided to and along any natural watercourse or wetland in or running through the parcel or to any other portion of the parcel as deemed acceptable by the Planning Board.

8.4.1.6 A state licensed person shall be responsible for applying pesticides/herbicides on the golf course site. Results from an approved laboratory of surface and GROUND WATER samples shall be periodically provided to the Conservation Commission and the Board of Health, the location and frequency of testing to be determined by the Planning Board.

8.5 Planned Conservation Development (PCD)

8.5.1 Purpose - The purpose of the Planned Conservation Development is to allow residential development which encourages

a) protection of Stow's rural character by development of land in clusters and villages which is in greater harmony with the town's natural resources and historic development patterns;

b) preservation of land for conservation, OPEN SPACE, recreation, agriculture and forestry;

c) preservation of significant land and water resources, natural areas and scenic vistas;

d) preservation of unique and significant historical and archaeological resources;

e) a greater mixture of housing types and more energy-efficient and cost-effective residential development; and

f) reduced costs of providing municipal services.

It is not the intent of this bylaw to make undevelopable land developable, nor to permit an increase in the number of BUILDING LOTs that would otherwise be possible on a

conventional plan pursuant to the provisions of the zoning bylaws that otherwise apply, but rather to encourage the preservation of important site features.

8.5.2 Special Permit - Planned Conservation Development as set forth in this section is authorized by the Zoning Act, Mass. General Laws Chapter 40A, Section 9, and is based on the general concept of "cluster development" described therein. As the Special Permit Granting Authority, the Planning Board may grant a Special Permit for the development and construction of a Planned Conservation Development on all land and parcels in the Residential District(s) subject to the following requirements.

8.5.3 Procedural Requirements - If the Planned Conservation Development requires approval under the Subdivision Control Law, Mass. General Laws Chapter 41, the "PCD Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision by the Rules and Regulations Governing the Subdivision of Land in Stow. The application for a PCD Special Permit and for approval of a Definitive Subdivision plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.

8.5.4 Planning Board Action - In evaluating the proposed Planned Conservation Development, the Planning Board shall consider the general objectives of this bylaw and of Planned Conservation Development in particular; the existing and probable future development of surrounding areas; and the appropriateness of the proposed layout of the lots and the proposed layout and use of the Open Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a Special Permit for a PCD if it finds that the PCD:

a) protects and enhances the rural character and environment of Stow;

b) provides Open Land which is of a size, shape and location and has adequate access so as to benefit the town and the residents of the PCD;

c) is appropriate to the natural terrain of the tract of land to be developed;

d) provides for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;

e) the application sets forth a specific plan for maintenance of all Open Land, waste disposal and drainage facilities, roadways and other improvements to be constructed in the development;

f) complies with all other legal requirements for a Special Permit and the Zoning Bylaw, including those for a PCD; and

g) is consistent with the Stow Master Plan or succeeding plan, as amended.

8.5.4.1 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Town's consulting engineer in making said findings.

8.5.4.2 The Planning Board may require changes to the "PCD Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this bylaw provision.

8.5.5 Application for a Planned Conservation Development Special Permit - Any person who desires a PCD Special Permit shall submit an application in writing which meets the

requirements set forth herein and all other information which may be required by the Planning Board under its Rules and Regulations for PCD's:

8.5.5.1 Contents of an Application for a Planned Conservation Development Special Permit - The application for a PCD Special Permit shall be accompanied by a "PCD Site Plan" showing the information required by the Rules and Regulations for a PCD. The information shall include but not be limited to topography; soil characteristics as shown on the Soil Conservation Service maps; wetlands as defined by MGL Ch. 131, S.40 and the Stow Wetlands Protection Bylaw; flood plain boundary lines; existing types of vegetation; any other unique natural, historical, archaeological and aesthetic resources; the proposed layout of the lots; the proposed location of DWELLINGs, garages and other accessory STRUCTUREs; the proposed location of roads, driveways, wells, septic systems and utilities; proposed finished grades; proposed landscaping; the approximate layout of lots under a conventional plan pursuant to the provisions of the Zoning Bylaw that otherwise apply without the benefit of PCD standards and under the given site limitations; the proposed layout and land use plan of the Open Land in the PCD; and the proposed form of ownership of the Open Land and any improvements proposed thereon.

8.5.6 Standards for Planned Conservation Developments

8.5.6.1 Minimum Tract Size - A Planned Conservation Development shall be permitted upon a tract of land with definite boundaries ascertained from a recorded deed(s) or recorded plan(s) which contains an area of not less than ten (10) acres in the Residential District(s).

1. The Planning Board may permit lots on directly opposite sides of a street to qualify as a single tract of land. To permit such division of a tract of land by a street, the Planning Board must find that this would enhance the purposes of the PCD bylaw provision and would not result in any more DWELLING UNITs than would be possible in accordance with the provisions of this bylaw if the lots on either side of the street were developed separately.

2. Where a tract of land is divided by a zoning district boundary between any residential district and the Recreation-Conservation District, the total area of the tract of land may be used in the PCD solely for the purpose of qualifying the tract of land as a PCD, provided that the portion of the tract of land contained within the Recreation-Conservation District is entirely preserved as Open Land within the PCD.

8.5.6.2 Number of Lots - The number of lots allowed in the PCD shall be the number of lots into which the parcel could be divided and built upon under the normally applicable dimensional requirements and land use regulations.

8.5.6.3 Permitted Uses - There shall be permitted in any Planned Conservation Development

1. Single-family DWELLINGs, single-family DWELLINGs with ACCESSORY APARTMENTs;

2. MULTI-FAMILY DWELLINGs which are designed to be consistent in character with the single-family DWELLINGs in the same development. Such MULTI-FAMILY DWELLINGs may be allowed provided

   (a) no more than one (1) doorway faces the front yard area and further provided that, in terms of exterior appearance, the BUILDING is compatible in design

and, to the extent practicable, indistinguishable from the single-family DWELLINGs in the same development; and

(b) not more than twenty-five percent (25%) of the total number of DWELLING UNITs are in MULTI-FAMILY DWELLINGs; and

(c) there shall be no more than four (4) DWELLING UNITs in any residential BUILDING; and

(d) the overall length of any residential BUILDING shall not exceed 200 feet.

3. Accessory uses and structures incidental to principal uses indicated above.

In its Rules and Regulations for Planned Conservation Developments, the Planning Board may establish design guidelines for DWELLINGs, require submission of architectural floor plans and side elevation plans for all proposed DWELLINGs, and impose additional conditions affecting the design and location of DWELLINGs.

8.5.6.4 Special Conditions for MULTI-FAMILY DWELLINGs -

1. Where MULTI-FAMILY DWELLINGs are part of the development, the Planning Board may permit the common side yard requirement to be eliminated.
2. Where MULTI-FAMILY DWELLINGs are allowed, the total LOT area upon which the MULTI-FAMILY DWELLING is located shall comply with the minimum LOT area requirement(s) for a single-family DWELLING for the first DWELLING unit and an additional 10,000 square feet for each additional DWELLING UNIT.
3. For each MULTI-FAMILY DWELLING unit in excess of one per LOT, an additional 10,000 square feet of OPEN SPACE, in addition to the OPEN SPACE required pursuant to the Planned Conservation Development Regulations, shall be provided for each DWELLING UNIT in excess of one (1) per LOT.

8.5.6.5 Prohibition of Future Development - No tract, LOT, parcel or exclusive use area for which a special permit is granted under this section shall be further subdivided, and such notation shall be shown on the plan and set forth in documents to be recorded and to run with the land.

