

TOWN OF TEMPLETON RED-LINE DRAFT

**BYLAWS**

Chapter 1

**GENERAL PROVISIONS**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Interpretation; General Penalty

[Adopted 3-5-1951 (Art. I of the Bylaw Compilation)]

§ 1-1. Codification of bylaws.

The following provisions shall constitute the Revised General Bylaws of the Town of Templeton, which shall be in lieu of all bylaws heretofore in force. Starting in the year 1951, the bylaws shall be published every five years in booklet form, together with amendments, additions and deletions thereto.

§ 1-2. Effect of bylaw repeal.

The repeal of a bylaw shall not thereby have the effect of reviving any bylaw theretofore repealed.

§ 1-3. Officers, boards and committees.

Words and phrases specifying or naming any officer, board or committee of the Town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officers, board or committee.

§ 1-4. General penalty.

Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provisions are expressly made, forfeit and pay a fine not exceeding \$20300 for each offense.

ARTICLE II

Noncriminal Disposition of Violations

[Adopted 6-22-1994 (Art. XXXVII of the Bylaw Compilation)]

§ 1-5. Scope and authority.

This bylaw provides for a non-criminal/noncriminal disposition of a violation of health related Town bylaws or any rules or regulations adopted by the Board of Health of which is/are subject to a specific penalty not to exceed \$300. This bylaw is enacted in accordance with MGL c. 40, § 21D, as it may be amended from time to time (herein called "Section 21D").

§ 1-6. Enforcing person.

"Enforcing person," as used in this bylaw, shall mean the Board of Health, Board of Health Agent or other designee, each with respect to violation of bylaws or rules and regulations within their

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~~respective jurisdiction over a given authority granted to adopt rules and regulations for the enforcement of this bylaw within respective areas of their jurisdiction.~~

~~§ 1-7. Violation procedures.~~

~~An enforcing person taking cognizance of a violation of said bylaw, rules or regulations may, as an alternative to instituting criminal proceedings, give the offender a written notice to appear before the Clerk of the Gardner District Court for non-criminal/noncriminal disposition of the violation, accordance with Section 21D. The provisions of Section 21D are incorporated by reference herein.~~

~~§ 1-8. Nature of proceedings.~~

~~Proceedings pursuant to this bylaw and Section 21D shall not be deemed to be criminal proceedings.~~

**Chapter 9**

**BOARDS, COMMISSIONS AND COMMITTEES**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Advisory Committee**

**[Adopted 3-5-1951 (Art. IV of the Bylaw Compilation)]**

**§ 9-1. Membership; eligibility. [Amended 5-13-2003; 5-11-2011; 5-13-2017 ATM by Art. 7]**

There shall be an Advisory Committee consisting of seven legal voters of the Town who shall be appointed by the Moderator as hereinafter provided. No elective or appointive Town officer or Town employee shall be eligible to serve on said Committee. Advisory Committee members shall be entitled to serve upon any committee for which membership is specifically provided for in these bylaws. In addition, members of the Advisory Committee may serve upon temporary ad hoc committees convened for a single purpose, such as the screening of applications for employment or appointment and examination of policy issues, when such bodies will be dissolved upon the completion of their work.

**§ 9-2. Appointment; terms; officers; compensation. [Amended 5-11-2011]**

The Moderator of the Town Meeting when this bylaw is adopted shall, within 30 days after such bylaw becomes effective, appoint two members of said Committee for terms of one year, two members for terms of two years, and three members for terms of three years. At each Annual Town Meeting thereafter, the Moderator thereof shall appoint three members of said Committee for terms of three years. The terms of office of said members shall commence immediately upon qualification and shall expire at the close of final adjournment of the Annual Town Meeting at which their successors are appointed. Said Committee shall choose its own officers and shall serve without pay, except the Chairman, who shall receive such amount as voted upon at the Annual Town Meeting, and it shall cause to be kept a true record of its proceedings.

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**§ 9-3. Vacancies.**

The ~~said~~ Committee shall fill any vacancy which may occur in its membership, by vote, attested copy of which shall be sent by the secretary to the Town Clerk. If any member is absent from five consecutive meetings of said Committee, except in case of illness, his position shall be deemed to be vacant and shall be filled as herein provided. The term of office of any person so chosen to fill a vacancy shall expire at the final adjournment of the next succeeding Annual Town Meeting, and the Moderator thereof shall appoint his successor to complete the unexpired term of the member in whose office such vacancy originally occurred.

**§ 9-4. Duties.**

It shall be the duty of the Advisory Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the several boards, officers and committees of the Town, as prepared by them in such form and detail as may be prescribed by said committee. The said committee shall add to such statement of expenditures and estimates another column, giving the amounts which in its opinion should be appropriated for the ensuing year, and shall further add thereto such explanations and suggestions relating to the proposed appropriations as it may deem expedient, and report thereon as provided in [Section 5 of Article II Chapter 22, Elections and Town Meetings § 22-5.](#)

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**§ 9-4a. Review of proposed warrant articles. [Added 3-9-1957; amended 3-10-1973, 5-16-2013]**

All articles, other than those deemed by the Board of Selectmen (~~Board~~) to constitute an emergency, sought to be inserted in the Town Warrant for the Annual Town Meeting shall be filed with the ~~Board of Selectmen~~, and referred by them to the Advisory Committee on or before April 10<sup>th</sup>; and all articles sought to be inserted in the Warrant for a Special Town Meeting shall be referred by the ~~Board of Selectmen~~Board to the Advisory Committee at least 14 days before the date set for such meeting.

**§ 9-5. Access to information.**

In the discharge of its duty, said Committee shall have free access to all books of record and accounts, bills and vouchers on which money has been or may be paid from the Town treasury. Officers, boards, and committees of the Town shall, upon request, furnish said Committee with facts, figures, and any other information pertaining to their several activities.

**§ 9-6. Annual report.**

It shall be the duty of the Advisory Committee to make an annual report of its doings, with recommendations relative to financial matters and the conduct of Town business, to be contained in the Annual Town Report.

**ARTICLE II**

**Capital Improvements Committee**

[Adopted 9-26-2000; amended in its entirety 5-13-2017 ATM by Art. 6 (Art. XLII of the Bylaw Compilation)]

**§ 9-7. Establishment; officers; appointment and term; vacancies.**

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- A. There is hereby authorized a Capital Improvements Committee, to be composed of five members, as follows:
- (1) One from the Board of Selectmen (~~Board~~);
  - (2) One from the Advisory Committee;
  - (3) Two from the community at large to be appointed by the Board ~~of Selectmen~~; and
  - (4) The Town Treasurer/Collector.
- B. The Town Administrator, or designee, shall serve as a non-voting ex-officio member; provided, however, that this person shall be designated by the Chairman as a voting member whenever the Committee lacks a quorum because of a recusal of a member or to provide a sufficient number of members to establish a quorum and conduct business.
- C. The Committee shall choose its own officers; provided, however, that an ex-officio member may not serve as an officer of the Committee.
- D. The members of the Committee shall be appointed at the first business meeting of each body following the Annual Town Meeting and serve until the Annual Town Meeting of the following year is dissolved. Should a vacancy occur in any of the above seats, the appointment to fill such vacancy shall be for the balance of the term.

**§ 9-8. Duties and authority.**

- A. To facilitate the reasonable acquisition and replacement of capital items (defined as assets and projects with a useful life of five or more years and a cost of more than \$10,000, but including items with an individual cost of less than \$10,000 when purchased in bulk at a cost of more than \$10,000), the Committee shall have the following duties and responsibilities:
- (1) Annually collect all proposed capital improvements for the coming six years from all departments, on forms designed for that purpose.
  - (2) Consider all requests and the relative need and impact of these requests on the Town's financial position.
  - (3) Establish and annually update a five-year Capital Improvement Plan, based on this information.
  - (4) Annually prepare a report prioritizing capital needs for the coming fiscal year, and recommend a Capital Improvement Budget for that fiscal year.
  - (5) Submit this annual report, and ~~theirs~~ recommendations for purchases or improvements, to the Board ~~of Selectmen~~ for its consideration and approval as part of the annual budget planning process by January 1 of each year. A copy of said report shall also be filed with the Town Clerk and Advisory Committee.
- B. It is the intent of this bylaw that all capital improvements, without regard to the source of funding, requested by a Town department or board shall be considered in the Committee's report before presentation to the Town for appropriation. If a requesting department shall not, ~~for an~~ unforeseen reason, have submitted ~~theirs~~ request for funding of a capital expenditure of the Committee during its annual review cycle, and such a request cannot, in

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~~their~~its opinion, await the next annual review cycle, ~~they~~the department shall promptly submit the request to the Committee for consideration. In such an event, the Committee shall meet expeditiously to consider the matter and file a supplemental report as set forth above before any vote for appropriation takes place on the omitted request.

**ARTICLE III  
Community Preservation Committee  
[Adopted 5-16-2007 (Art. L of the Bylaw Compilation)]**

**§ 9-9. Establishment; members; terms; vacancies; removal.**

- A. There is hereby established a Community Preservation Committee ("CPC"), consisting of nine voting members pursuant to MGL Chapter 44B (the "Act"). The composition of the CPC, the appointment authority and the terms of office for the CPC members shall be as follows:
- (1) One member of the Templeton Conservation Commission as designated by that Commission.
  - (2) One member of the Templeton Historical Commission as designated by that Commission.
  - (3) One member of the Templeton Housing Authority as designated by that Authority.
  - (4) One member of the Templeton Recreation ~~Committee~~Commission as designated by that ~~Committee~~Commission.
  - (5) One member of the Templeton Planning Board as designated by that Planning Board.
  - (6) One member of the Templeton Board of Assessors as designated by that Board of Assessors.
  - (7) Three members to be elected at large from the registered voters of the Town.
- B. Appointed members of the CPC shall serve for two-year terms or until they no longer serve on the appointing body, whichever comes first. A vacancy in an appointed position shall be filled for the remainder of the unexpired term by the appointing commission, committee, board or authority. Persons appointed to fill a vacancy in an appointed position shall be sworn ~~in~~to office no later than 14 days after appointment or such appointment will expire and the appointing commission, committee, board ~~of~~ authority shall make a new appointment.
- C. Elected members of the CPC shall serve for three-year alternating terms; provided, however, that upon the effective date of this bylaw, the Board ~~of Selectmen~~ shall appoint three members to serve until their successors are elected and qualified at the next Annual Town Election, and such positions shall be placed upon the ballot at such election for initial terms of one, two and three ~~years~~. ~~A vacancy in an elected position shall be filled in accordance with G.L. c. 41, § 11 years.~~
- D. Vacancies in elected positions are filled in accordance with MGL c. 41, § 11. MGL c. 41, § 11 requires that the Committee at issue give notice to the Board ~~of Selectmen~~ of the vacancy within one month thereof, and that the Board ~~of Selectmen~~ and remaining members of the Committee make a joint appointment to the position, after one week's notice of the

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joint meeting. If the Committee fails to give notice, the Board ~~of Selectmen~~ may fill the vacancy on its own.

- E. The terms of all appointed and elected members of the CPC shall commence on June 1; provided, however, that the terms of the initial appointments made hereunder shall commence after appointments have been made in accordance with § 9-15 and the appointees have qualified in accordance with the requirements of MGL c. 41, § 107.
- F. Should any of the commissions, boards, authorities, or committees who have appointment authority under this ~~chapter~~ ~~bylaw~~ cease to exist for whatever reason, the appointment authority for that commission, board, authority, or committee shall become the responsibility of the Board ~~of Selectmen~~.
- G. Any appointed member of the CPC may, after a public hearing, be removed for cause by majority vote of the appointing commission, committee, board or authority.

### § 9-10. Duties.

- A. The Community Preservation Committee shall study the needs, possibilities, and resources of the Town regarding community preservation. The CPC shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation ~~Committee~~ ~~Commission~~, the Open Space Committee and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the CPC shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town. The CPC will provide an annual report on its activities for inclusion in the Templeton Annual Report.
- B. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the CPC shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- C. The Community Preservation Committee may include, in its recommendation to the Town Meeting, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community preservation.
- D. The Community Preservation Committee shall work within the provisions of the Community Preservation Act as it may be amended from time to time.

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**§ 9-11. Quorum, vote and cost estimate requirements.**

The Community Preservation Committee shall not conduct business without the presence of a quorum. A majority of the members of the CPC shall constitute a quorum. The CPC shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the CPC's anticipated costs.

**§ 9-12. Amendments.**

This ~~chapter~~ ~~bylaw~~ may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL Chapter 44B.

**§ 9-13. Exemption from surcharge.**

Applications for an exemption from the community preservation surcharge shall be filed with the Board of Assessors no later than 90 days following the issuance of the actual tax bill.

**§ 9-14. Severability.**

In case any section, paragraph or part of this ~~chapter~~ ~~bylaw~~ is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**§ 9-15. Effective date.**

Provided that the Community Preservation Act is accepted by the voters at the 2007 or 2008 Annual Town Election, this bylaw shall take effect upon approval by the Attorney General of the Commonwealth and after all the requirements of MGL c. 40, § 32 have been met. Each appointing authority shall have 30 days after approval by the Attorney General to make its initial appointments.

**ARTICLE IV  
Recreation Commission  
[Adopted 11-29-2007 (Art. LI of the Bylaw Compilation)]**

**§ 9-16. Membership; appointment; terms; vacancies.**

The Board of Selectmen (~~Board~~) shall appoint a Recreation Commission consisting of seven members: three members to be appointed from Precinct A, three members to be appointed from Precinct B, and one member to be appointed at-large. The term for each ~~member~~ shall be one year. Any seat that becomes vacant during the one-year term shall be filled by the appointing authority for the remainder of the unexpired term.

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**ARTICLE V  
Veterans Advisory Board  
[Adopted 5-16-2015 ATM by Art. 21; amended in its entirety 5-19-2018 ATM by Art. 6 (Art. LV of the Bylaw Compilation)]**

**§ 9-17. Establishment; terms; eligibility; officers.**

A. There shall be a Veterans Advisory Board consisting of five residents of the Town who shall be registered voters. Veterans appointed as members shall have received an honorable discharge for their service. Members shall be appointed by the Board ~~of Selectmen (Board)~~ ~~of Selectmen~~ for a term of three years commencing on July 1. The terms shall be staggered

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such that no more than two members shall have their terms expire each year. Members shall serve until their successor is appointed and duly qualified. There shall be no compensation for members.

- B. Town officers and Town employees, elected or appointed, are not eligible to be members. Any member of ~~the Veterans Advisory Board~~ the Veterans Advisory Board who shall be elected or appointed to Town office, except as provided for herein, shall forthwith, upon his qualification in such office, and any other member who shall move from Town shall, upon moving, cease to be a member of said ~~Veterans Advisory committee~~ Veterans Advisory Board. Members of the ~~Veterans Advisory committee~~ Board shall serve without compensation.
- C. The ~~Veterans Advisory~~ Veterans Advisory Board shall have a Chairman and a Clerk who shall act in the absence of the Chairman. The Board shall choose its own officers.

### § 9-18. Vacancies.

A vacancy in an appointed position shall be filled for the balance of the unexpired term of the vacant position.

### § 9-19. Purpose.

The ~~Veterans Advisory~~ Veterans Advisory Board shall meet no less than quarterly to consider matters brought to its attention by the Town's Veterans Services Officer, other Town officers or employees, the general populace and of its own initiative pertaining to the health and well-being of the Town's veterans.

### § 9-20. Reports.

The ~~Committee~~ Board shall annually file a report on its work ~~with the Board of Selectmen in December of each year~~, to include such recommendations as it deems worthy of consideration, with the Board of Selectmen in December of each year.

## Chapter 14

### CONTRACTS

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-5-1951; amended in its entirety 5-11-2005 (Art. VI of the Bylaw Compilation). Subsequent amendments noted where applicable.]

#### § 14-1. Authority to enter into contracts.

Unless otherwise provided by the General Laws or a vote of Town Meeting, the Board of Selectmen (~~Board~~) is authorized to enter into any contract for the exercise of the Town's corporate powers on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, no board, committee, commission or Town officer shall contract for any purpose, on any terms or under any conditions inconsistent with any applicable provision of any general or special law. (MGL c. 40, § 4, Town Meeting designation of contracting authority)

#### § 14-2. Procurement of supplies or services; acquisition or disposition of property.



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Every contract for the purchase of supplies or services, for the disposition of surplus tangible property, or for the acquisition or disposition of interests in real property shall be subject to the procurement procedures of MGL Chapter 30B. No contract shall be split or divided for the purpose of evading the provisions of this section.

**§ 14-3. Procurement for construction or repair of public works.**

Every contract for the construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material therefor, or for the design or construction, reconstruction, installation, demolition, maintenance or repair of any building by the Town, shall be procured in compliance with all applicable provisions of the General Laws, including but not limited to MGL c. 30, § 39 and MGL c. ~~7~~ ~~section 38A-1/2-380, G.L.c-149~~, § 44A through § 44J. No contract shall be split or divided for the purpose of evading the provisions of this section.

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Chapter 22

ELECTIONS AND TOWN MEETINGS

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-5-1951 (Art. II of the Bylaw Compilation). Amendments noted where applicable.]

§ 22-1. Annual Town Election date; terms of officers. [Amended 3-10-1973]

- A. The Annual Town Meeting for the election of Town officers shall be held on the third Monday of May of each year. [Amended 5-19-2018 ATM by Art. 8]
- B. The term of the Town Clerk shall commence on July ~~1st~~ of the year so elected and expire on June 30~~th~~ in the year for which the term at issue was warned. The term of all other Town officers shall commence as soon as the Town officer is qualified for office by the Town Clerk, after the Annual Election, and shall continue until the successor for the office is duly elected or appointed and qualified. [Added 5-13-2017 ATM by Art. 5]

§ 22-2. Annual Town Meeting date. [Added 11-14-1985; amended 5-16-2013; 5-19-2018 ATM by Art. 8]

All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered on the Wednesday preceding the election of Town officers, at a time and place designated by the Board of Selectmen (~~Board~~).

§ 22-3. Polling hours and location.

The polls shall be opened at 11:00 in the morning and shall remain open until 7:00 in the evening. The place of voting in each precinct shall be designated by the ~~Selectmen-Board~~ in the Town warrant.

§ 22-4. Notice of meetings. [Added 8-31-1978; amended 5-16-2013]

Notice of every Town Meeting shall be given by posting attested copies of the warrant therefor in a public place in each precinct as directed by the ~~Selectmen-Board~~ not less than seven days before the day fixed for the Annual Town Meeting, and not less than 14 days before the day fixed for a Special Town Meeting, and notice of said Town Meeting shall be published in a local newspaper and on the Town website.

§ 22-5. Warrants. [Added 5-12-2004]

Warrants for Annual Town Meeting and Special Town Meetings shall be open for a minimum of 14 days before closing and posting the warrants.

§ 22-6. Review of warrant articles by Advisory Committee.

All articles in any warrant for a Town Meeting shall be referred to the Advisory Committee for its consideration. The ~~SelectmenBoard~~, after drawing any such warrant, shall transmit immediately a copy thereof to the Chairman of said Committee. A public hearing shall be held, upon all such articles, unless a public hearing by some other tribunal is required by law, and a notice of such hearing shall be given by inserting in the local newspaper ~~and by posting on the Town website~~.

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Said Committee shall, after due consideration of the subject matter of such articles, report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interests of the Town and its citizens. Copies of the report of the Advisory Committee shall be made available to the voters at least two days before Town Meetings and at all Town Meetings. Copies of the report of the Advisory Committee shall be made available to the voters at least two days before Town Meetings and at all Town Meetings.

### § 22-7. Meeting checkers. [Amended 5-14-2016]

The Town Clerk shall appoint checkers, who shall permit only registered voters to enter upon the floor of the Annual or any Town Meeting; a section marked "non-registered" shall be opened to the public.

### § 22-8. Action on warrant articles.

Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by the vote of the meeting.

### § 22-9. Written articles required.

All motions having to do with the expenditure of money shall be presented in writing; other motions shall be in writing if so directed by the Moderator.

### § 22-10. Disclosure of attorney status.

Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.

### § 22-11. Determination of vote. [Added 5-13-1997]

When a question is put, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote as it appears to him/her. If the Moderator is unable to decide the vote by the sound of the voices, or if his/her decision is immediately questioned by seven or more voters rising in their places for that purpose, he/she shall determine the vote by ordering a show of hands, and he/she may appoint tellers to make and return the count. On matters requiring a two-thirds vote by statute a count need not be taken unless the vote so declared is immediately questioned by the Moderator or seven or more voters as provided in MGL c. 39, § 15.