8.5.7 Dimensional Requirements - Where the requirements of the PCD differ from or conflict with other requirements of the Bylaw, the requirements established for PCD's shall prevail. The following requirements shall be met in all PCD's. Where appropriate, the Planning Board may impose additional requirements upon the tract of land as a condition of the Special Permit.

8.5.7.1 The following minimum requirements shall be met:

1. Minimum frontage*100 feet

   *frontage may be reduced to 50 feet if LOT is served by a common drive
2. Minimum front, rear and side yard setbacks 20 feet
3. Minimum LOT area per DWELLING 20,000 sq. ft.

8.5.7.2 No BUILDING shall be located within 100 feet of an existing public way or within 50 feet of the boundary line of the PCD or the Open Land.

1. To preserve the scenic qualities of Stow's roads and to encourage connection between neighborhoods, a 50-foot buffer shall be provided along the entire length of the frontage of the tract of land proposed for the PCD. Within this 50-foot

buffer, the Planning Board may require a walkway that meanders in a manner to preserve public shade trees and stone walls.

8.5.7.3 The Planning Board shall have the authority to require larger setbacks and distances, and it may permit smaller setbacks and distances if it finds that such alternate setbacks and distances will promote the intent and purpose of PCD and will not pose public safety problems.

8.5.7.4 The limitation on the number of lots served by a common drive under Section 6.2 of the Bylaw shall not apply to lots within a PCD. Specifications for common drives within a PCD shall be included within the Rules and Regulations.

8.5.7.5 Parking shall be provided as required in Section 7 of the Zoning Bylaw, provided that no more than eight (8) parking spaces shall be grouped together.

8.5.8 Dimensional Requirements for Open Land - A minimum of 60% of the total area of the tract of land to be developed as a PCD shall be designated as Open Land. The following additional requirements shall apply:

8.5.8.1 Except as otherwise permitted by the Planning Board, because it is in the public interest, the minimum required area of the Open Land shall not contain more than 50% wetlands, as defined in MGL Ch. 131, S.40 and the Stow Wetlands Protection Bylaw.

8.5.8.2 The location and layout of the Open Land shall take into account, preserve and, where appropriate, promote such features of the tract as rivers, streams, ponds, marshes, wetlands, historic sites, wildlife refuges, unique geological or botanical areas or features, and existing or potential trails, paths and open land links.

8.5.8.3 Open Land shall be planned as large contiguous parcels whenever possible and shall have a shape, dimension, character and location suitable for the designated uses of the Open Land. Strips or narrow parcels of Open Land shall be permitted only when necessary for access, or if the Planning Board finds that a vegetated buffer strip along the site's perimeter is appropriate and consistent with the purpose and intent of the PCD.

8.5.8.4 If the tract of land abuts adjacent Open Land or undeveloped lots, the Open Land shall be connected in a manner that provides significant continuity with such adjacent Open Land and with such undeveloped lots.

8.5.8.5 The Open Land shall be provided with adequate upland access from a way or street at least forty (40) feet wide in the form of a right of way.

8.5.9 Use of the Open Land - The Open Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the Open Land, except as otherwise provided herein.

8.5.9.1 The proposed use of the Open Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Open Land. The Planning Board shall have the authority to approve or disapprove particular uses proposed for the Open Land in order to enhance the specific purposes of Planned Conservation Development.

8.5.9.2 The Open Land shall remain unbuilt upon, provided that an overall maximum of five percent (5%) of such land may be subject to pavement and STRUCTURES accessory to the dedicated use or uses of the Open Land, and provided that the

Open Land may be subject to temporary easements for the construction, maintenance and repair of roads, utilities and sewer or drainage facilities serving the PCD or adjacent land.

8.5.9.3 Wells and sewage disposal areas or facilities may be located on the Open Land as permitted or regulated by Title 5 or local Board of Health regulations, if serving the PCD, and if such use, in the opinion of the Planning Board, enhances the specific purpose of Planned Conservation Development to promote better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Open Land is used for the purpose of a community well or leaching area, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the PCD.

8.5.9.4 In addition, a portion of the Open Land may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to the PCD or adjacent land if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Open Land.

8.5.10 Ownership of the Open Land - The Open Land shall be owned in common by the owners of all DWELLING UNITs in the PCD or shall be conveyed in whole or in part to:

a) the Town of Stow and accepted by it; or to

b) a non-profit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and uses to which the Open Land may be dedicated; or to

c) a corporation or trust owned, or to be owned, by the owners of lots or residential units within the PCD. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units.

8.5.10.1 In all cases, a perpetual restriction approved by the Planning Board and enforceable by the Town of Stow shall be imposed on the use of such land, providing in substance that the land be kept in its natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of PCD as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual PCD.

8.5.10.2 The proposed ownership of all Open Land shall be shown on the Land Use Plan for the PCD.

8.5.10.3 At the time of its conveyance the Open Land shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

8.5.11 Streets and Utilities - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the Planned Conservation Development is a subdivision.

8.5.11.1 Performance Guarantee - Before the issuance of any building permits for the PCD, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with

performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land. Special exceptions to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 8.5 of the Bylaw.

8.5.12 Revisions and Amendments of Planned Conservation Development Special Permit - Any change in the layout of streets; in the configuration of the Open Land; in the ownership or use of the Open Land; or any other change which, in the opinion of the Planning Board, would significantly alter the character of the PCD, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this bylaw if it finds that the proposed changes are substantial in nature and of public concern.

8.6 Phasing of Growth

Over the past decade, the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.

In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.

8.6.1 Regulations:

8.6.1.1 Beginning on the effective date of this Section, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.

8.6.1.2 DWELLING UNITs shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.

8.6.1.3 All newly authorized residential units for which individual or several building permits have been issued pursuant to the Massachusetts State Building Code, 780 CMR shall count toward the growth rate limit of 35 DWELLING UNITs defined in Section 8.6.2.1 of the Zoning Bylaw.

8.6.2 Planned Growth Rate

8.6.2.1 This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit granting authority (Planning Board, Zoning Board of Appeals or BUILDING INSPECTOR) shall not approve any residential development which would result in authorizations for more than 35 DWELLING UNITs over a 730 consecutive day (two-year) period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.

8.6.2.2 Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.

8.6.3 Development Schedule - Building permits for new DWELLING UNITs shall be authorized only in accordance with the following schedule:

# of New Units in Development	Maximum DWELLING UNITs per Year*
1 - 24	4
25 - 29	5
30 – 46	6
47+	up to 15%

* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

8.6.4 Modification to Schedule - The following modifications to the development schedule found in Section 8.6.3 shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and special permits) or Zoning Board of Appeals (for special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section 8.6.4.7.

8.6.4.1 Affordable Housing

1. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section 8.6.3 and shall be allowed in accordance with the following schedule:

# of New Units	DWELLING UNITs/ Year*
1-50	100%
51-80	up to 50%
80+ total units	up to 33%

	Points Assigned
2. Any development that meets the criteria found in Section 8.6.4.1, but which includes 10% to 24% of its units for low and moderate income people.	20
3. Any development that includes no affordable units that meet the criteria in Section 8.6.4.1.	-10

8.6.4.2 Open Land/Farmland:

	Points Assigned
1. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section 8.5.4 and "open land" shall be defined as in Section 8.5.8.	
(1) Open land consisting of 4,000 to 4,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	10
(2) Open land consisting of 5,000 to 5,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	15
(3) Open land consisting of at least 6,000 square feet or more usable land area per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	20
(4) Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow (Add 5 points to the applicable category above.)	
(5) No usable open land.	-10
2. Protection and retention of farmland according to the following impacts on working farms:	
(1) Development of agricultural land, defined as land classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.	-30
(2) Provision of a permanent 100-foot buffer zone as a deed restriction, including a FENCE and screening vegetation from the property boundary of a working farm.	10

8.6.4.3 AQUIFER Protection:

	Points Assigned
1. Development in the Aquifer Protection Overlay District	
(1) Average LOT size less than two acres.	-30
(2) Average LOT size two acres or more.	-15

8.6.4.4 Planned Conservation Development - Any proposed approval under Section 8.5 will be subject to the following schedule provided that the OPEN SPACE is deeded to the Town:

# Units in Development	Maximum DWELLING UNITs per Year*
1 - 11	8
12 - 33	9
34 - 66	30%
67 - 99	19 units or 26%
100 +	25 units or 22%

* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of the issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

8.6.4.5 Infrastructure:

	Points Assigned
1. Any development which commits to completing all roads and utilities prior to issuance of building permits during the first year of the total project.	30
2. Any development that commits to completing all roads or utilities (one or the other) prior to issuance of building permits.	15
3. Any development which commits to completing all roads and utilities during years one to three of the project.	5
4. Any development which commits to completing all roads and utilities after the third year of the project.	-15

8.6.4.6 Other - The Planning Board (Definitive Subdivision, Approval Not Required and special permits) and Zoning Board of Appeals (special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:

1. Ability of the Town to adequately serve the proposed development with STREETS, utilities, drainage, educational and protective services.
2. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.
3. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.
4. Provision of housing needs for diverse population groups.
5. Commitments to improve town facilities.

6. Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.

7. Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems.

8.6.4.7 Development Schedule Modification Table - Points accumulated under Section 8.6.4.1 through 8.6.4.6 shall be totaled and the total shall modify the development schedule in Section 8.6.3 according to the following table.

DEVELOPMENT SCHEDULE POINT TOTAL										
# of Units	-30	-29 to -15	-14 to -1	0	1 to 5	6 to 12	13 to 20	21 to 28	29 to 36	37+
1-24	1	2	3	4	5	5	6	7	8	9
25-29	2	3	4	5	6	6	7	8	10	11
30-46	3	4	5	6	7	8	9	10	12	13
47-76	9%	10%	13%	15%	18%	21%	25%	30%	35%	40%
77-106	8%	7 units or 9%	12%	11 units or 14%	17%	20%	19 units or 23%	22 units or 27%	26 units or 31%	30 units or 35%
107+	8 units or 7%	9 units or 8%	12 units or 11%	14 units or 13%	18 units or 16%	21 units or 18%	24 units or 20%	28 units or 23%	32 units or 27%	37 units or 30%

8.6.5 Requirements:

8.6.5.1 All Definitive Subdivision, Approval Not Required and Special Permit applications shall include a proposed development schedule by the applicant.

8.6.5.2 Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/LOT may become eligible for the issuance of a building permit.

8.6.6 Zoning Change Protection

The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.

8.7 INDEPENDENT ADULT RESIDENCEs

Purpose - The purpose of INDEPENDENT ADULT RESIDENCEs is to provide the opportunity for the development of housing most beneficial for the SENIOR and ELDER population of Stow at greater density than would normally be allowed provided that said LAND development:

a) protects Stow's rural character by development of land which preserves land for conservation, OPEN SPACE, recreation, agriculture and forestry;

b) promotes more efficient use of land while protecting natural resources, such as water resources, wetlands, flood plains and wildlife;

c) does not detract from the livability and aesthetic qualities of the environment;

d) preserves unique and significant historical and archaeological resources, and scenic vistas;

e) is consistent with the objectives of the Zoning Bylaw;

f) provides a greater mixture of housing types and more energy-efficient and cost-effective residential development; and

g) reduces the typical costs of providing municipal services to residential developments.

8.7.1 Districts in which the USE is Allowed - The Planning Board may grant a special permit for the development and construction of INDEPENDENT ADULT RESIDENCEs in the Business District in accordance with this Section and MGL Ch. 40A, s.9.

8.7.1.1 The total number of INDEPENDENT ADULT UNITs shall not exceed 6% of the total single family DWELLING UNITS in Stow.

8.7.2 Procedural Requirements

8.7.2.1 All proposed INDEPENDENT ADULT RESIDENCEs shall require the record owner to obtain a special permit from the Planning Board. It is strongly recommended that an applicant submit a preliminary site plan of the proposed development for review by the Planning Board, other Town Boards, and abutters before an application for Special Permit is formally filed with the Town Clerk and the Planning Board.

8.7.2.2 If the INDEPENDENT ADULT RESIDENCEs require approval under the Subdivision Control Law, MGL Ch. 41, the “INDEPENDENT ADULT RESIDENCEs Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision by the Rules and Regulations Governing the Subdivision of Land in Stow. The application for a Special Permit for INDEPENDENT ADULT RESIDENCEs and for approval of a Definitive Subdivision plan shall be filed and considered concurrently to the greatest extent possible and practicable in the Planning Board’s sole judgment and determination to the extent permitted by law.

8.7.3 Planning Board Action - In evaluating the proposed INDEPENDENT ADULT RESIDENCEs, the Planning Board shall consider the general objectives of this bylaw and of INDEPENDENT ADULT RESIDENCEs in particular. It shall also consider the existing and probable future development of surrounding areas, the appropriateness of the proposed layout of the site, and the proposed layout and use of the Open Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a Special Permit for INDEPENDENT ADULT RESIDENCEs if it finds that the INDEPENDENT ADULT RESIDENCEs:

a) are appropriate to the natural terrain of the tract of land to be developed;

b) provide for the convenience and safety of vehicular and pedestrian movement in the development in a manner that is compatible with the narrow, tree-lined country roads of Stow;

c) the application sets forth a specific plan for maintenance of all OPEN SPACE, waste disposal and drainage facilities, roadways and other improvements to be constructed in the development;

d) comply in all respects to the requirements of the Bylaw and enhance the purpose and intents of INDEPENDENT ADULT RESIDENCEs, and

e) are consistent with the Stow Master Plan or succeeding plan, as amended.

8.7.3.1 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission, other Town Boards, and the Town's consulting engineer in making said findings.

8.7.3.2 The Planning Board may require changes to the " INDEPENDENT ADULT RESIDENCE Site Plan" and impose additional conditions, safeguards and limitations, as it deems necessary to secure the objectives of this bylaw provision.

8.7.4 Application for an INDEPENDENT ADULT RESIDENCE Special Permit - Any person who desires an INDEPENDENT ADULT RESIDENCE Special Permit shall submit an application in writing which meets the requirements set forth herein and all other information which may be required by the Planning Board under its Rules and Regulations for INDEPENDENT ADULT RESIDENCE.

8.7.4.1 Contents of an Application for a Special Permit for INDEPENDENT ADULT RESIDENCE - The application for a Special Permit for INDEPENDENT ADULT RESIDENCEs shall be accompanied by an "INDEPENDENT ADULT RESIDENCEs Site Plan" showing the information required by the Rules and Regulations for INDEPENDENT ADULT RESIDENCEs. The information shall include, but not be limited to: topography; soil characteristics as shown on the Soil Conservation Service maps; wetlands as defined by MGL Ch. 131, s.40 and the Stow Wetlands Protection Bylaw; flood plain boundary lines; existing types of vegetation; any other unique natural, historical, archaeological and aesthetic resources; the proposed layout of the LOTs; the proposed location of INDEPENDENT ADULT RESIDENCEs, garages and other accessory structures; the proposed location of roads, driveways, wells, septic systems and utilities; proposed finished grades; proposed landscaping; the proposed layout and land use plan of the OPEN SPACE in the INDEPENDENT ADULT RESIDENCE development.