### § 22-12. Ballot requests.

The meeting may order that the vote on any motion shall be taken by a "Yes" and "No" ballot.

### § 22-13. Reconsideration of votes.

No vote of the meeting shall be reconsidered unless notice of intention to ask for reconsideration shall have been given within one hour after the vote to which such notice relates has been passed. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be reconsidered more than once; nor shall any vote be reconsidered on a motion to adjourn, to lay on the table, or for the previous question.

### § 22-14. Committee reports.

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All committees shall report as directed by the Town. If no report is made within a year after its appointment, a committee shall be discharged unless, in the meantime, the Town shall have granted an extension of time.

### § 22-15. Motion to dissolve meeting.

No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefore has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an ~~an~~ adjournment recess of the meeting at a stated time and place.

### § 22-16. Motion to pass over articles.

A motion to "pass over" an article in the warrant shall not be entertained until a motion incorporating the substance of said article is before the meeting and at least one voter has spoken in favor thereof, unless, after a reasonable opportunity so to do, no voter makes such motion or speaks in favor thereof. A motion to "pass over" shall be debatable as to its merits but not as to the merits of the article.

### § 22-17. Procedural rules. [Amended 10-15-1982]

The most current issue of Town Meeting Time is to be considered the general guideline for all procedures of Town Meetings, except those procedures already provided for by the bylaws.

### § 22-18. Posting of bylaws and warrants. [Added 5-12-2004]

The ~~Templeton~~ Board of Selectmen shall post all bylaws and Town Meeting warrants on the official Town website, within one business day of posting warrants or within three business days following notification of acceptance by the Attorney General of Massachusetts for bylaws. Bylaws existing prior to the passage of this bylaw shall be posted on the official Town website by the end of the fiscal year following passage of this article.

### § 22-19. Town website. [Added 5-12-2004]

The ~~Templeton~~ Board of Selectmen shall designate an official Town website, for the posting of Town business, and provide for its maintenance, security, and improvement through a specific budget line item in the fiscal year following passage of this article.

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**Chapter 28**

**FINANCES**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

**ARTICLE I**  
**Management of Financial Affairs**  
[Adopted 3-5-1951 (Art. V of the Bylaw Compilation)]

**§ 28-1. Collection of accounts.**

The Collector of Taxes shall collect, under the title of "Town Collector," all accounts due the Town except interest on investments of trust funds.

**§ 28-2. Custody of financial documents.**

Except as otherwise provided by law, the Treasurer shall have custody of deeds, bonds, contracts, insurance policies, and other similar documents owned by the Town, except that the bonds given by the Treasurer and the Collector of Taxes to the Town shall be in the custody of the ~~Selectmen~~Board of Selectmen (Board).

**§ 28-3. Disposition of money received by officers.**

Every officer shall pay into the treasury of the Town all amounts received by him/her on behalf of the Town, except as otherwise provided by law, and shall make a true return thereof to the Town Accountant, stating the accounts upon which such amounts were received.

**§ 28-4. Sale of real property.** [Added 8-31-1978]

The ~~Board is~~Selectmen are authorized to sell any parcels of land acquired by the Town for non-payment~~nonpayment~~ of taxes by public auction only; ~~notification of auction to be published in a local newspaper of general circulation at least 10 days prior to date set for said auction~~accordance with MGL c. 60, § 52.

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**§ 28-5. Sale of personal property.** [Added 8-31-1978; amended 5-14-2013]

The Town ~~coordinator~~Administrator, with the approval of the Board of Selectmen, is authorized to ~~sell~~dispose of obsolete Town equipment to the highest bidder, or bidders, only and to be posted on Town website and other public places as deemed by the Board of Selectmen under MGL c. 30B, § 15.

Commented [CT6]: Changed to ensure conformance with state law should they differ at any time.

**§ 28-6. Departmental revolving funds.** [Added 5-13-2017 ATM by Art. 8]

A. Purpose. This bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

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- B. Expenditure limitations.** A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation, subject to the following limitations:
- (1) Fringe benefits of full-time and part-time employees whose salaries or wages are paid from the fund shall also be paid from the fund (except for those employed as school bus drivers). [Amended 5-19-2018 ATM by Art. 3]
  - (2) No liability shall be incurred in excess of the available balance of the fund.
  - (3) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the ~~Board of Selectmen~~Board and the Advisory Committee.
- C. Interest.** Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.
- D. Procedures and reports.** Except as provided in MGL c. 44, § 53E 1/2 and this bylaw, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.
- E. Establishment of the several departmental accounts.** The authorized departmental revolving ~~account(s)~~accounts are as follows: [Amended 5-19-2018 ATM by Art. 3]

<b>Revolving Fund Name</b>	<b>Programs and Purposes of Fund</b>	<b>Departmental Receipts to be Credited to Fund</b>	<b>Officer Authorized to Expend from Fund</b>	<b>Fiscal Years</b>
Burial and Improvement Fund	Wages for weekend burials and cemetery capital improvements	Fees charged for weekend burials	Cemetery Commission	FY 2018 and subsequent fiscal years
Recycling Fund	Operation of the recycling program	Receipts from the sale of recycling equipment and disposal of recycled goods	Board of Health	FY 2018 and subsequent fiscal years

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<b>Revolving Fund Name</b>	<b>Programs and Purposes of Fund</b>	<b>Departmental Receipts to be Credited to Fund</b>	<b>Officer Authorized to Expend from Fund</b>	<b>Fiscal Years</b>
Plumbing and Gas Inspector Compensation Fund	Wages for the Gas and Plumbing Inspector	80% of the fees collected for gas and plumbing permits	Office of Development Services Director	FY 2018 and subsequent fiscal years
Electrical (Wiring) Inspector Compensation Fund	Wages for the Electrical (Wiring) Inspector	80% of the fees collected for electrical (wiring) permits	Office of Development Services Director	FY 2018 and subsequent fiscal years
Community Services Fund	Wages of seasonal or part-time staffing, supplies, and general associated expenses	Fees received for rentals of facilities, sports, instructional, day-camp, and program offerings	Director of Community Services	FY 2019 and subsequent fiscal years

**ARTICLE II**

**Budget Preparation**

[Adopted 5-16-2013 (Art. III, § 4, of the Bylaw Compilation)]

**§ 28-7. Preparation by Administrator and ~~Selectmen~~Board of Selectmen.** [Amended 5-19-2014]

It shall be duty of the Town Administrator, in conjunction with the ~~BOS~~Board of Selectmen~~Board of Selectmen (Board)~~, to consider expenditures and develop a budget for the ensuing fiscal year of the several boards, officers and committees of the Town, as prepared by them in such form and detail as prescribed by the Town Administrator.

**ARTICLE III**

**Audit**

[Adopted 5-19-2014 (Art. III, § 5, of the Bylaw Compilation)]

**§ 28-8. Annual audit required.**

The ~~Board of~~ (Board) Selectmen shall, at least annually, provide for and conduct an independent audit of the financial books to be done by a reputable accounting firm not connected to or related in any way to the Town or its officers. The complete audit with recommendations shall be made available to the public as soon as it is received and it shall be posted in the Annual Town Report.

TOWN OF TEMPLETON RED-LINE DRAFT

Chapter 47

LEGAL AFFAIRS

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-5-1951 (Art. VII of the Bylaw Compilation). Amendments noted where applicable.]

§ 47-1. Authority to institute and defend claims.

The ~~Board of~~ Selectmen (~~Board~~) shall be agents of the Town to institute, prosecute and defend any and all claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

§ 47-2. Authority to settle claims.

The ~~Selectmen Board~~ may at ~~their~~ its discretion compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of an amount in excess of \$10,000. No settlement of a claim or suit obligating the Town in an amount in excess of \$10,000 shall be made, except as authorized by law, without the consent of the Town Meeting.

§ 47-3. Annual report.

The ~~Selectmen Board~~ in ~~its~~ their annual report shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

§ 47-4. Town Counsel. [Amended 8-31-1978]

- A. The ~~Selectmen Board~~ shall annually in June appoint a Town Counsel, who is a member of the bar in good standing, to serve for the term of one year from the first day of July following and until his successor is appointed and enters upon the performance of his duties. ~~They-It~~ shall likewise fill any vacancies in said office for the unexpired term, and may employ special counsel to assist ~~the said said~~ Town Counsel whenever, in ~~their-its~~ judgment, necessity therefor ~~ce~~ arises.
- B. It shall be the duty of the Town Counsel to conduct the prosecution, defense or compromise of claims, actions and proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any Town officer, board or committee as such; to conduct the defense of any action or proceedings brought against any Town officer, board or committee as such when the ~~Selectmen Board~~, having determined that any right or interests of the Town are or may be involved therein, shall so request; to conduct proceedings brought by or against the Assessors before the ~~Appellate Tax Board of Tax Appeals~~; to assist in the prosecution of complaints for violation of any bylaw of the Town, when requested so to do by the board ~~of~~ officer enforcing the same, to examine and report upon titles to all land to be acquired by the Town; to prepare or approve contracts, bonds, deeds, and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his services may be required; and generally to advise and act for the Town officers, boards and committees upon and in legal matters touching the duties of their respective offices.



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Chapter 59

OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I  
General Provisions

[Adopted 3-5-1951 (Art. III, Secs. 1 through 3, of the Bylaw Compilation)]

§ 59-1. Board of Selectmen ~~(Board)~~. [Amended 5-16-2013; 5-21-2014]

- A. The ~~Selectmen Board~~ shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by laws or these bylaws.
- B. Members of the Board of Selectmen shall not serve in any other elective capacity on any other Town or governmental regional boards, commissions, or committees of which the Town of Templeton is a member.

§ 59-2. Notification of new committee members.

It shall be the duty of the Town Clerk immediately after every Town Meeting to notify in writing all members of committees who may be elected or appointed at such meeting, stating the business upon which they are to act and the names of the persons composing the committees.

§ 59-3. Appointment of officers and trustees. [Added 8-31-1978]

The Selectmen shall annually, in June, choose and appoint all necessary Town officers, Trustees for Boynton Public Library, and the Gilman Waite Memorial Field, and Trustees for the Jehu Richardson Fund, the Masonic Fund, and the Waldo N. Haskell Fund, to serve from July 1, to the following June 30.

Commented [KS7]: Review of various trustees will be carried out in review of trust funds, specifically regarding 3 year terms for public library trustees

ARTICLE II  
Gas Inspector

[Adopted 5-18-1964 (Art. XIII of the Bylaw Compilation)]

§ 59-4. Appointment; term; duties.

The ~~Selectmen Board of Selectmen~~ (Board) shall annually appoint an Inspector of Gas Piping and Appliances for a term of one year, immediately following final adjournment of the Annual Town Meeting, whose duties shall be as described in Chapter 737 of the Acts of 1960.

Commented [KS8]: 59-5 [Sick Leave for Full-Time Employees] deleted in its entirety because it conflicts with the personnel policy. The substance of the bylaw will be captured in Town policies.

ARTICLE III

Sick Leave for Full-Time Employees

[Adopted 3-9-1968 (Art. XVII of the Bylaw Compilation)]

~~§ 59-5. Annual amount; accumulation.~~

~~All full-time Town employees shall be entitled to 10 days of sick leave in any one year, which may be accumulated to a total of 60 days.~~

59-6 [Compensation to Incapacitated Firefighters and Rescue Squad Personnel] deleted in its entirety because its terms are set by state statute and the bylaw redundant.

Commented [KS9]: Conflicts with personnel plan

**TOWN OF TEMPLETON RED-LINE DRAFT**

**ARTICLE IV**

**Compensation to Incapacitated Firefighters and Rescue Squad Personnel  
[Adopted 6-22-1994 (Art. XXXVIII of the Bylaw Compilation)]**

**§ 59-6. Eligibility; amount.**

A call firefighter, a member of the Town's Volunteer Fire Department, or a member of the Templeton Rescue Squad, who is disabled or incapacitated because of injuries sustained in the performance of his/her duties, without fault of his/her own, and is thereby unable to perform the usual duties of his/her regular occupation at the time such injury of incapacitation was incurred, shall receive during the period of his/her incapacity an amount equal to the compensation paid to a permanent member of the fire force for the first year of service therein, or if there are no regular or permanent members of the fire force, at a rate of \$3,000 per annum, as provided under MGL, c. 32, § 85H.

**ARTICLE V**

**Town Administrator**

**§ 59-57. Appointment; holding of other office; compensation.**

The Board of Selectmen (Board) is authorized and empowered to appoint a Town Administrator, who may be appointed for a term of ~~one or one year or three years~~, and to remove the Town Administrator at its discretion. The Town Administrator appointed under the provisions of this section shall be sworn to the faithful performance of the duties of the office. During the time that the Town Administrator holds office, the Town Administrator shall hold no elective Town office, but may be appointed by the ~~Board of Selectmen~~ Board or, with its approval, by any other Town officer, board, committee or commission to any other Town office or position consistent with the Town Administrator's office. The Town Administrator shall receive such aggregate compensation, not exceeding the amount appropriated therefor, as the ~~Board of Selectmen~~ Board may determine.

**§ 59-86. Powers and duties.**

- A. The Town Administrator shall act by and for the ~~Board of Selectmen~~ Board in any matter which the Board may assign to the Town Administrator relating to the administration of the affairs of the Town or of any Town office or department under its supervision and control, or, with the approval of the ~~Board of Selectmen~~ Board, may perform such other duties as may be requested by any other Town officer, board, committee or commission.
- B. It shall be the duty of the Town Administrator, in conjunction with the ~~Board of Selectmen~~ Board, to consider expenditures and develop a budget for the ensuing fiscal year of the several boards, officers and committees of the Town, as prepared by them in such form and detail as prescribed by the Town Administrator, and upon adoption by the board, present and defend the same to review and approval bodies.

Commented [CT10]: This section is being put back in after having been inadvertently deleted by a floor amendment numbering error when the Town authorized the TA/BoS to prepare the annual budget was inadvertently deleted during a floor amendment.

Commented [CT11]: Annual appointments pose considerable instability and a barrier to recruitment.

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**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 65**

**PERSONNEL**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-10-2005 (Art. XLVII of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 65-1. Administration of policies and procedures. [Amended 5-9-2006, 5-20-2013]**

The Board of Selectmen (Board) is responsible for the development and administration of all personnel policies and procedures.

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Chapter 71

RECORDS AND REPORTS

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-5-1951 (Art. VIII of the Bylaw Compilation). Amendments noted where applicable.]

§ 71-1. Records retention.

All officers, boards, and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board, or committee having custody thereof.

§ 71-2. Financial reports.

All officers, boards, standing committees, and special committees of the Town having charge of the expenditure of Town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Accountant for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Town Report on or before the 31st day of January of each year.

§ 71-3. Annual Report. [Amended 8-31-1978; 5-16-2013; 5-14-2016]

A. Publication. It shall be the duty of the Selectmen Board of Selectmen (Board) to publish the Annual Report, to be made available to the residents on the official Town website on the last Tuesday of April of each year and for distribution at the polling places and also at Town Hall in the Selectman's office.

B. Contents of annual report.

The Annual Town Report shall contain, in addition to the reports of officers, boards, and committees as hereinbefore provided, a detailed report of all moneys received into and paid out of the Town treasury in the previous financial year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements; the report of the Collector of Taxes, of receipts, payments and abatements; statements of all funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred, and the purpose thereof; a statement of transfers made to or from any appropriation; abstracts of the records of the meetings of the Town held since publication of the last Annual Report; a complete list of Town officers and appointees for the municipal year; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen Board under the discretion granted them by law.

Commented [CT12]: Needs work for FTM to ensure that all committees need to make reports not just those authorized to expend monies.

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**TOWN OF TEMPLETON RED-LINE DRAFT**

**§ 71-4. Publication of valuation list, Town votes and rules and regulations.**

The ~~Selectmen Board~~ or the Town may direct that the Assessors' valuation list, standing votes of the Town, and the rules or regulations adopted by any officer, board or committee, be printed either separately or as part of the Annual Town Report.

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**Chapter 107**

**ALCOHOLIC BEVERAGES**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Public Consumption**

**[Adopted 5-8-1976; amended 5-10-1986 (Art. XXV of the Bylaw Compilation)]**

**§ 107-1. Public consumption prohibited.**

No person shall drink any alcoholic beverages as defined in MGL c. 138, § 1, nor shall have in his possession any open containers, or containers whose seal has been broken and recapped of such beverages, while on, in, or upon any public way or sidewalk, or upon any way to which the public has a right of access or any place to which the members of the public have access as invitees or licensees, park or playground, or private land or place, without the consent of the owner or person in control thereof. The burden of proving such consent shall be on the defendant.

**§ 107-2. Enforcement; violations and penalties.**

All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charge against the person(s) so arrested or summonsed before the court, at which time they shall be disposed of as directed by the court. The penalty for violation of the bylaw shall not exceed \$50 for each offense.

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**Chapter 112**

**AMUSEMENT DEVICES**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-8-1982 (Art. XXVII of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 112-1. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

AUTOMATIC AMUSEMENT DEVICE — Any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as "pinball machines," including free play pinball machines, but not including slot machines as defined in MGL c. 23K.

**§ 112-2. Number and type permitted.**

In each establishment within the geographical limits of the Town of Templeton automatic amusement devices will be limited to five units, of which a maximum of three may be video games and/or pinball machines.

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**Chapter 118**

**BOATS AND BOATING**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-10-1972 (Art. XX of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 118-1. Partridgeville Pond restrictions.**

Power boats with motors exceeding 10 horsepower are prohibited from usage on Partridgeville Pond, also known as the Templeton Fish and Game Club Pond.



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Chapter 124

BUILDINGS AND BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I  
Street Numbers

[Adopted 6-23-1993 (Art. XXXIV of the Bylaw Compilation)]

§ 124-1. Attachment required.

Street numbers shall be attached to each dwelling, business, industry and other buildings in the Town of Templeton.

§ 124-2. Specifications.

The number shall be made of permanent, weather-proof materials, in contrasting color, shall be at least three inches in height, and shall be clearly visible from the street or roadway upon which the structure fronts.

§ 124-3. Numbers on structures not visible from road.

Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway that services such structure.

§ 124-4. Assignment of numbers.

The numbers posted shall be those assigned to each structure by ~~the Board of Assessors~~ Chief of Police or designee, who. ~~The said Board~~ shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address ~~with copies to the Board of Assessors and Building Inspector.~~

§ 124-5. Responsibility to post numbers.

It shall be the responsibility of each property owner in the Town to obtain, display, and maintain the assigned street number within 90 days after the effective date of this bylaw.

§ 124-6. Enforcement; violations and penalties.

This bylaw shall be enforced by the Police Department. Failure to comply with this bylaw shall subject property owners to a fine of not more than \$20 for each offense. Each day shall constitute a separate offense.

ARTICLE II

Emergency Radio Communications

[Adopted 11-29-2007 (Art. LII of the Bylaw Compilation)]

§ 124-7. Emergency communications ability required.

The construction of a new building or structure ~~or~~ containing a floor area equal to or greater than 12,000 square feet ~~or~~ or substantial renovation or alteration of an existing building containing 12,000 square feet or more, or which, after such renovation or alteration, will contain 12,000 square

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Commented [KS13]: This ensures other appropriate administrative agencies get copies of notification. Not sure what Carter is referring to here

Commented [KS14]: Updated to reflect current practice

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feet or more, shall provide for "public emergency radio communication" as required hereunder. For purposes of this bylaw, "public emergency radio communications" shall provide the unimpeded ability for emergency responders to communicate with each other over public emergency radio frequencies from any point within the building to any other point within the building, and from any point within the building to any area exterior of the building within 200 feet of the building.