8.7.5 Permitted USES - There shall be permitted in any INDEPENDENT ADULT LIVING RESIDENCE development:

8.7.5.1 INDEPENDENT ADULT UNITs

8.7.5.2 Accessory uses and structures incidental to principal uses indicated above.

8.7.5.3 Support services that are necessary to meet the needs of its residents such as but not limited to skilled nursing, medical and other health services, recreation and leisure facilities, a community center, or food services.

8.7.5.4 Convenience services intended primarily for its residents may be included, such as Retail Stores, Banks, Restaurants, and Service Establishments, provided that not more than 10% of the total FLOOR AREA of the development is dedicated to such uses.

8.7.6 Special Regulations for INDEPENDENT ADULT RESIDENCE:

8.7.6.1 The Planning Board may permit the SIDE YARD requirement to be eliminated so as to allow the separate sale of individual INDEPENDENT ADULT UNITs within an INDEPENDENT ADULT RESIDENCE along with its accompanying YARD area.

8.7.6.2 All privileges and exemptions provided to single-family residential uses or BUILDINGs under this Bylaw, as set forth in Section 3.8.1.11 or otherwise, shall also apply to INDEPENDENT ADULT RESIDENCEs.

8.7.6.3 BUILDING design for INDEPENDENT ADULT RESIDENCEs:

a) BUILDINGs shall be of a design similar to the architecture in historic villages of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.

b) BUILDINGs shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.

c) The BUILDINGs shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than fifty (50) feet of a BUILDING shall be in the same vertical plane.

d) The BUILDINGs shall be faced with materials used in historic New England architecture. Alternative designs may be allowed provided the Special Permit Granting Authority finds the alternative design is consistent with the purpose and intent of the Bylaw.

8.7.7 Special Regulations for INDEPENDENT ADULT RESIDENCEs:

8.7.7.1 In the Business District, no INDEPENDENT ADULT RESIDENCE development shall exceed a FLOOR AREA RATIO of 0.30.

8.7.7.2 INDEPENDENT ADULT RESIDENCEs and INDEPENDENT ADULT UNITs shall not be eligible for subsequent conversion to conventional apartments or DWELLING UNITs.

8.7.7.3 Each INDEPENDENT ADULT UNIT shall be occupied by at least one person fifty-five (55) years of age or older and no INDEPENDENT ADULT UNIT shall be occupied by more than three persons. No person under the age of twenty-one (21) shall reside within an INDEPENDENT ADULT UNIT in INDEPENDENT ADULT RESIDENCEs for more than three (3) months in any twelve (12) consecutive month period, which shall be set forth in a deed restriction, restrictive covenant, or other document to be recorded with the Special Permit and to run with the land in perpetuity. This requirement shall be an express condition of any Special Permit granted hereunder and shall be in such form as is satisfactory to the Planning Board, to be enforceable by any unit owners' association or by the owner in any legal action as may be permitted by law or equity.

8.7.7.4 A minimum of 33% of the INDEPENDENT ADULT UNITs shall comply with ADA accessibility standards for all living areas.

8.7.7.5 The Planning Board may require a landscaped buffer for INDEPENDENT ADULT RESIDENCEs in addition to the minimum required YARD as deemed appropriate in the opinion of the Planning Board based on the size, shape, location, zoning, and uses of abutting parcels, topography, or other similar considerations for the tract of land.

8.7.7.6 INDEPENDENT ADULT UNITs constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.

8.7.8 Dimensional Requirements for OPEN SPACE - A minimum of 30% of the total area of the tract of land to be developed as INDEPENDENT ADULT RESIDENCEs shall be designated as OPEN SPACE.

8.7.9 Use of the OPEN SPACE - The OPEN SPACE shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the OPEN SPACE, except as otherwise provided herein.

8.7.9.1 Wells and sewage disposal areas or facilities may be located on the OPEN SPACE as permitted or regulated by Title 5 or local Board of Health regulations, if serving the INDEPENDENT ADULT RESIDENCEs, and if such use, in the opinion of the Planning Board, enhances the specific purpose of INDEPENDENT ADULT RESIDENCEs to promote better overall site planning. Septic disposal easements shall be no larger than necessary. If any portion of the OPEN SPACE is used for the purpose of a community well or leaching area, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the INDEPENDENT ADULT RESIDENCEs development.

8.7.9.2 In addition, a portion of the OPEN SPACE may also be used for ways serving as pedestrian walks, bicycle paths and emergency access or egress to INDEPENDENT ADULT RESIDENCEs or adjacent land if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Open Space.

a) Ownership of the OPEN SPACE - The OPEN SPACE shall be owned in common by the owners of the INDEPENDENT ADULT RESIDENCEs or by a corporation or trust owned, or to be owned, by the owners of the INDEPENDENT ADULT LIVING RESIDENCEs. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the residential units.

8.7.9.3 In all cases, a perpetual restriction approved by the Planning Board and enforceable by the Town of Stow shall be imposed on the use of such land, providing in substance that the land be kept in its natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of INDEPENDENT ADULT RESIDENCEs as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual INDEPENDENT ADULT RESIDENCEs.

8.7.9.4 At the time of its conveyance the Open Space shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

8.7.10 Streets and Utilities - All streets and ways, whether public or private, wastewater disposal systems, drainage facilities, drinking water supplies, and utilities shall be designed and constructed in compliance with the Town of Stow Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the INDEPENDENT ADULT RESIDENCEs are located in a subdivision.

8.7.11 Performance Guarantee- Before the issuance of any building permits for INDEPENDENT ADULT RESIDENCEs, the petitioner shall agree to complete the required improvements specified in the decision, such construction and installation to be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land. Special exceptions to the Subdivision Rules and

Regulations may be authorized by the Planning Board in granting a Special Permit hereunder, provided the Board determines such exceptions are in the public interest and are consistent with the purposes of Section 8.7 of the Bylaw.

8.7.12 Revisions and Amendments of an INDEPENDENT ADULT RESIDENCEs Special Permit - Any change in the layout of streets, in the configuration of the OPEN SPACE, in the ownership or use of the OPEN SPACE, or any other change which, in the opinion of the Planning Board, would significantly alter the character of INDEPENDENT ADULT RESIDENCEs shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this bylaw if it finds that the proposed changes are substantial in nature and of public concern.

8.8 Intentionally left blank

8.9 Inclusion of Affordable Housing

8.9.1 Purpose and Intent - The purpose of this Bylaw is to increase the supply of housing in the Town of Stow that is available to and affordable by low income or moderate income households who might otherwise have difficulty in finding homes in Stow, and to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of Massachusetts General Law Chapter 40B and its implementing regulations, Stow Comprehensive Permit Policy, the Stow Master Plan, and other ongoing programs within the Town of Stow. It is intended that the AFFORDABLE DWELLING UNITS authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth or its agencies, and that said units count toward Stow's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended. Through multi-family units, developers will be able to increase the number of DWELLING UNITS within a development versus conventional developments. The increased number of DWELLING UNITS is intended to offset the reduced revenue from the affordable homes. In those cases where the Inclusion of Affordable Housing may conflict or be inconsistent with Section 8.5, Planned Conservation Development (PCD) or other sections of the Town of Stow Zoning Bylaw, except as otherwise expressly provided herein, the provisions of Inclusion of Affordable Housing shall be controlling.