### § 124-8. Building permit review.

As a part of and in addition to any existing Fire Department building permit application review, all building permit applications for structures that are or will be required to comply with obligation to provide "public emergency radio communication" in accordance with § 124-7 above, shall undergo a review by the Fire Department to determine whether the design and construction materials, as proposed, are consistent with the obligation to provide unimpeded communications between and among emergency responders, in accordance with § 124-7 above. Should the Fire Department have cause to believe that there is a likelihood that such design or construction materials may be inconsistent with the obligation to provide unimpeded communication between and among emergency responders, the applicant shall be required to engage an independent radio engineer, acceptable to the Fire Department, at the applicant's sole and exclusive expense, to provide a written evaluation addressed to the Fire Department, based upon commonly accepted engineering standards, of the likelihood that the building design and construction materials, as proposed, will provide unimpeded communications between and among emergency responders, in accordance with § 124-7 above. In addition, such report shall contain recommendations for changes or modifications to the building design or construction materials in order to ensure such unimpeded communications. Prior to Fire Department approval of any such building permit application, the application shall incorporate any and all changes or modifications to the building design and/or construction materials as recommended by such independent radio engineer.

### § 124-9. Existing buildings.

Existing buildings shall only be required to comply if they undergo substantial renovations or alterations as defined in the Massachusetts State Building Code.

### § 124-10. New construction.

~~All new construction, regardless of use or occupancy, over equal to or greater than 12,000 square feet shall meet the requirements of this bylaw.~~

### § 124-11. Equipment.

- A. Any "public emergency radio communication system" installed in accordance with this bylaw shall comply with all applicable rules and regulations, as amended from time to time, issued by the Federal Communication Commission, or of any other local, state, or federal agency having jurisdiction over such communication systems. The design of such system must be occupancy-based, and must be engineered and designed taking into account the machinery and equipment to be used by the occupant(s) of such building.
- B. Any such communications system that requires a power source shall have a battery backup power source that provides power for no less than two hours without an external power source. All "public emergency radio communication systems" must be powered from circuits that are separate and distinct and not subject to being tripped by other equipment.

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All power cords to devices in the system must be restrained in a manner acceptable to the Fire Department to prevent accidental or easy removal. All equipment must be installed by licensed vendors who have secured the necessary permits. All such installations shall meet applicable sections of the National Electrical Code, as amended from time to time.

- C. All power-sourced equipment shall be protected from access thereto and shall contain such safeguards as are acceptable to the Fire Department to prevent such equipment from being accidentally turned off. Any cabinet used for emergency radio equipment must be locked and such cabinets or equipment used for emergency radio communication shall be marked "Authorized Personnel Only." The applicant shall supply a copy of the key to any such equipment cabinet and a key to any room where equipment is stored. Such keys shall be kept in the building's lock box.
- D. Any system installed in accordance with this bylaw shall provide an audible device and white strobe light, both of which shall be activated by the failure of the system. Any amplifier equipment powering the audible device shall have a monitoring system that monitors amplifier operation and primary power. The system may permit the audible signal to be silenced during a failure, but such system shall not permit the strobe light to be turned off during a failure and it shall remain illuminated at all times until the fault has been corrected. The strobe light shall be located in an accessible location authorized by the Fire Department. The applicant shall cause a sign to be located at the strobe light with the name and telephone number of the equipment maintenance contractor. The Fire Department must be notified of any failures that extend past the two-hour time limit.
- E. No secondary usage of any emergency radio equipment shall be permitted without written approval of the Fire Department. Such secondary usage shall not interfere with or degrade the operational ability of the system. To the extent that such secondary use interferes with or degrades the operation of the system for the public safety purposes set forth in this bylaw, such use shall cease immediately, regardless of any approval that may have been granted by the Fire Department.

**§ 124-12. Compliance testing.**

- A. Prior to the Fire Department approval of a request for an occupancy permit for any building requiring a "public emergency radio communication system" in accordance with § 124-7 above, the Fire Department shall test the system for compliance with the requirements of this bylaw. Such compliance testing shall be done upon completion of construction and prior to occupancy using then-existing equipment in use by the Town. No occupancy certificate shall be issued until and unless the system is tested and determined to be in compliance with the requirements of this bylaw.
- B. "Adequate radio coverage" is defined as meeting a minimum of 3 and 3 for signal strength and intelligibility as is defined below:

(1) Signal strength.

	No detectable signal
1	Barely detectable
2	Detectable with difficulty

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3	Detectable at all times
4	Strong signal, detectable at all times
5	Any increase in signal would overload the system

(2) Intelligibility.

	Unintelligible
1	Intelligible with extreme difficulty (many repetitions required)
2	Intelligible with difficulty (repetition required)
3	Intelligible (repetition seldom required)
4	Intelligible at all times
5	Hard to imagine how it could be better (super hi-fi)

**§ 124-13. Annual testing.**

The Fire Department shall conduct annual compliance testing of all "public emergency radio communication systems" installed in accordance with this bylaw. Any system requiring battery backup shall be tested on battery for no less than one hour to verify that it will operate during an actual power outage. The Fire Department shall provide written notice to the building owner of any noncompliance of such system with the requirements of this bylaw, as amended from time to time. Any such ~~non-compliance~~noncompliance shall be fully remedied to the satisfaction of the Fire Department within 30 days of such notice. Upon request of the Fire Department, the building owner shall provide a written report from an independent radio engineer, acceptable to the Fire Department, at the applicant's sole and exclusive expense, to provide a written evaluation addressed to the Fire Department, based upon commonly accepted engineering standards, that the proposed remedy will bring the system into compliance with the requirements of this bylaw.

**§ 124-14. Modifications.**

No modifications to the "public emergency radio communication system" shall be made without the prior written authorization of the Fire Department. Upon completion of any such approved modifications, a performance test shall be conducted by the Fire Department in addition to any yearly performance test.

**§ 124-15. Maintenance responsibilities.**

- A. The building owner shall be solely responsible for maintaining the "public emergency radio communication system" and assuring its compliance with the requirements of this bylaw. The owner shall maintain a contract with a qualified radio service contractor for all systems that require power, which contract shall provide for next day service for such systems.
- B. The owner of the building must notify the Fire Department with regard to any change to its emergency radio equipment maintenance contract.

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- C. To the extent that the owner fails to maintain such systems and/or to ensure compliance of such systems with this bylaw, the Town may, after due notice, undertake such repairs to bring such system into compliance with the requirements of this bylaw. Any costs incurred by the Town in bringing such systems into compliance with this bylaw shall constitute a municipal lien against such real property.

**§ 124-16. Violations and penalties; enforcement.**

Any person violating any provision of this bylaw shall be fined not more than \$300 for each offense per day until appropriate compliance is reached. The Fire Chief shall be the enforcement authority.

**ARTICLE III  
Stretch Energy Code**

**[Adopted 10-18-2018 FTM by Art. 2 (Art. LVIV of the Bylaw Compilation)]**

**§ 124-17. Adoption of code; applicable standards.**

The Stretch Energy Code, as codified by the Massachusetts Board of Building Regulations and Standards as 780 CMR, 115.AA, including any future editions, amendments or modifications thereto, shall be a requirement of the issuance of any building permit by the Town's Building Inspector under the relevant sections of the building code for both new construction and existing buildings of a residential and commercial nature. Buildings not included in this scope shall comply with 780 CMR 13.00, 34.00, 61.00, or 93.00, as applicable.

**§ 124-18. Effective date.**

This bylaw shall take effect on July 1, 2019.

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**Chapter 133**

**DOGS AND OTHER ANIMALS**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 10-18-2018 FTM by Art. 7 (Art. XVIII of the Bylaw Compilation). Amendments noted where applicable.]

**§ 133-1. Authority and purpose.**

Pursuant to the authority set forth in MGL c. 140, § 136A through § 174E, and any other relevant statutes and regulations issues pursuant thereto, the following requirements are adopted for the regulation of dogs within the Town of Templeton.

**§ 133-2. Definitions.**

The definitions of words and terms set forth in MGL c. 140, § 136A are incorporated into this ~~Section~~Chapter 133, Animal Control Bylaw, and shall be applicable to the interpretation thereof. In addition, unless the context clearly indicates otherwise, the following words and terms, as used in this bylaw, shall have the following meanings:

**DOG UNDER CONTROL** — A dog that is:

- A. Physically controlled by a person by means of a leash, cord or chain held by the person; or
- B. ~~A dog that is~~ Contained within a physical or electric fence; or
- C. ~~A dog that is~~ At all times within sight of ~~their~~the dog's person, is actively monitored by that person, and that at all times immediately responds to a recall command by ~~their~~the dog's person.

**RUNNING AT LARGE** — A dog is running at large if it is not on the private property of its owner or keeper, or on private property with the express permission of that property's owner or is otherwise not a ~~Dog Under Control~~"dog under control" as defined above.

**§ 133-3. Responsibility of owner or keeper.**

- A. No dog owner or keeper shall permit the dog to become or remain a nuisance dog or a dangerous dog, as those terms are defined and used in MGL c. 140, § 136A and § 157.
- B. Every dog owner or keeper shall be responsible for expeditiously removing any feces that the dog deposits anywhere except on its owner's or keeper's private property, or on other private property with the property owner's permission.
- C. The owner or keeper shall annually license his/her dog in accordance with § 133-5 of this bylaw.

**§ 133-4. Dog control.**

All dogs owned or kept within the Town of Templeton shall be placed under restraint and controlled from going at large by the owner or keeper thereof.

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**§ 133-5. Licenses; fees.**

- A. In accordance with MGL c. 140, § 137, the owner or keeper of a dog within the Town shall cause the dog to be initially licensed when it attains the age of six months and annually thereafter. Proof of a currently valid rabies vaccination shall be required prior to the issuance of any license.
- B. The annual licensing date shall be January ~~1st~~ of any year.
- C. The Town Clerk shall, pursuant to MGL c. 40, § 22F, from time to time fix reasonable annual fees to be charged for the issuance of licenses for dogs. At the adoption of these bylaws, the annual licensing fee shall be fixed at \$15 for a spayed/neutered dog and \$20 for an intact dog. These fees shall not be increased without a majority vote of the voters present at a Town Meeting.
- D. The Town Clerk shall, pursuant to MGL c. 40, § 22F, from time to time fix reasonable annual fees to be charged for the issuance of licenses for kennels.
- E. The Town Clerk shall be responsible for the issuance of all licenses related to this bylaw.
- F. Any person who is the owner or keeper of a dog in the Town of Templeton, and who fails to license said dog by April ~~1st~~ of any year, shall be subject to a late fee of \$25 to be payable in addition to the license fee. The license fee and the late fee(s) may be secured through the imposition of a municipal charges lien on any property standing in the name of the dog owner or keeper, pursuant to MGL c. 40, § 58.

**§ 133-6. Violations and penalties.**

- A. The failure of the owner or keeper of any dog or pet to comply with this bylaw or with any order of the Animal Control Officer or the Board of Selectmen (~~Board~~) shall be a violation of this bylaw.
- B. The failure of the owner or keeper of any dog to comply with the registration and license requirements provided in this ~~Section~~Chapter 133 of the bylaws and in MGL c. 140, § 136A through § 174E, shall be a violation of this bylaw.
- C. In addition to any other remedy provided by law, this § 133-6 of the bylaws may be enforced by the Animal Control Officer, or any police officer of the Town, or the ~~Board of Selectmen~~Board, through any means available in law or equity, including but not limited to criminal indictment in accordance with ~~MGL c. 40, § 21, noncriminal disposition in accordance with MGL c. 40, § 21D and § 133-14~~Subsection E of these bylaws, entitled "~~Non-criminal~~Noncriminal Disposition," of this section and, in instances of a violation of a nuisance dog or dangerous dog order issued pursuant to MGL c. 140, § 157, in accordance with MGL c. 140, § 157A, as may be amended from time to time.
- D. When enforced in accordance with MGL c. 40, § 21, the maximum penalty shall be \$300 and each day a violation exists shall constitute a separate violation.
- E. When enforced by the Animal Control Officer or the police officer of the Town through ~~non-criminal~~noncriminal disposition, the penalties shall be as follows:

**TOWN OF TEMPLETON RED-LINE DRAFT**

- (1) First offense: \$100.
- (2) Second offense: \$150.
- (3) Third offense: \$300.

F. Violation of nuisance dog or dangerous dog order. An owner or keeper of a dog who fails to comply with an order of the ~~Selectmen Board~~ or District Court issued pursuant to MGL c. 140, § 157A shall be punished as provided in that statute.

**§ 133-7. Animal Control Officer.**

- A. The ~~Board of Selectmen~~Board shall appoint an Animal Control Officer pursuant to MGL c. 140, § 151 and § 151A. The Animal Control Officer's duties shall include the enforcement of the Town of Templeton's Animal Control Bylaw, ~~Section~~Chapter 133, and all applicable provisions of MGL c. 140, § 136A through § 174E.
- B. The Animal Control Officer shall make a written record of and investigate all complaints arising within the Town pertaining to violations of any provision of this bylaw, ~~Section~~Chapter 133, or to violations pertaining to MGL c. 140, § 136A through § 174E and any relevant state or local regulations. The Animal Control Officer shall report his or her findings to the ~~Board of Selectmen~~Board.
- C. The Animal Control Officer shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases reported, and the results of investigations. The Animal Control Officer shall maintain a telephone log of all calls received regarding dogs and submit a quarterly report summarizing the log to the ~~Board of Selectmen~~Board.
- D. Issuance of temporary restraint orders. The Animal Control Officer may issue a temporary restraint order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under § 133-8. A temporary restraint order shall be in force for no more than 30 days unless the Animal Control Officer renews it in writing for subsequent thirty-day period. The Animal Control Officer may rescind or stop renewing the order when, in the Animal Control Officer's judgment, restraint is no longer required. The Animal Control Officer's order shall expire upon receipt of a decision from the ~~Board of Selectmen~~Board on the nuisance dog or dangerous dog hearing.
- E. The Animal Control Officer may make arrangements for the temporary housing of any dog that requires such temporary housing and may issue an order of temporary confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns and shall be at the dog owner's or keeper's expense.
- F. It shall be the duty of the Animal Control Officer to apprehend any dog found to be in violation of § 133-6 of this bylaw and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain such dog.
- G. If the Animal Control Officer impounds a dog found in violation of § 133-7 or issues a order of temporary confinement pursuant to § 133-7 and the dog owner or keeper does not pay all fees directly to the kennel, veterinary clinic, or dog boarding facility, then the dog's owner



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or keeper shall be required to reimburse the Town for any expenses incurred in housing that dog. If the dog has not been licensed as required pursuant to this bylaw, the owner or keeper shall immediately apply to the Town Clerk to obtain a license, submit payment for the license fee, and pay any applicable late fees, and said dog shall not be released from confinement unless and until the issuance of a valid license, which shall not be unreasonably delayed or withheld.

- H. The Animal Control Officer shall, in matters of impoundment or confinement, impoundment or confinement fees, and redemption of impounded or confined animals, carry out his/her duties in accordance with MGL c. 140, § 151 and § 151A, and any amendments thereto.

**§ 133-8. Board of Selectmen as hearing authority.**

Any person may file a complaint in writing to the ~~Board of Selectmen~~Board that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with MGL c. 140, § 157.

**§ 133-9. Disposition of funds.**

The sums collected pursuant to this bylaw shall be accounted for and paid over to the Town Treasurer.

**§ 133-10. Severability.**

In the event that the Massachusetts Attorney General or a court of competent jurisdiction deems any provision or section of this bylaw invalid or unenforceable, all other provisions shall remain in full force and effect.

**§ 133-11. Disposal of animal waste.**

- A. The purpose of this bylaw is to promote a sanitary environment, free of unintended contamination through contact with animal waste for all Templeton residents and nonresidents.
- B. Removal required.
- (1) The owner, keeper, or any person in control of a dog, or other animal, shall be responsible for the prompt removal and proper disposal of any feces deposited by such dog, or other animal, upon any public ways, such as streets, roads, avenues, lanes, circles, highways, paths, sidewalks, trails, etc. or upon any public land within 10 feet of such public ways or upon any public land designated as parks, playgrounds, cemeteries, school yards, golf courses, recreation areas, or any other municipal or government building and/or grounds, all within the Town of Templeton, as well as on property, public or private, and neither owned nor occupied by said person. Furthermore, no person who owns, possesses, or controls such dog, or other animal, shall appear with such dog, or other animal, on any of the aforementioned areas without the means of removal of any such animal feces left by such dog, or other animal. Additionally, disposal of said animal feces in Town trash receptacles or in storm drains is prohibited.
  - (2) For the purposes of this chapter, the means of removal shall be any tool, implement, or device carried for the purpose of removal or containment of such feces.

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- C. Applicability. This ~~Article~~section shall not apply to a physically challenged person in sole custody of a dog, or other animal, or to any individual using a guide/service dog.
- D. Enforcement; violations and penalties.
- (1) Enforcement shall be by the Animal Control Officer, Board of Health or any other duly appointed law enforcement officer.
  - (2) Penalty for violation of this bylaw will be by ~~non-criminal~~noncriminal disposition pursuant to MGL c. 40, § 21D. For the purpose of this bylaw, the penalty to apply in the event of a violation shall be as follows:
    - (a) First offense: \$25.
    - (b) Second offense: \$50.
    - (c) Third offense: \$100.
    - (d) Fourth and any subsequent offense: \$200.
  - (3) Each occurrence of a violation on any day shall be deemed a separate offense.

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**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 139**

**DRIVEWAYS**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-11-1967 (Art. XVI of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 139-1. Permission required.**

No person shall build or rebuild a driveway at a point where such driveway enters onto any Town way without first obtaining permission from the ~~Highway Superintendent~~Director of Public Works~~Highway Superintendent~~, who shall grant such permission and may specify the requirements for said building or rebuilding of such driveway at the point where it enters a Town way.

**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 145**

**EXCAVATIONS AND RESOURCE REMOVAL**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Removal of Sand and Gravel**

**[Adopted 3-9-1963 (Art. XII of the Bylaw Compilation)]**

**§ 145-1. Permit required.**

The removal of soil, loam, sand or gravel from any parcel of land not in public use in the Town of Templeton, except as hereinafter provided, shall be allowed only after a written permit therefor is obtained from the Board of Selectmen (Board) after a public hearing of which due notice is given.

**§ 145-2. Permit exceptions.**

No permit shall be required for the continuous operation of any parcel of a sand or gravel pit in operation at the time this bylaw is adopted, provided such operation is not thereafter discontinued for more than one year; and no permit shall be required for the removal of soil, loam, sand or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel.

**§ 145-3. Conditions; term of permit.**

In issuing a permit under this bylaw, the Board of Selectmen may impose such conditions not specifically provided for herein as it may deem necessary for the adequate protection of the neighborhood and the Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board may, in its discretion, require a bond, certified check or other security for compliance with said conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a public hearing on proof of violation of any condition, revoke any permits so issued. No permit shall be issued under the provisions of this bylaw for a period of more than three years.

**§ 145-4. Sand and gravel removal.**

Sand and gravel may be removed from any parcel of land, except within 300 feet of a street or way, and the Board shall issue a permit therefor; provided, however, that the Board shall impose such reasonable conditions as to the disposition of topsoil and re-establishment of ground levels and grades as it may deem necessary.

**§ 145-5. Soil or loam removal.**

Soil or loam may be removed from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal; provided, however, that the Board shall, in making such decision, obtain the recommendations of the appropriate Soil Conservation District Supervisors or the County Extension Director or Agent, or their successors, and their recommendations shall be made a part of the records of the Board. In

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issuing a permit, the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.

### § 145-6. Exception for construction projects.

Notwithstanding the provisions of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such removal is necessarily incidental to and in connection with the construction of a road or other facility involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed and evidence thereof shall be made a part of the records of the Board.

### § 145-7. Permit to remove soil, loam, sand or gravel within 300 feet of street or way.

Soil, loam, sand, or gravel may be removed from any parcel of land within such parcel lying within 300 feet of any street or way, provided a permit therefor has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood, provided, further, that the Board shall impose reasonable conditions as to the method of removal, the re-establishment of ground levels and grades and the planting of the area to suitable cover, as it may deem necessary. Removal of soil or loam under authority of this section shall be further subject to the provisions of § 145-3.

### § 145-8. Gravel removal. [Added 5-8-1982]

No gravel shall be removed closer to spring high water table that would preclude its subsequent re-use according to existing public health standards. This elevation shall be established from a test pit and the level related to a permanent monument on the property. This information shall ~~show~~  
~~show~~ on the topographic plan.

### § 145-9. Operating restrictions. [Added 5-8-1982]

- A. No area shall be excavated so as to cause accumulation of freestanding water. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds.
- B. All topsoil and subsoil shall be stripped from the operation area and ~~stock-piled~~  
~~stockpiled~~ for use in restoring the area after the removal operation has ceased.
- C. Any temporary shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view as much as possible. These structures shall be removed from the premises within 30 days after they are no longer needed.

### § 145-10. Restoration of site. [Added 5-8-1982]

Upon completion of the operation and the final grading has been accomplished, the applicant shall supply the ~~Selectmen Board~~ with a plan of the area showing contours at two-foot intervals of the finished site drawn by a registered engineer or surveyor.

### § 145-11. Impact on wetlands and waterways. [Added 5-8-1982]

No excavation not intended for approved building purposes will be closer than 50 feet ~~from~~  
~~from~~ a wetland, stream, or pond.

**TOWN OF TEMPLETON RED-LINE DRAFT**

**§ 145-12. Violations and penalties.**

The penalty for violation of this bylaw shall be as follows:

- A. For the first offense: \$50.
- B. For the second offense: \$100.
- C. For each subsequent offense: \$200.

**ARTICLE II  
Quarries**

**[Adopted 5-12-1992 (Art. XXXIII of the Bylaw Compilation)]**

**§ 145-13. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

**QUARRY** — Any property which may primarily be used as a source of mined products from the earth when the removal of such products requires the use of explosives to facilitate such removal.

**§ 145-14. Prohibition.**

The Town of Templeton will not allow any quarry to operate or open within the Town (temporary not included).

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**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 152**

**FARMING**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-10-2005 (Art. XLVI of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 152-1. Legislative purpose and intent; scope.**

- A. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9; MGL c. 111, § 125A and MGL 128, § 1A. We the citizens of Templeton restate and republish these rules pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution. ("Home Rule Amendment").
- B. This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Templeton by allowing agricultural uses and related activities to function with minimum conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town of Templeton.

**§ 152-2. Definitions.**

- A. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.
- B. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following: farming in all its branches and the cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural, mycological, aquacultural, floricultural, viticultural, or horticultural commodities; growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations; raising of livestock, including horses; keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches, and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and ~~fur-bearing~~ fur-bearing animals.
- C. "Farming" shall encompass activities including, but not limited to, the following:
  - (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
  - (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
  - (3) Responsible application of manure, fertilizers and pesticides; applications to take into consideration minimizing non-point source pollution created by excess application;

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- (4) Conducting agriculture-related educational, and farm-based recreational activities, including ~~agri-tourism~~ agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Conducting agriculture-related research to promote and enhance agricultural output and marketing;
- (6) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
- (7) Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- (8) On-farm relocation of earth and the clearing of ground for farming operations.

### § 152-3. Right to farm declaration; applicability.

The right to farm is hereby recognized to exist within the Town of Templeton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protection of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### § 152-4. Disclosure notification.

The Town will provide a copy of the following notice annually to Templeton property owners, and will include the notice and copy of the bylaw on the Town's official website:

"It is the policy of the Town of Templeton to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform property owners that their property lies within a Town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Owners, buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations, including the ability to access water services for such property under certain circumstances."

### § 152-5. Resolution of disputes.

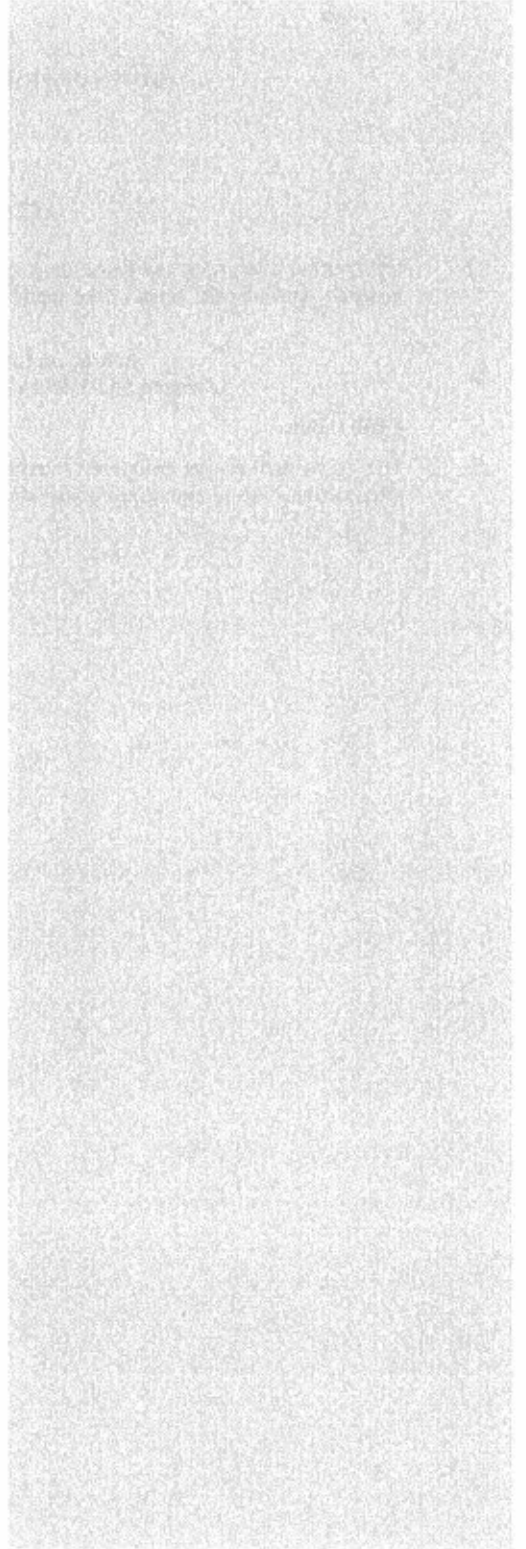
Dispute resolution will be the responsibility of the Board of Selectmen (~~Board~~), or its designee(s), until ~~at which such~~ time ~~as~~ an Agricultural Commission is formed by the Town and empowered to resolve disputes arising from this bylaw.



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**§ 152-6. Severability.**

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Templeton hereby declares the provisions of this bylaw to be severable.



**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 157**

**FEES AND CHARGES**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Interest on Unpaid Water and Sewer Bills  
[Adopted 5-11-1999 (Art. XXXIX of the Bylaw Compilation)]**

**§ 157-1. Rate.**

The Town shall charge an interest rate of **11.4%** per month for all water and sewer bills unpaid after the due date, as authorized under MGL c. 40, § 21E.

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Chapter 174

JUNK COLLECTORS

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-10-1962 (Art. X of the Bylaw Compilation). Amendments noted where applicable.]

§ 174-1. Licensing; rules and regulations.

The Board of Selectmen (Board) may, after public hearing, license suitable persons to be collectors of or dealers in junk, old metal, used cars, and make any such additional rules, regulations, and restrictions as they may deem necessary, not inconsistent with the law or ~~of~~ these bylaws.

§ 174-2. Identification sign required.

Such collector or dealer shall put up and maintain in a suitable and conspicuous place in his junkyard or place of business a sign having his name and occupation legibly inscribed thereon in large letters.

§ 174-3. Hours of operation.

Every junkyard or other place of business for the sale, purchase, or barter of junk, old metals, or used cars shall be closed between the hours of 11:00 p.m. and 7:00 a.m. and no keeper thereof and no junk collector shall purchase any of such articles between said hours.

§ 174-4. Record book.

Every keeper of junkyards or other place of business of and for the sale, purchase or barter of junk, old metals, or used cars shall keep a book in which shall be written, at the time of each purchase, a description thereof, the name, age and residence of the person from whom, and the day and hour when ~~the~~ purchase was made, and such book shall at all times be open for inspection of the Selectmen-Board or of any person designated by them or by law authorized to make such inspection.

§ 174-5. Purchase from minors prohibited.

No keeper of such a junkyard and no collector of junk shall directly or indirectly purchase or receive by way of barter or exchange from a minor any of the articles mentioned in § 174-1 of ~~the~~ Article ~~this~~ by law.

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**Chapter 183**

**LICENSES AND PERMITS**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

**ARTICLE I**

**Types of Licenses**

[Adopted as indicated in section histories]

§ 183-1. Class III licenses. [Adopted 5-11-1985 (Art. XXX of the Bylaw Compilation)]

The ~~Board of Selectmen (Board) are~~ hereby authorized to limit the number of Class III licenses issued for motor vehicle junk in effect in the Town at any one time; said number not to exceed four.

§ 183-2. Class II licenses. [Adopted 11-14-1985; amended 5-19-2018 ATM by Art. 5 (Art. XXXI of the Bylaw Compilation)]

The number of Class II used car dealer licenses in effect in the Town at any one time is not to exceed 21, with said number to be apportioned among the Town's several precincts.

**ARTICLE II**

**Denial or Revocation for Failure to Pay Taxes and Fees**

[Adopted 9-18-1986; amended in its entirety 5-19-2018 ATM by Art. 7 (Art. XXXII of the Bylaw Compilation)]

§ 183-3. List of delinquent taxpayers.

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the ~~Licensing Authority,~~ "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

§ 183-4. Authority to deny, revoke or suspend.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie ~~for~~ evidence for denial, revocation or suspension of said license or permit to any party.

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The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

**§ 183-5. Payment agreements.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**§ 183-6. Waivers.**

The Board of ~~Selectmen~~ ~~of Selectmen~~ may waive such denial, suspension, or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholder, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

**§ 183-7. Exceptions.**

This ~~section~~ ~~by law~~ shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; theatrical events, public exhibition permits, MGL c. 140, § 181; bicycle permits, MGL c. 85, § 11A.

**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 190**

**MARIJUANA AND TETRAHYDROCANNABINOL**

[**HISTORY:** Adopted by the Town Meeting of the Town of Templeton 5-10-2011 (Art. XXI of the Bylaw Compilation). Amendments noted where applicable.]

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**§ 190-1. Public consumption prohibited.**

No person, whether in or upon a vehicle, motor vehicle, conveyance, or on foot, shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any place to which the public has a right of access as invitees or licensees.

**§ 190-2. Seizure.**

Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with MGL c. 94C, § 47A.

**§ 190-3. Identification.**

Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state his true name and address to said official.

**§ 190-4. Enforcement.**

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by ~~non-criminal~~ noncriminal disposition pursuant to MGL c. 40, § 21D, by the Board of Selectmen ~~(Board)~~ or its duly authorized agents, or any police officer.

**§ 190-5. Violations and penalties.**

The fine for a violation of this bylaw shall be \$300 for each offense. A penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

**§ 190-6. Severability.**

In case any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

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Chapter 198

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-11-2010 (Art. LIV of the Bylaw Compilation). Amendments noted where applicable.]

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§ 198-1. Storage of junk or debris restricted.

No owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than 60 days.

§ 198-2. Objectives.

The objectives of this bylaw are:

- A. To prevent the depreciation of surrounding residences' assessed value;
- B. To protect the health, safety and welfare of the public;
- C. To prevent pollutants from entering the ~~ground-water~~ groundwater.

§ 198-3. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

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**JUNK AND DEBRIS** — Scrap metal, unsafe and dilapidated accessory buildings, rags, plastics, scrap, rubble, debris, building salvage, abandoned autos, machinery, wreckage, batteries, paper, trash, furniture, and other similar items, which are not active for any purpose authorized in a residential district.

**SUBSTANTIAL AMOUNT** — A quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.

§ 198-4. Preexisting conditions.

Conditions existing at the date of the bylaw enactment, which meet the definition of "substantial amounts of junk or debris," must be brought into compliance within 90 days of the date of approval of this bylaw.

§ 198-5. Enforcement; violations and penalties.

- A. ~~The Enforcement of this bylaw shall be by the Building Inspector, in conjunction with the Board of Health Director, shall be charged with the interpretation and or any other deputy appointed/designated law enforcement of the bylaw officer.~~
- B. ~~Anyone found in Penalties for violation may of this bylaw will be fined \$50 for each day the violation persists by noncriminal disposition pursuant to MGL c. 40, § 21D. For the purpose of this bylaw, penalties shall be assessed beginning 60 days after the notice of violation as follows:~~

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- (1) First offense: \$25.
- (2) Second offense: \$50.

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(3) Third offense: \$100.

(4) Fourth and any subsequent offense: \$200.

C. Each occurrence of a violation on any day shall be deemed a separate offense.

**§ 198-6. Additional remedies; effect of other laws and regulations.**

Action taken hereunder shall not bar any separate action initiated by any other Town department for health, safety or other violations. Provisions of this bylaw are to be interpreted consistently with state and federal laws and regulations relating to storage/contamination.



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**Chapter 206**

**RECREATION TRACKS**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-7-1982 (Art. XXIX of the Bylaw Compilation). Amendments noted where applicable.]

**§ 206-1. Purpose.**

The purpose of this bylaw is to protect abutters from ill-conceived construction of a recreation track or tracks in the absence of zoning for residential, commercial, agricultural, industrial or open land areas.

**§ 206-2. Permit required; fee.**

- A. A permit for the construction of a recreation track or tracks presently proposed or to be constructed will be required; the fee ~~to shall~~ be set by vote of the licensing authority, being the Board of Selectmen (Board).
- B. The applicant for a permit must follow the procedures set forth below:
- (1) Apply for the permit from the licensing authority in writing.
  - (2) Submit a plot plan showing proposed location of track, listing setbacks from boundary lines.
  - (3) Obtain approval for track location from the Planning Board, Conservation Commission, Board of Health and Police Department.
  - (4) Obtain approval for the driveway entrance from the ~~Highway-Superintendent, Director of Public Works~~ Highway Superintendent.
  - (5) Specify hours that the tracks will be in use for practice or races.
  - (6) Obtain a certified list of abutters from the Assessors.
  - (7) Notify all abutters by certified mail, return receipt, of the hearing date set by the Board of Selectmen, at least seven days before the hearing.

**§ 206-3. Enforcement; violations and penalties.**

The provisions of this bylaw shall be enforced by the Board of Selectmen. Whoever shall construct a recreation track or tracks without a permit shall be punished by a fine of \$25 for each day of the offense.

**§ 206-4. When effective.**

This bylaw shall take effect on the date of approval by the Town of Templeton, subject to approval by the Attorney General.

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**§ 206-5. Definitions.**

~~RECREATION TRACK(S) — Recreation Track(s)~~ As used in this bylaw, the following terms shall be have the meanings indicated:

~~RECREATION TRACK(S) —~~ Land, all or part, used by motor vehicles as defined under Chapter 90 of the General Laws, or defined as "recreation vehicle- (s)" and/or "snow vehicle- (s)" under MGL c. 90B, § 20, and used by persons or animals for sporting or recreational events.

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**Chapter 215**

**SEWERS**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-10-1975 (Art. XXIV of the Bylaw Compilation). Amendments noted where applicable.]

**§ 215-1. Identification and regulation of common sewers.**

The Board of Selectmen (Board), or Sewer Commissioners if duly qualified, may declare any sewer or drain laid in any land or way, public or private, open or proposed to be open for public travel, to be a common sewer, and that connections shall not be made with any common sewer, except by authorization from the Selectmen Board or Sewer Commissioners, whichever the case may be, who shall have the power to regulate the use of common sewers and connections which may be made with them, by regulations duly enacted.

**§ 215-2. Rules and regulations.** [Amended 10-28-1976]

To amend the present common sewer bylaw, Article XXIV, by adopting as Town bylaw the rules and regulations regarding the use of common sewers as outlined and stated in Publication No. 5541 of the Massachusetts Water Resources Commission 1969, revised 1974, entitled "Suggested Rules and Regulations Regarding the use of Common Sewers for the Cities and Towns of the Commonwealth of Massachusetts." The Sewer Commissioners may implement rules and regulations as they deem appropriate for matters within their jurisdiction regarding the use of the common sewers within the Town.

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**Chapter 225**

**SOLID WASTE**

~~[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]~~

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**ARTICLE I**

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**Recycling**

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~~[Adopted 6-23-1993 (Art. XXXV of the Bylaw Compilation)]~~

**§ 225-1. Purpose.**

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~~This bylaw will significantly reduce the amount of municipal solid waste that will need to be landfilled in Templeton, thus reusing natural resources and preserving landfill space for nonreusable goods, as well as meet the state's 25% recycling requirement set down at 310 CMR 8.038 (2) (d).~~

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**§ 225-2. Definitions.**

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~~As used in this bylaw, the following terms shall have the meanings indicated:~~

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~~COMMERCIAL HAULER — Any person licensed by the Board of Health who, for a fee, collects and/or hauls solid waste that is generated within the Town of Templeton.~~

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~~COMPOSTING — A process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can be safely used.~~

~~DESIGNATED MATERIAL — Those recyclable goods including but not limited to types and grades of metal, paper, glass or plastic and those compostable materials including but not limited to types and grades of leaves, yard waste and food waste designated by the Department of Environmental Protection pursuant to regulations to be source separated.~~

~~DISPOSAL — The dumping, landfilling or placement of solid waste into or on any land or water or the incineration of solid waste for energy recovery or otherwise.~~

~~PERSON — Any individual, partnership, association, firm, company, corporation, department, agency, group or public body generating solid waste.~~

~~RECYCLE — The diversion of material, product, or byproduct by-product from disposal to: a) reuse, or b) employ as an ingredient or feedstock in an industrial or manufacturing process to~~

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~~make a marketable end-product or c) employ in a particular function or application as an effective substitute for a commercial product or commodity. "Recycle" does not mean to recover energy from the combustion of designated materials.~~

~~SOLID WASTE — Any household, residential, or commercial solid waste.~~

~~SOURCE SEPARATE — Separation of designated recyclable or compostable materials from solid waste at the place where the materials or waste are generated through the use or consumption of goods.~~

**§ 225-3. Permit for use of Landfill/Recycling Center.**

~~Any person using the Landfill/Recycling Center must first obtain a permit issued by the Board of Health and sign an agreement stating that they have the person has received a copy of the recycling regulations. A small fee will be charged to cover the printing of the permits and regulations. Any person wishing to use only the Recycling Center may do so at no cost.~~

**§ 225-4. Use of Landfill/Recycling Center by commercial haulers.**

~~Any commercial hauler using the Landfill/Recycling Center must also obtain a sticker issued by the Board of Health and agree to provide source-separated pick-up for their customers. The list of recyclables commercial haulers must pick-up will be limited by regulation of the Board of Health to no more than six types of material in order to prevent implementation from becoming an impossible task.~~

**§ 225-5. Recycling of designated materials.**

~~A. — After January 1, 1994, No person and no commercial hauler shall place solid waste in the Templeton Landfill unless the following designated materials have been source separated from the solid waste prior to placement or delivery of the waste for disposal: leaves, yard waste, newspaper, magazines, cardboard, recyclable paper, aluminum, metal, glass containers, scrap metal, batteries and, white goods and single polymer plastics.~~

~~After July 1, 1994, no person and no commercial hauler shall place solid waste in the Templeton Landfill unless, in addition to the materials designated pursuant to Subsection A, the following designated materials have been source separated from the solid waste prior to placement or delivery of the waste for disposal: single polymer plastics.~~

~~B. — The Board of Health may from time to time, by regulation, redesignate the types of materials required to be recycled.~~

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~~C. — All recyclable material must be separated from all other solid waste. It must be clean. Food and beverage containers must be rinsed out. Materials must be placed in their designated areas at the Recycling Center. The elderly and handicapped will be assisted by an attendant.~~

~~D. — All separated recyclable materials deposited at the Recycling Center shall become the sole property of the Town of Templeton. All separated recyclable materials being brought to the Recycling Center shall be brought at hours designated by the Board of Health.~~

~~§ 225-6. Solid waste disposal restrictions.~~

~~No person who collects, transports, disposes or otherwise manages solid waste or designated materials shall mix, commingle, or otherwise contaminate source separated designated materials with solid waste or other contaminants.~~

~~§ 225-7. Enforcement; violations and penalties; hearings.~~

~~A. — The Landfill/Recycling Center attendant shall inspect any and all solid waste presented for disposal. No person shall dispose of any designated materials other than as set forth in this bylaw. Persons in violation of this bylaw shall be notified of such violations in writing by the Board of Health, which writing shall include the date of such violation, the nature of such violation, the penalty imposed thereby, and shall inform the violator of the right to request a hearing as set forth below. Anyone violating this bylaw shall be fined \$25 for the first violation and, \$50 for the second violation, and \$100 for the third and any subsequent offenses. All such fines shall be paid within 10 days of receipt of said written notice. Failure to pay such fine or any subsequent violation may, in the discretion of the Board of Health, result in the revocation of the violator's permit to use the Landfill/Recycling Center.~~

~~B. — Any person in receipt of a notice of violation may, within 10 days of receipt of such notice, request a hearing before the Board of Health (Board). Such request shall be made in writing and shall state any reasons why the penalty set forth in the notice of violation should not be imposed. Within 14 days of receipt of such request for hearing, the Board shall schedule such hearing and notify the person requesting the hearing of the date and time thereof. The Board shall have the authority to waive or reduce the penalty stated in the notice of violation if it finds good cause following such hearing. The Board of Health shall make its decision within 14 days of such hearing and shall notify the person requesting such hearing of its decision, in writing, within 14 days thereof. The Board's decision shall be final.~~

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**Chapter 230**

**STORM DRAINS**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-16-2007 (Art. XLIX of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 230-1. Purpose and objectives.**

- A. The purpose of this bylaw is to regulate illicit connections and discharges to the storm drain system, which is necessary for the protection of Templeton water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. This bylaw is a requirement of the federal National Pollutant Discharge Elimination System Stormwater General Permit issued to the Town of Templeton.
- B. The objectives of this bylaw are:
- (1) To prevent pollutants from entering the Templeton municipal separate storm sewer system (MS4);
  - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) To require the removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
  - (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement; and
  - (6) To prevent contamination of drinking water supplies.