8.9.2 Applicability

8.9.2.1 Beginning with the effective date of this Bylaw, any development or division of land, which could result in the creation of six (6) or more DWELLING UNITS, shall require a Special Permit from the Planning Board, and shall include as a condition of said permit that:

A. At least 10% of the units be priced for QUALIFIED AFFORDABLE HOUSING PURCHASERS;
B. The mix of AFFORDABLE DWELLING UNITS and market rate housing built in any one year be equivalent to the overall mix for the entire development;
C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth or its agencies, shall be placed on the appropriate property to

ensure that AFFORDABLE DWELLING UNITS created under this section shall remain AFFORDABLE DWELLING UNITS in perpetuity or for as long a period as is allowed by law.

8.9.2.2 DWELLING UNITS shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of Inclusion of Affordable Housing.

8.9.3 Inclusion of Affordable Housing Regulations – The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section.

8.9.4 Provision of AFFORDABLE DWELLING UNITS - AFFORDABLE DWELLING UNITS required under Section 8.9.2.1 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board:

A. Constructed on the locus subject to the Special Permit;
B. Constructed on a locus different than the one subject to the Special Permit;
C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of an equivalent number of AFFORDABLE DWELLING UNITS. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;
D. For fractional AFFORDABLE DWELLING UNITS, the applicant shall round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units (see Section 8.9.6) proportionate to the percentage of the unit required;

E. Preservation of existing DWELLING UNITS as AFFORDABLE DWELLING UNITS through the purchase of deed restrictions.

8.9.5 Provisions Applicable to AFFORDABLE DWELLING UNITS On- and Off-Site

8.9.5.1 Allowed types of AFFORDABLE DWELLING UNITS:

A. Single-family DWELLINGS;
B. Single-family DWELLINGS with ACCESSORY APARTMENTS;
C. MULTI-FAMILY DWELLINGS, which are designed to be consistent in character with the single-family DWELLINGS in the same development. Such MULTI-FAMILY DWELLINGS may be allowed provided:
   i. in terms of exterior appearance, the BUILDING is compatible in design and, to the extent practicable, indistinguishable from the single-family DWELLINGS in the same development; and
   ii. there shall be no more than four (4) DWELLING UNITS in any residential BUILDING; and
   iii. the total number of MULTI-FAMILY DWELLINGS shall not exceed 10% of the lots in the development; and
   iv. the overall length of any residential BUILDING shall not exceed 100 feet.
D. Accessory uses and structures incidental to principal uses indicated above and approved by the Planning Board.

8.9.5.2 Siting of AFFORDABLE DWELLING UNITS. All AFFORDABLE DWELLING UNITS that are constructed on-site under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots selected for AFFORDABLE DWELLING UNITS.

8.9.5.3 Minimum Design and Construction Standards for AFFORDABLE DWELLING UNITS. AFFORDABLE DWELLING UNITS within market-rate developments shall be integrated with the rest of the development and shall be compatible to the extent practicable in exterior design and appearance with other units, to the extent that such regulation is not inconsistent with Massachusetts General Laws Chapter 40B, Section 3.

8.9.5.4 With the approval of the Planning Board, as an alternative to the requirements of Section 8.9.4.A, an applicant subject to the Bylaw may develop, construct or otherwise provide AFFORDABLE DWELLING UNITS equivalent to those required by Section 8.9.2.1 off-site. To the maximum extent practicable, all requirements of this Bylaw that apply to on-site provision of AFFORDABLE DWELLING UNITS shall apply to provision of off-site AFFORDABLE DWELLING UNITS. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.

8.9.6 Fees-in-Lieu of AFFORDABLE DWELLING UNIT Provision **-** As an alternative to the requirements of Section 8.9.2.1, and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of constructing such AFFORDABLE DWELLING UNITS, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town of Stow Affordable Housing Trust Fund, for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering AFFORDABLE DWELLING UNITS within the locus of the proposed development or off-site, as set forth in Section 8.9.6.1 below.

8.9.6.1. Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay fees-in-lieu of the construction. For the purposes of this Bylaw, the fees-in-lieu of the construction or provision of each AFFORDABLE DWELLING UNIT is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

8.10 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs

8.10.1 Purpose - The purpose of this section is to promote the creation of new COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address and protects public safety, minimizes undesirable impacts on residential property and neighborhoods, protects scenic, natural and historic resources, does not diminish abutting property values and provides 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 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs.

8.10.2 Applicability - No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be ERECTED or installed except in compliance with the provisions of this Section and other applicable Sections of the Zoning Bylaw, as well as state and federal law. Such use shall not create a nuisance, which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisance as determined by the Special Permit/Site Plan Approval Granting Authority.

8.10.2.1 The construction and use of a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION with 250 kW or larger of rated NAMEPLATE CAPACITY within the Industrial, Commercial District and Refuse Disposal District shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.

8.10.2.2 Construction and use of a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION with 250 kW or larger of rated NAMEPLATE CAPACITY in the Residential, Business and Recreation Conservation District shall be subject to Special Permit and Site Plan Approval from the Planning Board in accordance with the additional requirements specified herein.

8.10.2.3 This section also pertains to physical modifications that materially alter the type, configuration or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.

8.10.3 General Requirements

8.10.3.1 Lot Requirements - A COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION may be permitted on a lot, which contains an area of not less than three (3) acres.

8.10.3.2 Visual Impact - The visual impact of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances, shall be mitigated. All accessory structures and appurtenances shall be architecturally compatible with each other. Structures shall be shielded from view and/or joined and clustered to avoid adverse visual impacts as deemed necessary by and in the sole opinion of the Special Permit/Site Plan Approval Granting Authority. Methods such as the use of landscaping, natural features and opaque fencing shall be utilized.

8.10.3.3 Compliance with Laws, Ordinances and Regulations - The construction and operation of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs shall be consistent with all applicable local regulations and bylaws, and 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 RENEWABLE ENERGY INSTALLATION shall be constructed in accordance with the State Building Code.

8.10.3.4 Utility Notification - No COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be constructed until evidence has been given to the Special Permit/Site Plan Approval Granting Authority 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. Proof of a mutual agreement with the utility company shall be provided to the Special Permit/Site Plan Approval Granting Authority. Off-grid systems shall be exempt from this requirement. If the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION goes on grid, it shall comply with this requirement.

8.10.3.5 Maintenance - The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Police Chief, Emergency Medical Services and Special Permit/Site Plan Approval Granting Authority. 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.

8.10.3.6 Emergency Services - The COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. The owner or operator shall provide an emergency response plan. The emergency response plan is subject to the approval of the Special Permit/Site Plan Approval Granting Authority, the Fire Department and the Police Department, and shall include at a minimum, explicit instructions on all means of shutting down the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

8.10.3.7 Safety and Security – Safety and measures of security shall be subject to the approval of the Special Permit/Site Plan Approval Granting Authority, the Fire Department and the Police Department.

8.10.4 Design Standards

8.10.4.1 Lighting - Lighting of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, including all accessory structures and appurtenances shall not be permitted unless required by the Special Permit/Site Plan Approval Granting Authority, Special Permit/Site Plan Approval Decision or required by the State Building Code. Where used, lighting shall comply with the requirements of Section 3.8.1.5 (exterior lighting) of the Zoning Bylaw.

8.10.4.2 Signs and Advertising - Section 6.3 (Signs) of the Zoning Bylaw does not apply to this Section. Signage for COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs shall be limited in size as determined by the Special Permit/Site Plan Approval Granting Authority.

COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs shall not be used for displaying any advertising except for reasonable identification of the owner or operator of the COMMERCIAL SOLAR

PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION and emergency contact information.