**§ 230-2. Definitions.**

~~For the purposes of~~As used in this bylaw, the following ~~terms shall mean:~~terms shall have the meanings indicated.

**AUTHORIZED ENFORCEMENT AGENCY** — The Templeton Board of Selectmen, ~~(the Board)~~, its employees or agents designated to enforce this bylaw.

**BEST MANAGEMENT PRACTICE (BMP)** — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as hereafter amended.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or commonwealth from any source.

**GROUNDWATER** — Water beneath the surface of the ground.

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**ILLEGAL DISCHARGE** — Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as exempted in § 230-8. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or a surface water discharge permit, pursuant to [Section 8, subsection 15,] § 230-8 of this bylaw or resulting from emergency fire-fighting activities.

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

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water infiltrating the underlying soil.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM** — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Templeton.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT** — A permit issued by United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE** — Discharge to the municipal storm drain system not composed entirely of stormwater.

**PERSON** — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT** — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any stormwater or drain system or waters of the commonwealth. Pollutants shall include, without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. ~~Non-hazardous~~ Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;



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- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

**PROCESS WASTEWATER** — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

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

**STORMWATER** — Runoff from precipitation and snowmelt.

**SURFACE WATER DISCHARGE PERMIT** — A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE** — Any material, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and MGL c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

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

**WATERS OF THE COMMONWEALTH** — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**§ 230-3. Applicability.**

This bylaw shall apply to flows entering the municipal storm drainage system in the Town of Templeton.

**§ 230-4. Authority.**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and MGL c. 83, § 1 and § 10, as

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amended by St. 2004, c. 149, Subsections 135- through 140, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### § 230-5. Responsibility for administration.

The Board ~~of Selectmen ("the Board")~~ shall administer, implement and enforce this bylaw. Any powers granted to, or duties imposed upon, the Board may be delegated in writing by the Board to employees or agents of the Board.

### § 230-6. Regulations.

The Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### § 230-7. Prohibited activities.

- A. Illegal discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board.

### § 230-8. Exemptions. [Amended 5-17-2010]

- A. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system and that any discharges to the public storm drain shall conform to the standards set forth in the DEP administered regulations: 314 CMR 9.00 (401 Water Quality Certification), 314 CMR 3.00 (Surface Water Discharge Permit Program), 314 CMR 4.00 (Surface Water Quality Standards), and 314 CMR 5.00 (Groundwater Discharge Permit Program), as currently in effect.
  - (1) Municipal ~~waterline~~water line flushing.
  - (2) Discharge from landscape or agricultural irrigation or lawn watering.
  - (3) Water from individual residential car washing and temporary fund-raising car washes.
  - (4) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.
  - (5) ~~Non-emergency~~Nonemergency fire fighting activities.
  - (6) Discharge from street sweeping.

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- (7) Non-stormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.
  - (8) Rising groundwater.
  - (9) Natural flow from riparian habitats and wetlands.
  - (10) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation.
  - (11) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater.
  - (12) Flow from potable water sources.
  - (13) Springs.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system, and a written permit is approved by the Board of Selectmen or its agent:
- (1) Diverted stream flow.
  - (2) Dye testing, provided verbal notification is given to the Board prior to the time of the test.
  - (3) Uncontaminated groundwater discharge from a sump pump.
    - (a) The connection of the building sump pump to the public storm drain shall conform to the requirements of the building and plumbing code and/or other applicable rules and regulations of the Town. The portion of a private drain connection that is located within the applicant's own property is privately owned, while the portion that is constructed within the public way becomes the property of the Town, with all costs of construction, connection, and repair borne by the applicant. A dual backflow preventer or other device that makes it possible for the Town to shut off the flows from the private drain connection into the storm drain if conditions of the permit are violated will be made a part of the drain system.
    - (b) The applicant for the building drain permit shall notify the Board of Selectmen when the drain is ready for inspection and connection to the public storm drain. No connection shall be put to use and no backfilling is allowed until all appropriate inspections are made by the Board's representative inspector(s).
  - (4) Discharge for which advanced written approval is received from the Board of Selectman or agents designated to enforce this bylaw, as necessary to protect public health, safety, welfare or the environment of Templeton.

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### § 230-9. Emergency suspension of storm drain system access.

- A. The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board or its authorized agent may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- B. Any person discharging to a municipal storm drain system in violation of this bylaw may have ~~their~~<sup>his/her</sup> storm drain system access terminated if such termination would abate or reduce an illicit discharge. The Board, or its agent, will notify a violator of the proposed termination of storm drain system access. The violator may petition the Board for reconsideration and hearing. A person commits an offense if the person reinstates storm drain system access to premises terminated pursuant to this section, without prior approval from the Board.

### § 230-10. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of an accidental release of oil or hazardous materials, the person shall immediately notify the Templeton Fire Department, Police Department, the Board of Selectmen and the Board of Health. In the event of a release of ~~non-hazardous~~<sup>nonhazardous</sup> material, the reporting person shall notify the Board no later than the next business day. The reporting person shall provide to the Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on -site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### § 230-11. Enforcement; violations and penalties.

The Board or an authorized agent of the Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.
  - (1) The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
    - (a) Elimination of illicit connections or discharges to the MS4;

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- (b) Termination of access to the storm drainage system;
  - (c) Performance of monitoring, analyses, and reporting;
  - (d) That unlawful discharges, practices, or operations shall cease and desist; and
  - (e) Remediation of contamination in connection therewith. If the Board or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.
- (2) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board ~~or~~ ~~Selectman~~ within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$500. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
  - D. ~~Non-criminal~~Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the ~~non-criminal~~noncriminal disposition procedure set forth in MGL c. 40, § 21D, and this bylaw of the Town of Templeton, in which case the Board or its authorized agent shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
  - E. Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board or its authorized agent deems reasonably necessary.
  - F. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

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G. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

**§ 230-12. Severability.**

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

**§ 230-13. Transitional provisions.**

Residential property owners shall have 120 days from the effective date of the bylaw to comply with its provisions, provided good cause is shown for the failure to comply with the bylaw during that period.

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**Chapter 235**

**STORMWATER MANAGEMENT**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 3-6-2008 (Art. LIII of the Bylaw Compilation). Amendments noted where applicable.]**

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**§ 235-1. Purpose and intent.**

- A. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Templeton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater which result in the contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding. This bylaw establishes minimum stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite of site and downstream which would be borne by abutters, townspeople and the general public.
- B. This bylaw requires local review and approval of a stormwater management plan for all development and redevelopment projects that disturb one acre or more. In addition to this bylaw, the owner and/or developer is also obligated to meet the requirements of the Federal Environmental Protection Agency's (EPA) regulations for stormwater management.

**§ 235-2. Objectives.**

The objectives of this bylaw are:

- A. To require practices to control the flow of stormwater from new and redeveloped sites into the Town's storm drainage system in order to prevent flooding and erosion;
- B. To protect groundwater and surface water from degradation;
- C. To promote groundwater recharge;
- D. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
- E. To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;
- F. To comply with state and federal statutes and regulations relating to stormwater discharges; and
- G. To establish Templeton's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

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### § 235-3. Applicability; exempt activities.

- A. No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land, without a permit from the permit granting authority. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.
- B. Construction activities that are exempt are:
- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation (310 CMR 10.04) or the improvement or preparation of land for agricultural use outside the jurisdictional areas of the Wetlands Protection Act, provided that the activity is undertaken in such a manner as to prevent erosion and siltation of wetlands and surface waters in accordance with U.S. Department of Agriculture "Guidelines for Soil and Water Conservation" and is conducted in accordance with federal and state laws.
  - (2) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling.
  - (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns.
  - (4) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns.
  - (5) Work activities of municipal, state, or federal agencies or their agents outside of the Phase II boundaries as shown on the latest U.S. Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) Phase II maps.
  - (6) As authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the activities identified in § 235-3 that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an order of conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

### § 235-4. Permits and procedures.

- A. The permit granting authority (PGA) under this bylaw shall be the Templeton Planning Board. Such a permit shall be granted if the PGA determines, with the advice and recommendations of the Zoning Enforcement Officer, Conservation Commission, and the Highway Department, that the intent of this bylaw, as well as specific criteria, is met. The PGA shall not grant a permit under this section unless the petitioner's application materials include, in the PGA's opinion, sufficiently detailed definite and credible information to support positive findings in relation to the standards given in this section. The PGA shall document the basis for any departures from the recommendations of the other Town boards or departments in its decision.



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- B. The site owner or his agent shall file with the PGA. 10 copies of a completed application package for a stormwater management permit (SMP). Permit issuance is required prior to any site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP application package shall include:
- (1) A completed application form with original signatures of all owners;
  - (2) Ten copies of the stormwater management plan and project description as specified in § 235-5.
  - (3) Ten copies of the operation and maintenance plan as required by § 235-6 of this bylaw;
  - (4) Payment of the application and review fees.
  - (5) A list of abutters (owners of property within 300 feet of the boundaries of the site), as certified by the Assessors.
- C. Entry. To the extent permitted by state law, filing and application for a permit grants the PGA or its planning agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.
- D. Other boards. The PGA shall give one copy of the application package to the designated technical reviewers, which include the Zoning Enforcement Officer, Conservation Commission, and Highway Department, for the purpose of reviewing the permit application. The PGA may also engage the services of a peer review engineer at the applicant's expense if, in the opinion of the PGA, such review is necessary for assessing technical information supplied by the applicant and assessing the adequacy of proposed stormwater control measures.
- E. The PGA shall obtain with each submission an application fee established by the PGA. If the PGA retains a registered professional engineer or other professional consultant for technical review, additional review fees will be required. Applicants must pay review fees before the review process may begin.
- F. Public hearing. The PGA shall hold a public hearing within 60 days of the receipt of a complete application, and shall take final action within 60 days from the close of the public hearing, unless such time is extended by agreement between the applicant and the PGA. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town, by posting at Town Hall, and by first-class mailings to abutters at least seven days prior to the hearing. The PGA shall make the application available for inspection by the public during business hours at the Town offices.
- G. Actions. The PGA's action, rendered in writing, shall consist of either:
- (1) Approval of the stormwater management permit application based upon determination that the proposed plan meets the standards in § 235-5B and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;
  - (2) Approval of the stormwater management permit application subject to any conditions, modifications or restrictions required by the PGA which will ensure that the project

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meets the standards in § 235-5B and adequately protects water resources, as set forth in this bylaw;

- (3) Disapproval of the stormwater management permit application based upon a determination that the proposed plan, as submitted, does not meet the standards in § 235-5B or adequately protect water resources, as set forth in this bylaw.

H. Project completion. At completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices (BMPs) required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a registered professional engineer.

### § 235-5. Contents of stormwater management plan.

A. Application. The stormwater management plan shall contain sufficient information for the PGA to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan shall be designed to meet the Massachusetts stormwater management standards as set forth in the current edition of the Department of Environmental Protection guidelines and policies. The plan shall be designed to also meet the policy standards of the PGA. The stormwater management plan shall fully describe the project in drawings and narrative. It shall include:

- (1) Locus map;
- (2) The existing zoning and land use at the site;
- (3) The proposed land use;
- (4) The location(s) of existing and proposed easements;
- (5) The location of existing and proposed utilities;
- (6) The site's existing and proposed topography with contours at two-foot intervals;
- (7) The existing site hydrology;
- (8) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- (9) A delineation of one-hundred-year floodplains, if applicable;
- (10) Estimated high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- (11) The existing and proposed vegetation and ground surfaces, with runoff coefficient for each;
- (12) A drainage area map showing pre- and post-construction watershed boundaries, drainage area, and stormwater flow paths;
- (13) A description and drawings of all components of the proposed drainage system, including:

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- (a) Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization.
  - (b) All measures for the detention, retention, or infiltration of water.
  - (c) All measures for the protection of water quality.
  - (d) The structural details for all components of the proposed drainage systems and stormwater management facilities.
  - (e) Notes on drawings specifying materials to be used, construction specifications, and typicals; and
  - (f) Expected hydrology with supporting calculations.
- (14) Proposed improvements, including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable.
  - (15) Timing, schedules, and sequence of development, including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
  - (16) Plans to minimize soil erosion and control sedimentation during construction, including interim and permanent soil stabilization measures, management of on-site construction and waste materials, and prevention of off-site transport of sediment.
  - (17) A maintenance schedule for the period of construction; and
  - (18) Any other information requested by the PGA.
- B. Standards. Projects shall meet the standards of the Massachusetts Stormwater Management Policy as are currently in effect.
- C. Project changes. The permittee, or their agent, shall notify the PGA in writing of any change or alteration of a land-disturbing activity authorized in a stormwater management permit before any change or alteration occurs. If the PGA determines that the change or alteration is significant, based on the design requirements listed in § 235-5 and accepted construction practices, the PGA may require that an amended stormwater management permit application be filed and a public hearing held. If any change or deviation from the stormwater management permit occurs during a project, the PGA may require the installation or interim measures before approving the change.

### § 235-6. Operation and maintenance plans.

An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit, this bylaw and that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons and throughout the life of the system. The operation and maintenance plan shall remain on file with the PGA and shall be an ongoing requirement.

- A. The O&M plan shall include:
- (1) The name(s) of the owner(s) for all components of the system.
  - (2) Maintenance agreements that specify:

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- (a) The names and addresses of the person(s) responsible for operation and maintenance.
  - (b) The person(s) responsible for financing maintenance and emergency repairs.
  - (3) Maintenance schedule for all drainage structures, including swales and ponds.
  - (4) List of easements, with the purpose and location of each.
  - (5) The signature(s) of the owner(s).
  - (6) Evidence that the owner has sufficient legal authority and necessary property rights to access and maintain all aspects of the stormwater control system.
- B. Changes to operation and maintenance plans.
- (1) The owner(s) of the stormwater management system must notify the PGA of changes in ownership or assignment of financial responsibility.
  - (2) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the PGA and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

**§ 235-7. Surety.**

The PGA may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the PGA to ensure that the work will be completed in accordance with the permit. If the project is phased, the PGA may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the PGA has received the final inspection report as required by § 235-8B(4) and issued a certificate of completion.

**§ 235-8. Inspections.**

- A. At the discretion of the PGA, periodic inspections of the stormwater management system construction may be conducted by the Town or a professional engineer approved by the PGA. Written reports shall include:
- (1) Inspection date and location.
  - (2) Evaluation of compliance with the stormwater permit.
  - (3) Any variations from approved specifications or any violations of the stormwater management plan.
- B. At a minimum, the PGA or its agent/engineer may inspect the project site at the following stages:
- (1) Initial site inspection: prior to approval of any plan.

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- (2) Erosion control inspection: to ensure erosion control practices are in accord with the filed plan.
  - (3) Bury inspection: prior to backfilling of any underground drainage stormwater conveyance structures.
  - (4) Final inspection: After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The PGA or its agent may inspect the system to confirm its "as built" features.
- C. This inspector may also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he/she shall so report to the PGA, which will issue a certificate of completion. As-built plans shall be full size plans that include all final grades, prepared by a professional engineer. All changes to project design should be clearly depicted on the as-built plans.
- D. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the stormwater management plan, it shall be corrected by the permittee before the performance guarantee is released. If the system does not comply with the plan, the permittee shall be notified in writing of the violation and the required corrective actions. A stop-work order shall be issued until any violations are corrected and all work previously completed has received approval by the PGA.

**§ 235-9. Waivers.**

- A. The PGA may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action:
- (1) ~~Such action~~ Is allowed by federal, state, and local statutes and/or regulations;
  - (2) Is in the public interest; and
  - (3) Is not inconsistent with the purpose and intent of this bylaw.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaws does not further the purposes or objectives of this bylaw.
- C. All waiver requests shall be discussed and voted on at the public hearing for the project.
- D. If, in the PGA's opinion, additional time or information is required for review of a waiver request, the PGA may continue the hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

**§ 235-10. Certificate of completion.**

The PGA will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

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**§ 235-11. Enforcement; violations and penalties.**

- A. The PGA or an authorized agent of the PGA shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders.
- (1) The PGA or an authorized agent of the PGA may issue a written order to enforce the provisions of this bylaw or the regulations hereunder, which may include requirements to:
    - (a) Cease and desist from construction or land disturbing activity until there is compliance with the bylaw and the stormwater management permit;
    - (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
    - (c) Perform monitoring, analysis, and reporting;
    - (d) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management system.
  - (2) If the PGA or authorized agent of the PGA determines that the abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Templeton may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.
  - (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the PGA within 30 days of receipt of the notification of the cost incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the PGA affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 31st day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued hereunder shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. ~~Non-criminal~~**Noncriminal** disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the ~~non-criminal~~**noncriminal** disposition procedure set forth in MGL c. 40, § 21D, and this bylaw of the Town of Templeton, in which case the PGA or its authorized agent shall be the enforcing person. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and

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subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**§ 235-12. Rules and regulations.**

The PGA may adopt, and periodically amend, rules and regulations to effectuate the purposes of this bylaw. Failure by the PGA to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw or any permits issued pursuant to the bylaw.

**§ 235-13. Severability.**

The invalidity of any section, provision, paragraph, sentence, or clause of this bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

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**Chapter 240**

**STREETS, SIDEWALKS AND PUBLIC PROPERTY**

[HISTORY: Adopted by the Town Meeting of the Town of Templeton as indicated in article histories. Amendments noted where applicable.]

**ARTICLE I**

**Loitering and Curfew**

[Adopted 9-22-1981 (Art. XXVI of the Bylaw Compilation)]

**§ 240-1. Posting of Town property.**

Town of Templeton real property may be posted by order of the Board of Selectmen (Board) to ban loitering thereon or to provide for a curfew for its use.

**§ 240-2. Violations and penalties.**

Any person who violates the provisions of § 240-1 shall be subject to penalties as provided by MGL c 266, § 120.

**ARTICLE II**

**Snow and Ice Removal; Water Drainage**

[Adopted 6-20-1981 (Art. XXVIII of the Bylaw Compilation)]

**§ 240-3. Deposit on public property prohibited. [Added 6-24-1992]**

No person shall throw or put or cause to be thrown or put any snow or ice, rubbish, waste materials or leaves from any privately owned land into or upon any public way, sidewalk, catch basin or Town-owned land.

**§ 240-4. Removal of vehicles impeding operations.**

The ~~Highway Superintendent~~Director of Public Works~~Highway Superintendent~~ or any other person authorized by the ~~Highway Superintendent~~Director of Public Works~~Highway Superintendent~~, for the purpose of removing or plowing snow, or removing ice from any way, may remove or caused to be removed to some convenient place any vehicle which interferes with such work, and in the event of the removal of any vehicle in accordance with the terms hereof, the actual cost of removing said vehicle and any storage charges that may be incurred as a result thereof, may be enforced by the Town in any manner provided by law for the collection of a debt based upon contract.

**§ 240-5. Drainage from private property. [Added 6-24-1992]**

No person shall drain water or cause water to be drained from any privately owned property into any public way, sidewalk, catch basin or Town-owned land without the authorization of the ~~Highway Superintendent~~Director of Public Works~~Highway Superintendent~~. This section shall not be enforced to prohibit individuals from washing or cleaning their own vehicle or private property as long as said drain water does not create a safety hazard.