8.10.4.3 Utility Connections - All utility connections from the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs shall be underground unless specifically permitted otherwise by a Special Permit/Site Plan Approval Decision. Electrical transformers and inverters to enable utility interconnections may be above ground if required by the utility provider.

8.10.4.4 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 COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION or otherwise prescribed by applicable laws, regulations and bylaws.

8.10.4.5 Appurtenant Structures - All appurtenant structures to COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONs shall be subject to all applicable bylaws and regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements.

8.10.5 Modifications

All substantive material modifications to a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION made after issuance of the Special Permit/Site Plan Approval Decision shall require modification to the Special Permit/Site Plan Approval Decision.

8.10.6 Abandonment and Removal

8.10.6.1 Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION shall be considered abandoned when it fails to operate for more than one year without the written consent of the Special Permit/Site Plan Approval Granting Authority. If the owner or operator of the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY 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.

8.10.6.2 Removal Requirements - Any COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, which has reached the end of its useful life or has been abandoned, 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 Special Permit/Site Plan Approval Granting Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit/Site Plan Approval Granting Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

8.10.7 Financial Surety

Proponents of COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION 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 Special Permit/Site Plan Approval Granting Authority, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent 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.

Before issuance of any building permits for the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION, such construction and installation shall be secured in accordance with performance guarantee requirements of the Town of Stow Rules and Regulations Governing the Subdivision of Land to the extent applicable and/or the regulations adopted pursuant to the COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Bylaw for this purpose.

8.10.8 Special Permit and Site Plan Approval Decisions

Special Permit and Site Plan Approval decisions shall conform to the requirements of this Section, section 9.2 and 9.3 of the Zoning Bylaw and other relevant Sections of the Zoning Bylaw.

All COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Special Permit and Site Plan Approval Decisions shall be valid for a twelve (12) month period unless renewed or extended by the Special Permit/Site Plan Approval Granting Authority following application made by the applicant. There is no limit to the number of renewals or extensions the special Permit/Site plan Approval Granting Authority may grant for a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWALBE ENERGY INSTALLATION.

SECTION 9

ADMINISTRATION

9.1 Board of Appeals

The Board of Appeals under this Bylaw shall be the existing Board of Appeals established in accordance with Section 12 of Chapter 40A and Article 3, Section 12 of the General Bylaws of the Town. The Board of Appeals shall constitute the permit granting authority and the special permit granting authority, except as otherwise provided in the Bylaw, and shall exercise the powers contained in Chapter 40A, Section 14 of the General Laws, as amended.

9.2 Special Permits

9.2.1 Special Permit Granting Authority - Certain uses are designated in the Bylaw as requiring a special permit. The Board of Appeals, the Planning Board or the Board of Selectmen are herein designated as a Special Permit Granting Authority for specific purposes. Wherever specific designation is not made, the Planning Board shall be deemed the Special Permit Granting Authority. The Board of Appeals, the Planning Board or the Board of Selectmen may grant special permits for such designated uses as authorized in this Bylaw and shown in the Table of Principal Uses.

9.2.2 Rules and Regulations and Fees - Each Special Permit Granting Authority shall promulgate, adopt and, from time to time, amend rules and regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall prescribe as a minimum:

9.2.2.1 the size, form, contents, style and number of copies of plans and specifications;

9.2.2.2 the town boards or agencies from which the Special Permit Granting Authority may require reports; and

9.2.2.3 fees sufficient to cover reasonable costs incurred by the Town in the review and administration of special permits.

9.2.3 Petition - Any person seeking to obtain a special permit (hereinafter referred to as the Petitioner) shall file a petition with the Town Clerk, and the required number of copies of said petition, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority. Each petition shall be completed on the proper forms and accompanied by the information required by the Special Permit Granting Authority as set forth in its rules and regulations.

9.2.4 Reports from Town Boards or Agencies - The Special Permit Granting Authority shall transmit forthwith one copy each to the Planning Board, Zoning Board of Appeals, BUILDING INSPECTOR, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the Special Permit Granting Authority for their written reports. Failure of any such board or agency to make a recommendation within thirty-five (35) days of receipt of said petition shall be deemed lack of opposition by said board or agency in accordance with the provisions of Chapter 40A of the General Laws. However, additional comments from any such board or agency may be received prior to the close of the public hearing.

9.2.5 Public Hearing and Decision - The Special Permit Granting Authority shall hold a public hearing after proper notification in accordance with the provisions of Chapter 40A of the General Laws no later than sixty-five (65) days after the filing of a petition. As all uses requiring a special permit also require site plan approval, one public hearing shall be deemed sufficient for both the special permit petition and the application for site plan approval. The decision of the Special Permit Granting Authority shall be made within ninety (90) days following the date of the public hearing. The Special Permit Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to obtain additional information in order to make an informed decision. The required times for a public hearing and said action may be extended by written agreement between the petitioner and the Special Permit Granting Authority, a copy of which is filed with the Town Clerk.

9.2.6 Mandatory Findings by Special Permit Granting Authority - The Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed use and development:

9.2.6.1 is in harmony with the purpose and intent of this Bylaw;

9.2.6.2 will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;

9.2.6.3 is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGs in the immediate vicinity that have functional or visual relationship to the proposed use;

9.2.6.4 includes sufficient mitigating measures which shall be implemented as part of the special permit for any adverse effects noted in the Development Impact Statement, reports from town boards and agencies, reports from consultants and public hearings;

9.2.6.5 will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;

9.2.6.6 will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads. A significant effect on level of service is a projected use of greater than five percent (5%) of the reserve capacity of a road segment or turning movement by the proposed use at the completion of its development. Reserve capacity calculations are to be done by a registered professional engineer using accepted methods of traffic analysis and shall include both projected growth in traffic during the period of development and projected traffic from other uses and developments which have applied for approval under the Zoning Bylaw prior to the close of the public hearing;

9.2.6.7 will result in no significant effect on level of service for any service provided by the Town, including fire, police and ambulance. Proof of no significant effect is the lack of need for the Town to add equipment and/or staff specifically due to the development;

9.2.6.8 will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;

9.2.6.9 will result in no transport by air or water of erodible material beyond the boundary line of the LOT (See also Section 3.8. Use Regulations, General);

9.2.6.10 will provide adequate provision for pedestrian traffic; and

9.2.6.11 will comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

9.2.7 Special Permit Conditions - The Special Permit Granting Authority shall impose such conditions, safeguards and limitations as it deems appropriate to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow including, but not limited to:

9.2.7.1 Limitation of size, number of occupants, method and time of operation, lighting, signage and extent of facilities;

9.2.7.2 Dimensional setback requirements greater than the minimum required by this Bylaw;

9.2.7.3 Modification of the exterior features or appearances of the STRUCTURE(S);

9.2.7.4 Screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, FENCEs, plantings or other devices, including a program of maintenance for said screening which will continue for the life of the permitted use;

9.2.7.5 Continuing provision for adequate and legal disposal of all solid waste, sewage, REFUSE and any other potential pollutant generated by any use;

9.2.7.6 A program of snow storage or removal to continue for the life of the permitted project;

9.2.7.7 Inclusion of measures to ensure GROUND WATER protection, and to ensure the proposed development will not redirect existing surface water runoff such that there would be adverse impact on abutting parcels or downstream properties unless an appropriate easement is obtained to an existing watercourse;

9.2.7.8 Provision of easements, restrictions and other means enabling other uses in accordance with the Bylaw;

9.2.7.9 Requirement of off-street parking and other special features;

9.2.7.10 Regulation of number, design and location of access drives, drive-up windows and other traffic measures;

9.2.7.11 Provision for the safety and convenience of pedestrian traffic;

9.2.7.12 Requirement for performance bonds or other security; and

9.2.7.13 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land. If said devices are of a new technology or design not in general use, it shall be the petitioner's responsibility to provide sufficient information to verify the safety and efficacy of said technology or devices to the satisfaction of the Town of Stow through all the appropriate boards.

9.2.7.14 A sidewalk, walkway or path shall be required along the entire frontage of a LOT. The Special Permit Granting Authority may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists. Said sidewalks, walkways or paths may be located on the LOT or within the layout of the STREET, with the Town's permission, depending on the nature of the work and upon obtaining whatever permits are required, construction, alterations of existing STRUCTURES and parking areas/LOT, and changes in use are designed in a manner which complies with the provisions of the Bylaw as to demonstrate

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protection of visual and environmental qualities and property values of the Town, and assurances of adequate drainage of surface water and safe vehicular and pedestrian access, and all other requirements of the Bylaw.

9.2.8 Time Limitation on Special Permit - A special permit shall lapse if a substantial use thereof has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the Special Permit Granting Authority, not to exceed two years from the date of grant thereof, in accordance with Chapter 40A, Section 9 of the General Laws.

9.2.8.1 A reasonable extension of said time, but not more than two additional years, may be granted by the Special Permit Granting Authority after a public hearing has been held where good cause is shown. Any request to the Special Permit Granting Authority for such extension of time shall be submitted to the Special Permit Granting Authority and a copy to the Stow Town Clerk at least sixty (60) days prior to the date when the special permit is due to lapse. Failure to submit such a request as prescribed herein shall be sufficient cause for the Special Permit Granting Authority to deny the requested time extension.

9.2.9 Maintenance of Special Permit - A periodic review, at least annually, shall be conducted by the Special Permit Granting Authority to ensure compliance with the conditions imposed within the special permit. The BUILDING INSPECTOR shall assist the Special Permit Granting Authority in the review. Notification of any deficiencies found through said review shall be forwarded to the property owner and special permit holder. Failure to rectify said deficiencies may result in rescission of the special permit or other zoning enforcement proceedings. Upon determination by the Special Permit Granting Authority that the conditions of the special permit have been met, no such further review shall be conducted.

9.2.10 Effective Date of Special Permit - No special permit or any modification or extension thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South Registry of Deeds or Land Court. Such decision shall bear the certification of the Town Clerk that twenty (20) days have 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.

9.2.10.1 No construction activity, including site alteration, for any use or STRUCTURE authorized by the special permit shall take place on the proposed development site until all relevant documents including easements are approved, executed, filed with the appropriate Special Permit Granting Authority and recorded in the Middlesex County South Registry of Deeds or Land Court.

9.3 Site Plan Approval

9.3.1 Site Plan Approval Granting Authority - Certain uses are designated in the Table of Principal Uses as requiring site plan approval. The Board of Appeals, Planning Board or the Board of Selectmen may grant site plan approval in accordance with the standards set forth in this Bylaw. Wherever a specific designation is not made, the Planning Board shall be deemed the Site Plan Approval Granting Authority.

9.3.2 Rules and Regulations and Fees - Each board designated as a Site Plan Approval Granting Authority in the Table of Principal Uses, or otherwise so designated in the Bylaw, shall promulgate, adopt and, from time to time, amend rules and regulations, not inconsistent with the provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall prescribe as a minimum:

9.3.2.1 the size, form, contents, style and number of copies of plans, applications and specifications;

9.3.2.2 the town boards or agencies from which the Site Plan Approval Granting Authority may require reports; and

9.3.2.3 fees sufficient to cover reasonable costs incurred by the Town in the review and administration of site plan approval.

9.3.3 Projects Requiring Site Plan Approval - Site plan approval and a building permit shall be required for any of the following uses, as set forth below or in the Table of Principal Uses:

9.3.3.1 The construction or exterior alteration of a business or commercial STRUCTURE or parking area/LOT;

9.3.3.2 The construction or exterior alteration of an industrial STRUCTURE or parking area/LOT;

9.3.3.3 Notwithstanding that any particular use is an allowed use, site plan approval is also required for the following:

1. single family DWELLING with ACCESSORY APARTMENT;
2. BED AND BREAKFAST HOME;
3. BOARDING HOUSE or ROOMING HOUSE;
4. permanent BUILDING or STRUCTURE for the sale of farm produce;
5. in the Business District, uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA; and
6. in the Commercial and Industrial Districts, uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA;

9.3.3.4 Change from one permitted use to another permitted use of an existing STRUCTURE or LOT;

9.3.3.5 Change in or establishment of an area for vehicle parking, loading, storage or vehicular access; and

9.3.3.6 Any other use specified in the Table of Principal Uses which indicates a special permit or site plan approval is required.

9.3.4 The Site Plan Approval Granting Authority may waive any or all requirements of site plan approval process for external enlargements or alterations of less than 10% or five hundred (500) square feet, whichever is less, of the existing FLOOR AREA if the Site Plan Approval Granting Authority finds that the requirements of this Bylaw have been met.

9.3.5 Purpose - The purpose of site plan approval is to ensure that new construction, alterations of existing STRUCTURES and parking areas/LOT, and changes in use are designed in a manner which complies with the provisions of the Bylaw as to demonstrate protection of visual and environmental qualities and property values of the Town, and

assurances of adequate drainage of surface water and safe vehicular and pedestrian access, and all other requirements of the Bylaw.

9.3.6 Application - Any person who seeks to obtain site plan approval shall file a written application, signed by the applicant and the current property owner, with the Site Plan Approval Granting Authority, and forthwith file a copy with the office of the Town Clerk. The applicant shall submit said application, including the date and time of filing, certified by the Town Clerk, to the appropriate office of the Site Plan Approval Granting Authority, accompanied by the required number of copies of the site plan in accordance with the rules and regulations.

9.3.7 Reports from Town Boards or Agencies - The Site Plan Approval Granting Authority shall transmit forthwith one copy each to the Planning Board, Zoning Board of Appeals, BUILDING INSPECTOR, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the Site Plan Approval Granting Authority for their written reports. Failure of any such board or agency to make a recommendation within thirty-five (35) days of receipt of said application shall be deemed lack of opposition by said board or agency. However, additional comments from any such board or agency may be received prior to the close of the public hearing.

9.3.8 Public Hearing and Decision - The Site Plan Approval Granting Authority shall hold a public hearing no later than sixty-five (65) days after the filing of an application. If the site plan approval is sought in conjunction with a special permit, one hearing and decision shall suffice for both site plan approval and special permit. The decision of the Site Plan Approval Granting Authority shall be made within ninety (90) days following the date of the public hearing. The Site Plan Approval Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to gather additional information in order to make an informed decision. Such continuance shall not automatically extend the required time limits set forth herein. The required time limits for a public hearing and/or decision may be extended by written agreement between the applicant and the Site Plan Approval Granting Authority. A copy of such agreement shall be filed in the office of the Town Clerk. Failure by the Site Plan Approval Granting Authority to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the site plan approval.

9.3.9 Time Limitation on Site Plan Approval - Site plan approval shall lapse if construction has not commenced, except for good cause, within a period of time to be specified by the Site Plan Approval Granting Authority, not to exceed two (2) years from the date of grant thereof.

9.3.10 A reasonable extension of said time, but not more than two (2) additional years, may be granted by the Site Plan Approval Granting Authority where good cause is shown. Any request for such extension of time shall be submitted to the Site Plan Approval Granting Authority and a copy to the Stow Town Clerk at least thirty (30) days prior to the date when the site plan approval is due to lapse. Failure to submit such a request as prescribed herein shall entitle the Site Plan Approval Granting Authority to deny the requested time extension.