**§ 240-6. Violations and penalties. [Added 6-24-1992]**

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~~No person shall hook up or cause any flow into the Town's stormwater drainage system without the approval of the Highway Superintendent.~~

Whoever violates § 240-3 or § 240-5, ~~or 240-6~~ of this bylaw shall be punished by a fine of \$50 for each offense.

**ARTICLE III  
Street Acceptance  
[Adopted 9-11-1996 (Art. XXXVI of the Bylaw Compilation)]**

**§ 240-7. Conditions for acceptance.**

No private street shall be accepted by the Town Meeting as a public way unless all of the following conditions have been met:

- A. The way shall have a minimum pavement width of not less than 24 feet for its entire length;
- B. The way shall be shown on a definitive plan endorsed by the Planning Board, and shall be actually constructed in accordance with the specifications of the definitive plan approval; and
- C. The way shall have been completed in accordance with said definitive plan for a period of at least 12 months in order to ensure that the way may withstand severe winter weather.

**§ 240-8. Waivers.**

Notwithstanding the above, the Town Meeting may accept as a public way a way that does not meet all of the conditions set forth above, upon a recommendation, by majority vote, from the Planning Board to waive such condition(s).

**ARTICLE IV  
Town Parks, Commons and Cemeteries  
[Adopted 5-16-2006 (Art. XLVIII of the Bylaw Compilation)]**

**§ 240-9. Unauthorized digging prohibited.**

There shall be no unauthorized digging ~~upon or~~ within the confines of any Town-owned ~~cemetery property, park, or ball field~~. Flowers and/or shrubbery may be planted at designated locations within the cemeteries according to the Cemetery Department rules and regulations on file in the Town Clerk's office. ~~All other digging must be approved in writing by the Cemetery Department or performed by the Cemetery Department.~~

**§ 240-10. Enforcement; violations and penalties.**

- A. This bylaw shall carry a fine of not less than \$100 and no more than \$300.
- B. This bylaw may also be enforced by any police officer ~~or designated agent~~ of the Town of Templeton in the method provided in MGL c. 40, § 21D. Any person who violates any provision of this bylaw shall be subject to a penalty of \$100 for the first offense, \$200 for the second offense, and \$300 for the third and each subsequent offense. Each day that a violation exists shall be deemed a separate offense.

Commented [KS19]:

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ARTICLE V

Trenches and Street Excavations

[Adopted 5-16-2015 ATM by Art. 23 (Art. LVI of the Bylaw Compilation)]

Commented [KS20]: An amended version of §240-11, the Trench bylaw, will be separately submitted for Town Meeting vote

§ 240-11. General requirements.

- A. Work requiring permits. Any private contractor who intends to break any street or sidewalk surface, or excavate any road or shoulder shall contact the Templeton Highway Department.
- B. Granting of permit. This permit will be granted if the proposed work is in the best interests of the Town and its inhabitants, is appurtenant to a building permit duly issued by the Building Inspector, or is in conjunction with the construction of a road shown on an approved subdivision plan. The permit is conditional upon the permittee's willingness to abide by these specifications.
- C. Permit fees.
  - (1) Application forms for a permit hereunder are available from the Templeton Highway Department, 381 Baldwinville Road, Templeton, MA. The permit fee is \$100. All fees are ~~non-refundable~~nonrefundable.
  - (2) ~~Permits fees~~ will be waived in some instances. Performance deposits are not waived in any instance.
- D. Plan approval. Plans or sketches showing the proposed work must be submitted with the application, and are subject to the approval of the ~~Highway Superintendent~~Director of Public Works/Highway Superintendent or his designee.
- E. Interpretation of specifications. The ~~Superintendent~~Director of Public Works/Highway Superintendent or his designee will be solely responsible for the interpretation of these specifications, and all work hereunder must be done to his satisfaction.
- F. Time limits. The ~~Superintendent~~Director of Public Works/Highway Superintendent or his designee, in his judgment, may extend any time limit in these specifications if weather or other conditions beyond the control of the permittee have hindered the proper completion of the work.
- G. Inspection schedule. Routine inspections will normally be required at the following phases of construction; however, this schedule will be adjusted to fit the size and complexity of individual jobs. The Highway Department will generally provide only the minimum amount of inspection necessary to ~~ensure~~ reasonable compliance with these specifications. The contractor must notify the Highway Department at least 24 hours in advance whenever an inspection is indicated.
  - (1) Prior to the issuance of a permit hereunder, a site inspection will ~~confirm~~ features ~~such~~ as road bounds, private property bound, stone walls, pavement, sidewalks, trees.
  - (2) After the excavation and installation of the proposed utility and later during the compaction of backfill and installation of surface gravel.
  - (3) After installation of the temporary patch.
  - (4) After installation of the final patch.

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- (5) Prior to release of the bond.
  - (6) At other specific times deemed necessary by the ~~Superintendent~~Director of Public Works/Highway Superintendent or his designee.
- H. Emergency utility repair. Contractors may undertake emergency underground repair of their facilities without a permit when such repairs must be made at night or on weekends or holidays, provided that a permit is applied for on the first regular business day following the repair, and the company takes all reasonable measures provided for in these specifications for the care and safety of the public.
- I. Public safety. As required by MGL c. 82A, § 1, and 520 CMR 14.04, an excavator shall not leave any open trench unattended without first making every reasonable effort to eliminate any recognized safety hazard that may exist as a result of leaving said open trench unattended.
- (1) General. The permittee, from the time the work commences until the work has been approved in writing by the ~~Superintendent~~Director of Public Works/Highway Superintendent or his designee, shall be responsible for the safety of the public. Depending upon the nature of the work, traffic control devices shall be applied.
  - (2) Detours. If the nature of the work requires the closing of all or a portion of a public way, the Police Chief must be contacted for proper traffic control.
  - (3) Warning devices. When required by the nature of the work, signs, lights and barricades, erected at the expense of the permittee, shall be utilized.
  - (4) "Dig Safe." Massachusetts law (MGL c. 82, § 40) requires that contractors notify public utility companies at least 72 hours before any excavation in a public way. A telephone call to the Underground Plant Damage Prevention System ("Dig Safe") satisfies this requirement. The "Dig Safe" job number assigned by the Underground Plant Damage Prevention System must be included on the permit application. A permit cannot be issued until the applicant demonstrates compliance with MGL c. 82, § 40.

### § 240-12. Excavations.

- A. Preservation of physical features. All excavations and other work within the limits of a Town way will be conducted in a manner which will minimize damage or disruption to such features as stone walls, trees, fences, guard rails, etc.
- (1) Working around public shade trees. Any work within the drip line of a public shade tree must be approved by the Templeton Tree Warden.
  - (2) New roads. The cutting of paved road surfaces less than five years old will not be permitted, unless approved by the ~~Highway Superintendent~~Director of Public Works/Highway Superintendent or his designee.
  - (3) Seasonal limit for construction. No paved road surface may be cut between November 15 and March 15, except that in the interest of public safety and convenience the ~~Highway Superintendent~~Director of Public Works/Highway Superintendent or his designee may issue a permit for an emergency repair to an existing facility.

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- B. **Materials approval of materials.** All materials used ~~on~~ construction within public ways shall be subject to approval by the ~~Superintendent~~~~Director of Public Works~~~~Highway Superintendent~~ or his designee. This will include, but not be limited to, the size, type, and quality of pipe, the type of gravel backfill, the quality of the patching material, etc. Cold patch as a temporary or permanent patching material will not be allowed, except that between November 15 and March 15 it may be used for temporary patches on emergency cuts allowed under Subsection G.
- C. **Trenches.** For purposes of this ~~chapter~~~~bylaw~~, a "trench" shall be defined as an excavation which is narrow in relation to its length, made below the surface ground in excess of three feet below grade and the depth of which is, in general, greater than the width, but the width of the trench, as measured at the bottom, is no greater than 15 feet, and the words "excavator," "excavation" and "emergency" shall have the same meanings as defined in MGL c. 82, § 40.
- D. **Pavement cut-backs.** After excavation is commenced, the bituminous or concrete street or sidewalk surface shall be cut vertically in a line parallel to the center line of construction and approximately one foot wider on all sides than the excavation, using an approved power tool, to allow for trench excavation without further disturbing the road or sidewalk surface on either side of the trench.
- E. **Backfill.** The backfill shall consist of the excavated material if it is declared suitable by the ~~Superintendent~~~~Director of Public Works~~~~Highway Superintendent~~ or his designee. Backfill will be placed in successive layers of not more than six inches of compacted depth. If, in the opinion of the ~~Superintendent~~~~Director of Public Works~~~~Highway Superintendent~~ or his designee, the excavated material is unsuitable, the applicant ~~in an approved location~~ shall dispose of the entire rejected material ~~in an approved location~~. In its place, the applicant shall bring in suitable fill material consisting of approved gravel or borrow, as directed. After thorough tamping around and beneath the utility, the six-inch layers of backfill will be thoroughly compacted as follows: if dry, it shall be moistened and then compacted by tamping with mechanical rammers, or by hand tampers having a tamping face not exceeding 25 square inches in area. The final 12 inches of backfill will, in all cases, consist of crushed gravel thoroughly tamped and made even with the surrounding surface.
- F. **Ready-mixed flowable fill.** The use of ready mixed flowable fill (or controlled low-strength material) as trench backfill for all pavement cuts in excess of 30 inches in depth is encouraged in all cases, especially for such cuts on numbered routes. The composition of the mix shall be approximately as follows: cement, 50- ~~pounds to 75 lbs~~; Sand 3-460-~~lbspounds~~; sand 31 ~~pounds to 60 pounds~~; water 500- ~~pounds to 560 lbspounds~~. Final cured material is to be excavatable and have a load bearing about the same as fully compacted gravel. When this material is used, the final patch can be placed not less than 12 hours after the backfill is placed. If the final patch is not placed within 36 hours, a temporary patch according to Subsection G shall be applied not less than 12 hours after the flowable backfill is placed.
- G. **Patching requirements.** After backfill is in place and satisfactorily compacted, the applicant shall apply at once a 1-1/2-inch temporary patch course over the entire excavated area (bituminous-concrete Type I-1 hot top) to be left in place for at least one month and not more than three months, until no further settling can be reasonably expected. At that time, the applicant shall remove the temporary patch course. Any uneven edges of existing pavement will be cut vertically with an approved power tool and tack coated with asphalt emulsion

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(RC-2). For oil-treated roads, the permanent patch must be three inches of bituminous - concrete (Type I-1) in layers of 1 1/2 inches each. For bituminous- concrete surfaced roads, the permanent patch must be four inches of bituminous -concrete (Type I-1) laid in two courses, a 2-1/2-inch binder course and a 1-1/2-inch top course. If existing pavement is of a greater depth, the patch should be of the same depth. At no time should the bituminous - concrete be laid in layers greater than 2 1/2 inches. When the patch has been completed, the joints should be painted with RC-2 and sealed with sand.

- H. Nights, weekends and holidays. No trench shall be left open overnight or over weekends and holidays, and no unattended trench shall be left open at any time unless the applicant has implemented one of the safeguards described in 520 CMR 14.04.
- I. Accessibility. All driveways to homes and places of business shall be bridged and open to travel overnight.
- J. Shoulders: restoration of road shoulders. All road shoulders must be carefully returned to their original condition.
- K. Restoration of lawns. Lawns will be restored with a minimum of four inches of loam, fertilized, rolled and seeded.

### § 240-13. Performance deposits and insurance.

#### A. Performance deposits.

- (1) Deposit amount. All permits issued hereunder shall require a certified check in the amount of \$1,500 to be deposited in an escrow account as a guarantee to abide by these specifications.
- (2) Special deposits. Street cuts over 30 feet in length or significantly larger in scope than usual shall be secured by a larger amount, determined by the ~~Highway Department Superintendent~~~~Director of Public Works~~ Highway Superintendent or his designee. However, the minimum deposit shall be \$1,500. Letters of credit will be accepted only for amounts exceeding \$10,000 and must be approved by the ~~Superintendent~~Director.
- (3) Deposit release. When permanent patching, ~~re-loaming~~reloaming and seeding, and all work required by the permit issued hereunder has been approved in writing by the ~~Superintendent~~Director of Public Works Highway Superintendent or his designee, the Town will refund to the applicant the amount of the deposit, less any amounts as noted below.
- (4) Deposit forfeiture. In the event that Town personnel or equipment must be utilized to make emergency repairs or to complete unfinished work required by the permit issued hereunder, the cost of such repair or work will be deducted from the deposit. A standard multiplier of 2.5 will be applied to all labor and material costs to determine the amount to be deducted. If the repair or completion cost exceeds the amount of the deposit, the applicant must pay the difference to the Town of Templeton.

#### B. Insurance requirements.

- (1) A certificate of insurance indemnifying the Highway Department against claims for injury, death or property damage during construction, and naming the Town as an

**TOWN OF TEMPLETON RED-LINE DRAFT**

additional insured, must be filed with the permit application. The limits shall conform with the following schedule:

(2) General.

- (a) Workmen's compensation and employer's liability insurance in compliance with statutory limits.
- (b) Comprehensive general liability insurance, each occurrence and aggregate amount.
- (c) Automobile liability insurance.
- (d) Bodily injury, each person each occurrence.
- (e) Property damage, each occurrence.

**§ 240-14. Violations and penalties.**

- A. Expiration of permits. If after three months from the date of the permit the repair to the Town way is not completed according to these specifications and to the satisfaction of the ~~Superintendent~~Director of Public Works~~Highway Superintendent~~ or his designee, the permittee will be notified in writing by the ~~Superintendent~~Director of Public Works~~Highway Superintendent~~ or his designee that the permit has expired. If no action is taken by the applicant to complete the unfinished work within 30 days of the date of the written notice, the Highway Department will then complete the necessary work in any manner deemed appropriate and deduct from the deposit all costs of completing the work in accordance with these specifications.
- B. Emergency repairs. If at any time during the life of the permit the permittee allows the construction to exist in a condition dangerous to users of the road, then the ~~Superintendent~~Director of Public Works~~Highway Superintendent~~ or his designee may, without written notice to the permittee, make the necessary arrangements to correct the unsatisfactory condition. The cost of such work will then ~~be~~ deducted from the deposit in accordance with § 240-13A(4) of these specifications at the time the deposit is refunded.
- C. The ~~Highway Superintendent~~Director of Public Works~~Highway Superintendent~~ or his designee has the authority to refuse a permit if a contractor violated these specifications on previous construction sites.

**§ 240-15. Conditions and requirements pursuant to MGL c. 82A and 520 CMR 7.00 et seq. (as amended).**

For additional information please visit the Department of Public Safety's website at [www.mass.gov/dps](http://www.mass.gov/dps).

By signing the application, the applicant understands and agrees to comply with the following:

- A. No trench may be excavated unless the requirements of MGL c. 82A, § 40 through § 40D, and any accompanying regulations, have been met and this permit is invalid unless and until said requirements have been complied with by the excavator applying for the permit, including, but not limited to, the establishment of a valid excavation number with the

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underground plant damage prevention system as said system is defined in MGL c. 164, § 76D (DIG SAFE).

- B. Trenches may pose a significant health and safety hazard. Pursuant to MGL c. 82A, § 1, an excavator shall not leave any open trench unattended without first making every reasonable effort to eliminate any recognized safety hazard that may exist as a result of leaving said open trench unattended. Excavators should consult regulations promulgated by the Department of Public Safety in order to familiarize themselves with the recognized safety hazards associated with excavations and open trenches and the procedures required or recommended by said Department in order to make every reasonable effort to eliminate said safety hazards, which may include covering, barricading or otherwise protecting open trenches from accidental entry.
- C. Persons engaging in any ~~in any~~ trenching operation shall familiarize themselves with the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CFR 1926.650 et seq., entitled Subpart P, "Excavations."
- D. Excavators engaging in any trenching operation who utilize hoisting or other mechanical equipment subject to Chapter 146 of the ~~General Laws~~ shall only employ individuals licensed to operate said equipment by the Department of Public Safety pursuant to said chapter and this permit must be presented to said licensed operator before any excavation is commenced.
- E. By applying for, accepting and signing this permit, the applicant hereby attests to the following:
  - (1) ~~that they have~~ That he/she has read and understands the regulations promulgated by the Department of Public Safety with regard to construction-related excavations and trench safety;
  - (2) That he/she has read and understands the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CFR 1926.650 et seq., entitled Subpart P, "Excavations," as well as any other excavation requirements established by this municipality; and
  - (3) That he/she is aware of and has, with regard to the proposed trench excavation on private property or proposed excavation of a city or Town public way that forms the basis of the permit application, complied with the requirements of MGL c. 82A, § 40 through § 40D.
- F. This permit shall be posted in plain view on the site of the trench.

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Widow/Orphan control

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**Chapter 259**

**VEHICLES, UNREGISTERED**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-8-1962 (Art. XI of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 259-1. Public display restricted.** [Amended 3-12-1966]

No person, except the holder of a license granted under MGL c. 140, § 58, or a junk dealer duly licensed under the Town bylaws, said licenses issued by the Board of Selectmen (Board), shall keep or permit to keep exposed on his premises unused or unregistered motor vehicles within 150 feet of a public way or within 50 feet of a property line, unless authorized to do so by a permit issued by the Board of Selectmen.



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**Chapter 267**

**WATER USE**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 9-10-2002 (Art. XLI of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 267-1. Authority.**

This bylaw is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and its powers pursuant to MGL c. 40, § 21 et seq., and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

**§ 267-2. Purpose.**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Massachusetts Department of Environmental Protection.

**§ 267-3. Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

**AGRICULTURE** — Farming in all its branches and agriculture, as defined in MGL c. 128, § 1A.

~~**BOARD** — The Board of Light and Water Commissioners.~~

**DEPARTMENT** — The Massachusetts Department of Environmental Protection.

**OUTDOOR WATERING** — Any residential, municipal, industrial, or commercial watering of decorative lawns, trees or shrubbery.

**PERSON** — Any individual, corporation, trust, partnership, association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

**STATE OF WATER SUPPLY CONSERVATION** — A State of Water Supply Conservation declared by the Town pursuant to § 267-4 of this bylaw.

**STATE OF WATER SUPPLY EMERGENCY** — A State of Water Supply Emergency declared by the Department of Environmental Protection under MGL c. 21G, § 15 through § 17.

**WATER USERS or WATER CONSUMERS** — All persons using water from the Town's public water source, irrespective of that person's responsibility for billing purposes for use of the water.

**§ 267-4. Declaration of State of Water Supply Conservation.**

The Town, acting through its Board of Light and Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage

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of water exists of such a degree that conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under § 267-6 of this bylaw before it may be enforced.

### § 267-5. Restricted water uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply except as provided in § 267-11. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 267-6.

- A. Odd/Even day outdoor watering. Outdoor watering on property having an odd-numbered address is restricted to odd-numbered days. Outdoor watering on property having an even-numbered address is restricted to even-numbered days.
- B. Off-peak outdoor watering. Outdoor watering is limited to between particular hours on particular days as specified in the notice.
- C. Outdoor watering method restriction. Outdoor watering is restricted to bucket, can or hand-held hose watering with automatic shutoff nozzle.
- D. Outdoor watering ban. Outdoor watering is prohibited.
- E. Outdoor watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- F. Swimming pool filling prohibition. Filling and topping off of swimming pools is prohibited.
- G. Automatic sprinkler use prohibition. The use of automatic sprinkler systems is prohibited.
- H. Car washing prohibition. Car or vehicle washing is prohibited.

### § 267-6. Public notification of restrictions; notification of Department.

Notification of any provision, including any restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Notification of a State of Water Supply Emergency declared by the Department shall be provided by furnishing a copy of the notice to radio and television stations serving the area served by the public water system as soon as possible, but no later than 48 hours after the public water system receives notice of the Department's declaration. Any restriction imposed under § 267-5 of this bylaw or in the Department's declaration of emergency or order shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be provided to the Department at the same time that public notice is given.

### § 267-7. Termination of State of Water Supply Conservation; notice.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Light and Water Commissioners upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in

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the same manner as is required for notice of the Town's declaration of its State of Water Supply Conservation.

**§ 267-8. State of Water Supply Emergency; compliance with Department orders.**

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department for the purpose of bringing about an end to the State of Water Supply Emergency. The notice prescribed by this section shall be in writing and shall be published once in a newspaper of general circulation within the Town where it is to be effective. Such notice shall summarize the provisions of the Declaration of Water Supply Emergency and the requirements and conditions thereof. Notice as prescribed by this section shall be sufficient for enforcement of the requirements of such declaration on and after the date following newspaper publication.

**§ 267-9. Violations and penalties.**

The Town, through its Board of Light and Water Commissioners, the manager of the Municipal Light and Water Plant, or local police may enforce this bylaw. Any person violating this bylaw shall be liable to the Town in the amount of \$50 for the first violation and \$100 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by ~~non-criminal~~ noncriminal disposition in accordance with MGL c. 40, § 21D.

**§ 267-10. Severability.**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

**§ 267-11. Exemptions.**

The water use restrictions adopted under this bylaw shall not apply to the specific uses outlined below provided the user meets applicable eligibility criteria as determined by the Board of Light and Water Commissioners:

- A. Commercial agriculture;
- B. Water to sustain animal life;
- C. Swimming pools used as a primary means of exercise, therapy or rehabilitation located at a medical or rehabilitation facility;
- D. Commercial car or vehicle washing facilities.

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**Chapter 272**

**WELLS**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 10-30-1961 (Art. IX of the Bylaw Compilation). Amendments noted where applicable.]**

**§ 272-1. Covering or filling of wells.**

The owner of land whereon is located an abandoned well or well in use shall provide a covering capable of sustaining a weight of 300 pounds, or fill the same with fill to the level of the ground.

**§ 272-2. Violations and penalties.**

The penalty for violation of this bylaw shall be a fine of not less than \$100 or more than \$~~350~~00.  
Every day past 30 days of notice of violation shall be a separate violation incurring a separate fine

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**Chapter 277**

**WIRELESS COMMUNICATIONS FACILITIES AND TOWERS**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton 5-1-2000; amended 9-26-2000 (Art. XL of the Bylaw Compilation). Subsequent amendments noted where applicable.]**

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**§ 277-1. Purpose.**

The purpose of this ~~section~~bylaw shall be to regulate the placement, design, construction, removal, and modifications of wireless communication~~s~~ facilities and towers and to protect Templeton's historic, cultural, natural, and aesthetic resources.

**§ 277-2. Permit granting authority.**

~~The~~ special permit granting authority shall be the Planning Board.

**§ 277-3. Special permit required; review criteria; exemptions.**

- A. No wireless communications facility shall be erected, constructed, installed or operated without first obtaining a special permit from the Town of Templeton Planning Board. A special permit is required for new tower construction (or major modification of a preexisting tower) and for all new wireless communications facilities (or major modification of a preexisting facility) to be mounted on a tower or structure.
- B. All applications will be reviewed by the Board of Health and Conservation Board, who will submit their written recommendations within 45 days.
- C. A building permit is required per CMR 780.
- D. A public hearing shall be held within 90 days, with all costs accrued paid by the applicant.
- E. Exemptions:
  - (1) The following types of wireless communications facilities and towers are exempt:
    - (a) Amateur radio tower - construction or use of an antenna structure by a federally licensed amateur radio operator as exempted by MGL c. 40A, § 3.
    - (b) A tower or antenna erected by the Town exclusively for municipal public safety communications purposes.
    - (c) Preexisting towers and antennas.
  - (2) This bylaw is exempt from Chapter 300, Zoning, Article III, lot size, frontage, and setback requirements of the Town bylaws.

**§ 277-4. Consistency with federal law.**

These regulations are intended to be consistent with Section 704 of the 1996 Telecommunications Act.

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### § 277-5. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

**ABANDONED TOWER** — A tower not being used for the purpose for which it was permitted for a period of 12 months.

**ADEQUATE COVERAGE** — Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be signal strength of at least -90 dBm. It is acceptable for there to be minor, temporary loss of signal within the area of adequate coverage. The outer boundary of the area of adequate coverage is that location past which the signal does not regain uniformity.

**ANTENNA** — A device used to transmit and/or receive electromagnetic waves, which is attached to a tower of or other structure.

**ANTENNA SUPPORT STRUCTURE** — Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

**AVAILABLE SPACE** — The space on a tower or structure to which antennas of a wireless communication~~s~~ provider ~~is~~are both structurally able and ~~electro magnetically~~electromagnetically able to be attached.

**BASE STATION** — The primary sending and receiving site in a wireless communication~~s~~ facility network. More than one base station and/or more than one variety of wireless communication~~s~~ provider may be located on a single tower or structure.

**BUILDING FOR EQUIPMENT SHELTER** — An enclosed structure used to contain batteries, electrical equipment, telephone lines, transmitters, etc. used by the carriers on the towers.

**BUILDING-MOUNTED ANTENNA SUPPORT STRUCTURE** — Any antenna support structure mounted on, erected on, or supported in whole or part by a building or structure occupied and/or used for purposes other than wireless telecommunications.

**CARRIER** — A company that provides wireless service as defined by Section 704 of the 1996 Telecommunications Act.

**CHANNEL** — The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

**CO-LOCATION** — Locating the wireless communications equipment of more than one provider on a single tower.

**COMMUNICATION TOWER** — A monopole or self-supporting tower, constructed as a ~~free-standing~~freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving wireless communications. A tower and its equipment are considered a main use of property.

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**CONSULTANT** — A registered professional engineer (electrical communication specialty) licensed by the Commonwealth of Massachusetts, hired at the expense of the applicant to review the application and verify that the new tower is necessary at the proposed site, or any other review required under this bylaw.

**dBm** — Unit of measure of the power level of a signal expressed in decibels referenced to one milliwatt.

**EA** — See "environmental assessment."

**EMERGENCY POWER** — Electrical generators usually powered by propane gas or diesel fuel so as to provide uninterrupted service in the case of electrical utility failure, provided that any generators used may not emit more than 50 decibels over the ambient noise level at the property line.

**ENVIRONMENTAL ASSESSMENT (EA)** — An EA is the document required by the FCC and NEPA when a personal wireless facility is placed in certain designated areas.

**FAA** — Federal Aviation Administration.

**FACILITY SITE** — A property, or any part thereof, which is owned or leased by one or more wireless communications facility(s) and where required landscaping is located.

**FALL ZONE** — The area on the ground within a prescribed radius from the base of a tower, typically the area within which there is a potential hazard from falling debris or collapsing material. The fall zone shall be equal to the tower height.

**FCC** — Federal Communications Commission.

**FREQUENCY** — The number of cycles completed each second by an electromagnetic wave, measured in hertz (Hz), megahertz (MHz), or one million hertz, or gigahertz (GHz, one billion hertz).

**HERTZ** — One hertz (Hz) is the frequency of an electric or magnetic field, which reverses polarity once each second, or one cycle per second.

**LATTICE TOWERS** — A type of mount that is self-supporting with multiple legs and cross bracing of structural steel. See "communication tower."

**MAJOR MODIFICATIONS** — The changing or alteration of any portion of a wireless communication facility from its description in a previously approved permit, including any addition that increases the height of the tower size of the building for equipment shelter.

**MONITORING** — The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from wireless communications facilities, towers, antennas, or repeaters.

**MONOPOLE** — A type of tower that is self-supporting with a single shaft of wood, steel, or concrete.

**NEPA** — National Environmental Policy Act.

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**PREEXISTING TOWERS AND ANTENNAS** — Any tower or antenna that was lawfully erected before the effective date of these regulations.

**REPEATER** — A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas that are not able to receive adequate coverage directly from a base or primary station.

**RFI** — Radio frequency interference.

**RFR** — Radio frequency radiation.

**SCENIC VIEW** — A scenic view is a wide-angle or panoramic field of sight and may include natural and/or man-made structures and activities which may be seen from a stationary viewpoint or as one travels along a roadway, waterway, or path, and may be an object nearby or in the distance such as a mountain, or historic building or a pond.

**SELF-SUPPORTING TOWER** — A communications tower that is constructed without guy wires.

**SPECTRUM** — Relating to any transmissions or reception of electromagnetic waves.

**STEALTH TOWER** — A structure designed to blend with or be hidden by surrounding terrain, architectural design, or buildings.

**STRUCTURALLY ABLE** — The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

**TOWER** — A vertical structure for antenna(s) that provides wireless communications services.

**TOWER HEIGHT** — The vertical distance measured from the base of the tower support structure to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the tower height.

**WIRELESS COMMUNICATIONS FACILITY** — All equipment, buildings and locations of equipment (real estate) with which a wireless communications provider transmits and receives the waves that carry wireless services. This facility may be owned and permitted by the provider or another owner or entity.

**WIRELESS COMMUNICATIONS PROVIDER** — An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

**WIRELESS SERVICES** — Commercial mobile services, unlicensed wireless exchange access services, including cellular services, personal communications services, specialized mobile radio services, and paging services.

### § 277-6. Permit application requirements.

- A. An applicant for a wireless communications tower or facility permit must be a wireless communications provider or must provide a copy of its executed contract to provide land or facilities to an existing wireless communications provider at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.



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- B. Applicants for wireless communications towers or facilities shall include the following supplemental information in their filings for special permit approval:
- (1) Location map. The location of the proposed structure on the most recent United States Geological Survey Quadrangle Map, showing the area within at least a three-mile radius of the proposed tower site.
  - (2) A map or sketch of the property proposed to be developed, prepared by a registered land surveyor drawn to scale and with the area to be developed clearly indicated.
  - (3) A report from qualified and licensed professional engineers (consultants) that:
    - (a) Describes the facility height, design, and elevation not to exceed 190 feet.
    - (b) Documents the height above grade for all proposed mounting positions for antennas to be ~~collocated~~~~co-located~~ on a wireless communications tower or facility and the minimum separation distances between antennas.
    - (c) Describes the tower's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects the tower to accommodate.
    - (d) Documents steps the applicant will take to avoid interference with any established public safety wireless communications, and includes both an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
    - (e) Describes existing and proposed coverage. In the case of new tower proposals, the applicant shall demonstrate that existing wireless communications facility sites and other existing structures within Templeton, in abutting towns, and within a ten-mile radius of the proposed site cannot reasonably be modified to provide adequate coverage and/or adequate capacity to the Town of Templeton.
    - (f) Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage, and provides a detailed computer-generated ~~Actual Received Level~~"actual received level" propagation model that describes coverage of the existing and proposed facilities.
    - (g) Describes the output frequency, number of channels and power output per channel for each proposed antenna.
    - (h) Includes a written five-year plan for use of the proposed wireless communications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the Town of Templeton.
    - (i) Demonstrates the tower's compliance with the municipality's setbacks for towers and support structures.
    - (j) Provides proof that at the proposed site the applicants will be in compliance with all FCC regulations, standards, and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards, and requirements regarding both ~~radio~~

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~~frequency~~radiofrequency interference (RFI) and ~~radio-frequency~~radiofrequency radiation (RFR). The Town of Templeton may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards, and requirements on an annual basis at unannounced times. The Town may allocate to the applicant any reasonable expenses incurred or authorized by it in retaining independent engineers to perform these evaluations.

- (4) Commitment to share space. A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements and the provisions of this bylaw.
  - (5) Existing structures. For wireless services to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure must be submitted.
  - (6) Environmental assessment. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete environmental assessment (EA) draft ~~of~~ final report describing the probable impacts of the proposed facility shall be submitted to the Planning Board prior to the issuance of a building permit.
  - (7) Vicinity map. A topography map and a priority resource map showing the entire vicinity within a one-thousand-foot radius of the tower site, including the wireless communications facility or tower, public and private roads and buildings and structures, water bodies, wetlands, landscape features, and historic sites. The map shall show the property lines of the proposed tower site parcel and all easements or rights-of-way needed for access from a public way to the tower.
  - (8) Proposed site plans of the entire wireless communications facility, professionally drawn to scale, showing all improvements, including landscaping, utility lines, screening, and roads.
  - (9) Elevations showing all facades and indicating all exterior materials and color of towers, buildings, and associated facilities.
  - (10) Where the proposed site is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
  - (11) Construction sequence and estimated time schedule for completion of each phase of the entire project.
  - (12) Any additional information requested by the Planning Board.
- C. Plans shall be drawn at a minimum at the scale of one inch equals 50 feet. The permit application shall be signed under the penalties of perjury.
- D. All permit requests shall be submitted during a regular scheduled meeting.

**§ 277-7. Tower and antenna design; site and location requirements; abandoned facilities.**

**TOWN OF TEMPLETON RED-LINE DRAFT**

**A. Protection of scenic character:**

- (1) Proposed facilities shall not unreasonably interfere with any scenic views, paying particular attention to such views from the downtown business area, public parks, natural scenic vistas or historic buildings or districts. Towers shall, when possible, be sited off ridgelines and where their visual impact is least detrimental to scenic views and areas. In determining whether the proposed tower will have an undue adverse impact on the scenic beauty of a ridge ~~or~~ hillside, the Town shall consider, among other things, the following:
  - (a) The period of time during which the proposed tower will be viewed by the traveling public on a public highway, public trail, or public body of water;
  - (b) The frequency of the view of the proposed tower by the traveling public;
  - (c) The degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
  - (d) Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
  - (e) The distance of the tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
  - (f) The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point, and
  - (g) The sensitivity or unique value of the particular view affected by the proposed tower.
- (2) To assist the Town in its review it may require the applicant to fly or raise a three-foot-diameter balloon at the maximum height of the proposed facility at a location within 50 horizontal feet of the center of the proposed facility. The applicant shall provide photographs of the balloon test taken from at least four vantage points previously designated by the Planning Board.

**B. Lighting, bulk, height, glare.** All wireless communications facilities, including towers and antennas, shall be designed and constructed so as to minimize the visual impact of ~~the~~ height and mass of said tower. Materials utilized for the exterior of any structure shall be of a type, color, and style so as to minimize glare and blend into the environment. Towers shall not be artificially illuminated.

**C. Transmitter building.** Facilities buildings shall be built to accommodate all anticipated tenants on a tower.

**D. Landscaping and screening.** ~~The~~ base of ~~the~~ tower as well as the building accessory to the tower shall be screened from view by a suitable vegetation screen that is consistent with existing vegetation. A planted or existing vegetative screen shall be maintained. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

## TOWN OF TEMPLETON RED-LINE DRAFT

- E. Height limitations. In order to protect public safety and to preserve the scenic, rural character and appearance of Templeton, antennas and all related facilities shall not exceed 190 feet.
- F. Fencing and signage. ~~insurance~~. The area around the tower shall be completely fenced for security to a height of eight feet and gated. Use of multiple strands of barbed wire is required. A painted sign no greater than two square feet stating the name of the facility's owner and a ~~24 hour~~~~twenty-four-hour~~ emergency number shall be posted on the entry gate. In addition, "No Trespassing" and any other mandated warning signs shall be posted and maintained at the site. No commercial signs or lettering shall be placed on a tower. The tower must be equipped with an anti-climbing device. The wireless communications facility owner shall maintain adequate insurance on all wireless communications facilities.
- G. Utilities. All utilities must be routed underground via conduit from ~~a~~ public road to ~~the~~ site where feasible.
- H. Access road. Vehicle access to ~~the~~ site shall be required and shall conform to all Conservation Commission guidelines and be at least 18 feet wide. A sturdy, posted, swinging, lockable gate must be installed which is more than 15 feet and less than 30 feet off the public road upon which said access is situated. A Knox box or keys shall be provided to a designated Town official for municipal access. Finish grade must be approved by the ~~Highway Superintendent~~~~Director of Public Works~~. Easements shall be provided to the Town of Templeton for access and removal in the case of facility/tower abandonment.
- I. Removal of abandoned antennas and towers:
- (1) The owner of a facility/tower shall annually, by January 15, file a declaration with the Town of Templeton Planning Board certifying the continuing safe operation of said facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and shall be considered abandoned.
  - (2) A facility/tower shall also be considered abandoned when it has not been used for the purpose for which it was permitted, for a period of 12 months.
  - (3) The applicant or subsequent owners shall provide and maintain a financial surety bond in the amount of \$50,000 payable to the Town of Templeton to cover the costs of removal of each wireless communications facility applied for and the remediation of the landscape, should the facility be deemed abandoned. The bond shall not limit the applicant's financial liability to the Town for said facility/tower removal. The bond amount shall be reviewed every year by the Planning Board and shall be adjusted if deemed necessary. If the bond is deemed to be adjusted, the applicant shall have 90 days from notice to provide an adjusted bond.
    - (a) The owner of a facility/tower shall have 90 days to removal ~~o~~ said tower from the date it is deemed abandoned as stated above.
    - (b) The Town may exercise its option to remove said facility/tower at its own discretion upon notification of ~~the~~ owner, any time after the ninety day waiting period.
- J. Emergency power. Emergency power shall emit no more than 50 decibels over ambient noise level at all property lines.

**TOWN OF TEMPLETON RED-LINE DRAFT**

- K. Noise. Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.
- L. Property consideration. An applicant shall demonstrate that all municipally -owned property in the geographic area was considered.
- M. Distance of tower or repeaters:
  - (1) No repeater shall be located less than 25 feet, nor more than 70 feet above ground.
  - (2) No tower or personal wireless service facility, with the exception of repeaters, shall be located:
    - (a) Within any of the following prohibited areas:
      - [1] Massachusetts or federally regulated wetlands.
      - [2] A Massachusetts certified vernal pool.
    - (b) Within 100 feet horizontally of any Massachusetts regulated wetland.
    - (c) Within 200 feet of any existing permanently occupied residential dwelling.
    - (d) Within 200 feet of an existing property line unless incorporated within an existing building, tower, or steeple.
- N. Documentation. Engineering and environmental assessment impact as well as FAA notice of determination of no hazard of flight zone shall be submitted with any application.
- O. ~~Colocation~~Co-location requirements. An application for a new (non-co-located) wireless communications tower shall not be approved unless the Planning Board finds that the wireless communications facility planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:
  - (1) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
  - (2) The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts and such interference cannot be prevented at a reasonable cost.
  - (3) The proposed antennas and equipment, along or together with existing facilities, equipment, or antennas, would create RFI in violation of federal standards or requirements.

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- (4) The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.
  - (5) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function, or are too far from the area of needed coverage to function reasonably, as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts.
  - (6) Aesthetic considerations make it unreasonable to locate the planned wireless communications equipment upon an existing or approved tower or building.
  - (7) There is no existing or approved tower in the area in which coverage is sought.
  - (8) Other unforeseen specific reasons make it unreasonable to locate the planned wireless communications equipment upon an existing or approved tower or building.
- P. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's and additional antennas when overall permitted height allows.
- Q. Wireless communication towers shall be a minimum distance of 2.5 miles from each other unless it is determined by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts that a closer proximity is need for "adequate coverage" as defined under definitions § 277-5. Definitions. Under no circumstances shall any wireless communications tower be within a distance of one mile of each other unless such tower is a stealth tower and the applicant's technology cannot be used on an existing tower as determined by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts.

### § 277-8. Modifications to existing special permits.

An alternational alteration of or addition to a previously approved wireless communications facility shall require an additional special permit when any of the following are proposed:

- A. A change in the number of buildings or facilities permitted on the site;
- B. Changes in technology used by the wireless communications facility;
- C. An addition or change of any external equipment or an increase in the height of the tower, including profile of additional antennas, not specified in the original application; or
- D. Change in ownership.

### § 277-9. Continuing obligations.

- A. Upon receiving a permit, the permittee shall annually, by January 15, document that the facility is in compliance with all FCC standards and at the same time the permittee shall provide a list of the most recent RFR readings at the site, their distances from the tower/transmitter, dates of the readings, and the name of the person or company who or which took the readings.

**TOWN OF TEMPLETON RED-LINE DRAFT**

B. All payment and ~~non-payment~~nonpayment of taxes shall fall under the Templeton By-Law Chapter 183, Licenses and Permits, Article II, of the Town bylaws.

**§ 277-10. Fees.**

The Town shall establish a schedule of fees to cover permitting and monitoring costs. Fees may include the reasonable costs of an independent technical assessment of the application by a consultant.

**§ 277-11. Severability.**

If a court of competent jurisdiction holds any portion of this bylaw unconstitutional or invalid, the remainder of this bylaw shall not be affected.

**§ 277-12. Conflicts.**

If any definition or term as used in this bylaw is inconsistent with or would result in a conflict with an applicant's compliance with any FCC regulation or licensing requirement, the FCC regulation or licensing requirement shall control.