9.3.11 Site Plan Design Criteria - The purpose of the following site plan design criteria is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public

convenience and safety, and to the suitability of a proposed use on a site. Before the granting of any site plan approval, the Site Plan Approval Granting Authority shall determine compliance with the following:

9.3.11.1 The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties or ways, the neighborhood, community amenities or the Town of Stow in accordance with, but not limited to, the following:

1. Site development shall minimize impacts on wetlands, steep SLOPES, flood plains, hilltops;
2. Site development, including building sites and STRUCTURES proposed thereon, should not obstruct scenic views from publicly accessible locations;
3. Sites shall be developed so as to preserve unique natural or historical features;
4. Site development shall minimize deforestation, vegetation and soil removal and shall avoid grade changes;
5. Development of the site shall be in accordance with OPEN SPACE provisions of the Bylaw; and
6. Screening of objectionable features, including, but not limited to, exposed storage areas, storage tanks, machinery, service areas, truck loading areas, and utility BUILDINGs and STRUCTURES, from abutting properties and roadways shall be year-round and provided in the site development plan;

9.3.11.2 No BUILDINGS and STRUCTURES, except driveways, roads and septic systems, shall be located outside the DEVELOPABLE SITE AREA, and the DEVELOPABLE SITE AREA shall be clearly identified on the plan and shall meet the requirements of the definition in Section 1.3;

9.3.11.3 Architectural style should be in harmony with the prevailing character and scale of BUILDINGs in the neighborhood and the town through the use of similar building materials, screening, roof and wall lines and other architectural features. Variation in detail, form and siting should be used to provide visual interest and avoid monotony. Proposed site development shall provide adequate light, air circulation and separation between BUILDINGs;

9.3.11.4 The development shall be served with adequate water supply and waste disposal systems. For STRUCTURES to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a registered professional engineer and approval by the Board of Health;

9.3.11.5 The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Unless waived by the Site Plan Approval Granting Authority, a traffic study plan shall be prepared by a registered professional engineer and shall prescribe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site;

9.3.11.6 The site plan shall show adequate proven measures to prevent pollution of surface or GROUND WATER, to prevent erosion and sedimentation, and to prevent significant changes in GROUND WATER levels, increased runoff and potential for flooding. Drainage shall be designed so that the rate and volume of runoff from the site shall not be increased, and abutting properties and ways, the neighborhood and community amenities will not be adversely impacted;

9.3.11.7 The development shall not excessively burden town services and infrastructures. To that end, the development shall place no more than the minimum demands on town services and infrastructures as may be reasonably taken care of on site or by alternate means. If the foregoing is not reasonably feasible, the site plan approval shall include provisions to assure that adequate provision for any significant increase in demands on town services and infrastructures which result from the development are provided or secured by the applicant;

9.3.11.8 Electric, telephone, natural gas, cable television and other such utilities and services shall be underground unless otherwise authorized by the Site Plan Approval Granting Authority;

9.3.11.9 The site plan shall comply with all zoning requirements for parking, loading, lighting, dimensions, environmental performance standards, and all other provisions of this Bylaw; and

9.3.11.10 Before approval of a site plan, the Site Plan Approval Granting Authority may request the applicant make modifications in the proposed design to ensure that the above criteria are met.

9.3.12 Findings by the Site Plan Approval Granting Authority - The Site Plan Approval Granting Authority, in order to grant site plan approval, shall find the proposed use of the site consistent with the uses permitted in the district in which the site is located and shall give due consideration to the reports received under Section 9.3.7. Prior to the granting of any site plan approval, the Site Plan Approval Granting Authority shall find that the site plan:

9.3.12.1 Protects the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment;

9.3.12.2 Provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;

9.3.12.3 Provides an adequate, convenient and safe arrangement of parking and LOADING SPACES in relation to the proposed uses of the site;

9.3.12.4 Provides adequate and safe methods of disposal of REFUSE or other wastes resulting from the uses permitted on the site;

9.3.12.5 Will not derogate from the purpose of this Bylaw; and

9.3.12.6 Complies with all applicable requirements of this Bylaw.

9.3.13 Final Action by the Site Plan Approval Granting Authority - Final action in connection with site plan approval shall consist of either:

9.3.13.1 a determination that the proposed project as set forth in the application constitutes a suitable development and is in compliance with the criteria set forth in this Bylaw, and the approval thereof; or

9.3.13.2 a written denial of the application stating the reasons for such denial.

9.3.14 As-Built Plan - At the time the BUILDINGs contained within the development site are ready for occupancy and prior to the issuance of an Occupancy Permit by the BUILDING

INSPECTOR, the applicant shall have prepared and certified by a registered professional engineer or land surveyor an "As-Built Plan" drawn with dark lines on a medium acceptable for recording with the Middlesex County Registry of Deeds or Land Court showing the following:

9.3.14.1 property boundary lines;

9.3.14.2 location of all BUILDINGs and other STRUCTURES, including utility sheds, storage areas and storage tanks;

9.3.14.3 actual widths, lengths and bearings of all boundary lines of STREETS, driveways, parking lots/areas, drainage structures and easements;

9.3.14.4 grades of streets, driveways, parking lots/areas, drainage structures, pipes and easements; and

9.3.14.5 locations of all pipes and utilities.

Said "As-Built Plan" shall be accepted by the Site Plan Approval Granting Authority prior to the issuance of any Occupancy Permit.

9.4 Procedures

All procedure, time periods, hearings, actions taken and the adoption of rules and requirements shall be in accordance with Chapter 40A of the General Laws, as amended by Chapter 808 of the Acts of 1975, and any subsequent amendments thereto.

9.5 Planning Board Associate Member

The Planning Board under this Bylaw may appoint one (1) Associate Member, and the chairman may designate said Associate Member, to sit on the Planning Board for purposes of action on a special permit application in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board.

9.6 Enforcement

The provisions of the Bylaw and any amendments thereto shall be administered and enforced by the BUILDING INSPECTOR.

9.6.1 Building Permits - Building permits are required in accord with the State Building Code.

9.6.2 Certificate of Occupancy - Certificates of occupancy are required in accord with the State Building Code.

9.6.3 Violations and Enforcement - Enforcement shall be in accord with provisions of the State Building Code.

9.6.4 Penalty for Violation - The penalty for violation of this Bylaw shall be a fine of one hundred dollars ($100) for the first offense, two hundred dollars ($200) for the second offense, three hundred dollars ($300) for the third offense and three hundred dollars ($300) for each succeeding offense. Each day that a violation continues shall constitute a separate offense.

9.7 Amendment

This Bylaw may from time to time by changed by amendment, addition or repeal by a town meeting in a manner provided in Section 5 of Chapter 40A of the General Laws.

9.8 Validity

Where this Bylaw imposes a greater restriction upon the use, height and the area of STRUCTURES or the use of premises than is imposed by other bylaws, the provisions of this Bylaw shall control. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

9.9 Exemptions - Religious, Educational, Agricultural or Municipal Uses

Nothing in this Bylaw shall be construed to limit or prohibit the use of land in any district, or any BUILDING or STRUCTURE, for any church or religious purpose, for any non-profit educational purpose which is religious, sectarian, denominational or public, for agricultural use except piggeries or raising animals for fur, or for any municipal purpose with the exception of a REFUSE disposal area. Such uses shall nevertheless conform to the dimensional, parking and BUILDING coverage requirements of this Bylaw.

A true copy.

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Attest: Linda E. Hathaway
Town Clerk of Stow

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