**§ 277-13. Waivers.**

Strict compliance with these requirements may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Templeton bylaws.

**TOWN OF TEMPLETON RED-LINE DRAFT**

**Chapter 300**

**ZONING**

**[HISTORY: Adopted by the Town Meeting of the Town of Templeton as amended and reorganized 5-17-2010. Amendments noted where applicable.]**

**ARTICLE I**

**Purpose and Scope**

**[Added 3-10-1973; amended 4-20-1978; 9-2002]**

**§ 300-1. Purpose.**

These regulations are enacted to promote the purposes set forth in 1975 Mass. Acts 808, which include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Planning Board and the Comprehensive Plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include, but are not limited to, restricting, prohibiting, permitting or regulating:

- A. Uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
- B. Size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of MGL c. 93, § 29 through § 33, inclusive, and to Chapter 93D of the General Laws;
- C. Uses of bodies of water, including watercourses;
- D. Noxious uses;
- E. Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
- F. Density of population and intensity of use;
- G. Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and
- H. The development of the natural, scenic and aesthetic qualities of the community.

Commented [KS21]: A separate article amending the Wireless Communication and moving it to Chapter 300 will be submitted for Town Meeting vote. That article will also delete Chapter 277 in its entirety.



## TOWN OF TEMPLETON RED-LINE DRAFT

### § 300-2. Authority.

The Zoning Bylaw is authorized by, but not limited by, the provisions of the Zoning Act, MGL c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### § 300-3. Scope.

For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town of Templeton are regulated as hereinafter provided.

### § 300-4. Applicability.

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town of Templeton, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than ~~has~~ expressly permitted within the district in which such building, structure or land is located. Where the application of the Zoning Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning Bylaw shall control.

### § 300-5. Amendments.

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

### § 300-6. Severability.

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

## ARTICLE II Definitions

[Added 3-10-1973; amended 4-20-1978; 9-2000; 12-7-2006; 3-6-2008]

### § 300-7. Interpretation and word usage; terms defined.

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

**TOWN OF TEMPLETON RED-LINE DRAFT**

Building Code shall have the meaning given therein unless a contrary intention is clearly evident in the bylaw.

**ACCESSORY APARTMENT** — A dwelling unit located within or attached to a structure constructed as a single-family dwelling, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the structural appearance of a single family house.

**ACCESSORY BUILDING** — A subordinate building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

**ACCESSORY USE** — A use customarily incidental to that of the main or principal building or use of the land.

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

**ANIMAL CLINIC OR HOSPITAL** — A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic or hospital use.

**APPLICANT** — The party, whether an individual, partnership, corporation, trust or other legal entity, that applies for a permit or approval under this Zoning Bylaw or other regulations of the Town of Templeton. If the applicant is not the record owner or representative of the owner of the subject property, consent of the legal owner shall be required.

**ASSISTED-LIVING RESIDENCE** — ~~See Nursing Home. Any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:~~

- ~~A. Provides room and board; and~~
- ~~B. Provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and~~
- ~~C. Collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.~~

**AUTOMATIC TELLER MACHINE (ATM), FREESTANDING** — A pedestrian oriented mechanical device, not in proximity to a bank or other financial institution, which is accessed by an individual for the purpose of receiving cash from accounts and/or allows patrons to perform minor financial transactions. ATMs for use by patrons in vehicles are to be considered drive-up customer service facilities.

~~**AUTOMOTIVE REPAIR SHOP** — See Motor Vehicle Body Repairs, Motor Vehicle General Repairs and Motor Vehicle Light Service.~~

**BASEMENT** — The space in a residence or other building in which all or part of the space is located below the average surface grade of the lot.

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## TOWN OF TEMPLETON RED-LINE DRAFT

**BED-AND-BREAKFAST ESTABLISHMENT** — A private owner-occupied dwelling of not more than six bedrooms for occupation by bed-and-breakfast guests where individual rooms are let as overnight accommodations and a breakfast is included in the rent as an accessory use. Bed-and-breakfast establishments are intended for guests staying on an intermittent visits and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

**BOARDING HOUSE** — A dwelling or part thereof in which lodging is provided by the owner or operator to individuals without meals shall be considered a ~~boarding house~~ boardinghouse.

**BUFFER ZONE** — An area along the boundary line between a residential district in the Town of Templeton and any Commercial, Industrial or Highway Business Districts, extending into the aforementioned nonresidential districts for a distance of 50 feet, in order to reduce adverse development impacts on neighboring residential districts. Note: See ~~the~~ Table of Dimensions Dimensional Regulations in § 300-20.

**BUILDING** — A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUILDING COVERAGE** — That percentage of the lot or plot area covered by the roof area of a building or buildings.

**BUILDING HEIGHT** — The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the grade at the center line of each street front. Not included are spires, cupolas, antennae, or similar parts of structures that do not enclose potentially habitable floor space.

**BUILDING INSPECTOR** — The local municipal official charged with the enforcement of the Templeton Zoning Bylaw.

**BUILDING, DETACHED** — A detached building is one separated on all sides from adjacent buildings by open spaces from the ground up.

**BUSINESS OR PROFESSIONAL OFFICE** — A building, or part thereof, for the transaction of business or the provision of services, exclusive of the receipt, sale, storage, or processing of merchandise.

~~CAMPGROUND — An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains an open-air or natural character.~~

**CELLAR** — See "basement."

**CEMETERY** — An area set apart for or containing graves, tombs, crypts or funeral urns; a burial ground or grave yard.

~~CHILD CARE FACILITY AND CHILD CARE CENTER — See Daycare Center.~~

**CLUB OR LODGE, PRIVATE** — Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and

## TOWN OF TEMPLETON RED-LINE DRAFT

provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**CLUSTER DEVELOPMENT** — See "open space residential development."

**COMMERCIAL RECREATION, INDOOR** — A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, as permitted by federal, state and local law, including all connected rooms or space with a common means of egress and entrance. Indoor commercial recreation centers shall include theaters, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

**COMMERCIAL RECREATION, OUTDOOR** — Drive-in theater, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in the bylaw.

**CONTRACTOR'S YARD** — Premises used by a building contractor, general contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of operative wheeled equipment.

**DEPOT** — See "warehouse."

**DRIVE-UP CUSTOMER SERVICE FACILITY** — A fast-food restaurant, bank, retail, commercial, or service use which allows customers to access sales or services directly from a motor vehicle or where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. This definition shall not include the selling of fuel at a gas station, or self-service gas station, or the accessory functions of a car wash facility such as vacuum cleaning stations.

**DRIVEWAY** — An open space on a private lot that provides adequate access to a private garage or off-street parking space.

**DWELLING** — A building designed and occupied as the living quarters of one or more families. Single- and two-family dwellings shall be designed for and occupied by not more than one or two ~~occupants~~families, respectively. A multifamily dwelling shall be one designed for and occupied by three or more ~~occupants~~families.

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

**EASEMENT** — A grant of one or more of the property rights by the owner to another for a general or specific purpose, such as access.

**EDUCATIONAL USE, NONEXEMPT** — Educational facilities not exempted from regulation by MGL c. 40A, § 3.

**ELEVATION** — Height relative to mean sea level.

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**ENVIRONMENTAL IMPACT REPORT (EIR)** — A report that must be filed by a developer when ~~MEPA~~ Massachusetts Environmental Policy Act (MEPA; MGL c. 30, § 61 through § 62I) thresholds are expected to be exceeded or encountered.

**ENVIRONMENTAL NOTIFICATION FORM (ENF)** — A form that must be filed by a developer when ~~MEPA~~ Massachusetts Environmental Policy Act (MEPA; MGL c. 30, § 61 through § 62I) thresholds are expected to be exceeded or encountered.

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

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

**FAMILY** — Any number of individuals residing together on the premises as a single housekeeping unit.

~~FARM STAND, NONEXEMPT~~ — Facility for the sale of produce, wine and dairy products on property not exempted by M.G.L. c. 40A, s. 3.

**FINANCIAL INSTITUTION** — A state or federally chartered bank, savings association, credit union, or industrial land company located in a building, or portion of a building, which provides for the custody, loan, exchange, or issue of money, the extension of credit, or facilitating the transmission of funds, and which may include accessory drive-up customer service facilities on the same premises. This does not include small loan businesses or check cashing facilities.

**FIRM** — Flood Insurance Rate Map; a map created and maintained by ~~the~~ Federal Emergency Management Agency (FEMA) that depicts areas where flooding can be expected.

~~FLEA MARKET~~ — A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent-profit-seeking businesses that require all local permits and licenses.

**FLOOR AREA RATIOS (FAR)** — A mathematical expression determined by dividing total floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of 0.75 could contain 32,670 square feet of gross floor area (43,560 X 0.75 = 32,670).

**FLOOR AREA, GROSS** — The total square feet of floor space within the outside dimensions of a building, including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

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**FRONTAGE** — Frontage shall be determined as the distance measured along the street right-of-way at the front of a lot, from one side line of the lot to the other. Frontage shall be an unbroken distance along said street right-of-way and shall provide both rights of access and safe year-round practical vehicular access. In the case of a lot that fronts on a curve or angle in the street, the distance shall be measured along the lot line in continuous linear feet to include any curve or angle.

~~FUNERAL-HOME~~ — ~~Facility for the conducting of funerals and related activities such as embalming.~~

**GARAGE** — A structure for the storage of motor vehicles or, the use of which is customarily incidental to that of the principal building.

**GARAGE, AUTO AND TRUCK REPAIR, (MECHANICAL)** — An establishment for the storage, repair, servicing, adjusting and/or equipping of automobiles or other motor vehicles, body work and/or supplying oil and other automotive fluids to motor vehicles, and including repair of heavy motorized equipment and the storage of vehicles for the cannibalization of parts.

**GASOLINE STATION** — An establishment that provides for the sale of gasoline and accessory items, servicing and the minor repair of motor vehicles.

**GOLF COURSE-COUNTRY CLUB** — Establishments consisting of golf courses and related facilities, usually known as "country clubs," consisting of restaurants, function rooms, accessory buildings, tennis courts, and other recreational facilities.

**GOLF DRIVING RANGE** — A facility used for the instruction and practice of the game of golf by striking golf balls from fixed locations onto an open field, together with incidental uses including but not limited to golf putting greens and rental of equipment. Each golf driving range shall be constructed according to nationally recognized safe practice standards for such amusements to protect patrons, ~~passer-by~~ ~~passers-by~~ and the surrounding area. Sufficient off-street parking for patrons shall be furnished and maintained. The premises shall be kept in an orderly manner and grass and weeds will be kept down.

**GRADE** — The rate of change in elevation of the surface of the land as measured in feet of vertical change per 100 feet horizontal, or percent. One-foot vertical change per 100 feet horizontal is equal to a 1% grade.

**HAZARDOUS MATERIAL** — Any substance that is listed in, but not limited to, the EPA priority pollutants as described in Section 307(a) of the Clean Water Act, as amended.

HOME OCCUPATION, CUSTOMARY — Professional or customary home occupations, as defined in this bylaw, which do not have more than one nonresident employee and which have no impact on the neighborhood character.

**HOME OCCUPATION, MAJOR** — A business where the operation of the business may have a greater impact on the neighborhood than a minor home occupation. A business shall be deemed a major home occupation if it has one or more of the following characteristics:

- A. More than one nonresident employee, but limited to three on the premises.
- B. Outdoor storage of materials or equipment.

**TOWN OF TEMPLETON RED-LINE DRAFT**

- C. Outdoor parking of more than one commercial vehicle or any commercial vehicle exceeding 10,000 pounds gross vehicle weight;
- D. Occupies more than 25% of the floor area of the dwelling;
- E. Occupies more than 500 square feet of floor space in accessory buildings; or
- F. Routinely serves more than three customers or clients on the premises at any one time.

**HOME OCCUPATION, MINOR** — Any use customarily conducted for profit by the inhabitants of a dwelling, provided such use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the residential character thereof. Such use shall be deemed incidental and secondary if it does not meet the definition of major home occupation.

**HOUSEHOLD** — A household shall include.

- A. All family members related by blood, marriage or adoption, regardless of generation;
- B. Fewer than four unrelated adults living in any one dwelling unit, with or without children.

**IMPERVIOUS** — Any surface impenetrable by surface water.

**JUNK** — Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD or AUTOMOBILE GRAVEYARD** — The licensed use, by the Board of Selectmen (Board), of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

**KENNEL, COMMERCIAL** — A commercial establishment, licensed by the Town Clerk, in which more than six dogs or domesticated animals are housed, groomed, boarded or trained, located on at least two acres of land.

**LOT** — A continuous parcel of land with legally definable boundaries.

**LOT AREA** — The horizontal area of the lot, exclusive of any area in a street or recorded way open to public use. At least 80% of the lot area required for zoning compliance shall be contiguous land other than that within any water body, bog, swamp, wet meadow, marsh, or other wetland, as defined in MGL c. 131, § 40, as amended.

**LOT LINE** — A line dividing one lot from another or from a street or any public place.

**LOT, CORNER** — A lot with two adjacent sides abutting upon streets or other public spaces. Corner lots shall meet the front yard requirements (setback) for each way that the parcel fronts.

**LOT, DEPTH OF** — The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**LOT, FRONTAGE OF** — A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two intersecting streets if their angle of intersection is

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greater than 90°. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

**LOT, WIDTH OF** — The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

**MANUFACTURING, LIGHT** — Fabrication, processing, packaging, or assembly operation employing only electric or other generally noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from agents disturbing to the neighborhood, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, ~~electromagnetic~~ ~~radiation~~, heat, or vibration. Any manufacturing other than above shall be classified as "heavy manufacturing."

**MASSAGE THERAPY** — An establishment created for the purpose of providing the public massage therapy by a duly licensed massage therapist.

**MEDICAL CENTER OR CLINIC** — A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**MOBILE HOME** — A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

**MOTEL OR HOTEL** — A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four continuous months, nor may the guest stay more than six months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**MOTOR VEHICLE LIGHT SERVICE** — Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

**MUNICIPAL FACILITIES** — Facilities owned or operated by cities or towns created under the appropriate statute of the Commonwealth of Massachusetts. Examples include the Town of Templeton and the City of Gardner.

~~NON CONFORMING~~ **NONCONFORMING USE** — Use of a building or land, existing at the time of enactment or subsequent amendment of the Zoning Bylaw, which does not currently conform to the regulation of the district in which it is situated.

**NURSING OR CONVALESCENT HOME** — Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**OPEN SPACE RESIDENTIAL DEVELOPMENT** — A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property by open land, and in which provision has been made by conveyance or restriction that the land be kept in an open and natural state. Lot sizes, frontage, density, dimensional standards or types of buildings may vary from those otherwise permitted or required. The land not included in the building lots is permanently preserved as open space.



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**PARCEL** — Any area of land as defined on an Assessors' map or other plan, but not necessarily a buildable lot.

**PASSENGER TRANSPORT TERMINAL** — A building or structure intended solely for the shelter and services needed for passengers of mass transportation (example: bus stop).

**PERSONAL SERVICE ESTABLISHMENT** — A facility providing personal services, such as a hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

**RECORDED** — Recorded in the Worcester County Registry of Deeds or, for registered land, in the Land Court.

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

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

**SENIOR HOUSING** — Independent living and assisted living facilities located in detached single-family dwelling units, townhouse-style dwelling units or multifamily dwelling unit buildings restricted to individuals or families in which all residents are aged 55 or older, with the exception of spouses or caregivers, or unless specifically precluded by a public housing program under which the proposal is submitted, ~~included or not including~~ meals, housekeeping and transportation.

**SETBACK** — The required minimum horizontal distance between the building line and the related front, side, or rear property line, including terraces or any covered projection thereof, excluding handicapped ramps.

**SIGN** — Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered "signs."

**SOLID WASTE DISPOSAL FACILITY** — Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Templeton for processing, handling, treating, and sludge, but not raw sewage and similar waste items.

~~**SPECIAL HOSPITAL** — A facility or building used primarily for providing to members of the public, or members of designated groups of the public, either as residents of, or as periodic visitors thereto, psychiatric, psychological, mental health or emotional care, counseling and/or treatment, including herein a facility or building which is used for the care, counseling and/or treatment of persons suffering from substance abuse, including drugs and/or alcohol.~~

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**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** — The SPGA shall include the Board of Selectmen, Board of Appeals and Planning Board, as designated by ~~the~~ Zoning Bylaw for the issuance of special permits.

**STREET** — An accepted Town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the Subdivision Control Law, or a way determined by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

**STRUCTURE, PERMANENT** — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, and mast for radio antenna or the like.

**STRUCTURE, TEMPORARY** — A structure without any foundation or footing to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the Building Inspector.

**TOWNHOUSE** — A multifamily dwelling in which all dwelling units are separated by side or party walls.

**TOXIC MATERIALS** — A combination of pollutants including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation, and assimilation into any organism can cause death, disease, mutations, deficiencies, or malfunctions in such organisms or their offspring.

~~TRAILER OR CAMPER — A vehicular, portable unit designed for travel, camping or recreational use. This definition excludes mobile homes, but includes every variety of tent and boat trailers.~~

**TRANSPORT TERMINAL** — Terminal facilities for handling freight, with or without maintenance facilities.

**VARIANCE** — An exception allowed by the Board of Appeals where strict enforcement of the Zoning Bylaw would create unusual hardship due to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. Variances shall only be granted upon satisfaction of the criteria for a variance set forth in MGL c. 40A § 10, as amended.

**WAREHOUSE** — A building used primarily for the storage of goods and materials, for distribution but not for sale on the premises.

**YARD** — A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

**YARD, FRONT** — A yard extending the full width of the lot and situated between the street line and the nearest point of the building. See ~~the~~ Table of ~~Dimensions~~[Dimensional Regulations in § 300-20 of this bylaw.](#)

**YARD, REAR** — A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot. See ~~the~~ Table of ~~Dimensions~~[Dimensional Regulations in § 300-20 of this bylaw.](#)

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**YARD, SIDE** — A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. See [the Table of Dimensions Dimensional Regulations in § 300-20 of this bylaw.](#)

**ZONING ADMINISTRATOR** — A person designated by the Board of Appeals in accordance with MGL c. 40A, § 13. to assume certain duties of said Board [of Appeals.](#)

**ZONING ENFORCEMENT OFFICER** — The Building Inspector or other party so designated, who shall be charged with the enforcement of the Zoning Bylaw, [Article XXI Chapter 190, Marijuana and Tetrahydrocannabinol,](#) and with duties consistent with MGL c. 40A, § 7.

### ARTICLE III Use Districts

#### § 300-8. Commercial-Industrial-A Zoning District (C-I-A).

The purpose of the C-I-A Zoning District is to reserve an area for tax-generating nonresidential uses that can be located in Templeton without detrimental impact to the community or the surrounding neighborhood. The C-I-A District accommodates larger business and industry than in the other business districts and maintains a quality of design through vegetative buffers to residential areas and other design standards. No building or use shall be constructed, altered, or expanded without site plan approval by the Planning Board (PB) in accordance with § 300-32, Site plan review. The location of the C-I-A District shall be as described on the Zoning Map at the office of the Town Clerk.

- A. Uses allowed by right in the C-I-A District. The following uses are allowed by right in the C-I-A Zoning District, with site plan approval from the PB in accordance with § 300-32, Site plan review:
- (1) Retail establishments with a minimum of 20,000 square feet in size.
  - (2) Lumber yard, contractor's yard, building trade supplier or other open-air establishment, at a minimum of 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale, at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment, provided that any and all open storage of materials and vehicles [are](#) screened from public view.
  - (3) Research and development (R&D) or light manufacturing with a minimum of 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building.
  - (4) Distribution facilities with a minimum of 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods provided that any and all open storage of materials and vehicles [are](#) screened from public view.
  - (5) Restaurant and restaurant, fast-food.
  - (6) Nonresidential uses allowed by right in the Village District (V). (See § 300-13B.)

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(7) Nonresidential uses allowed by right in the Highway-Business District (H-B). (See § 300-14A.)

B. Uses allowable by special permit in the C-I-A Zoning District. No use allowed by a special permit within this section of the bylaw shall be allowed until the Planning Board has been satisfied by the applicant, agents of the applicant and/or agents of the Town of Templeton that the use that may be allowed by special permit is not injurious to any natural, cultural or historic resource within the Town of Templeton. Applicants seeking approval of a use by special permit, § 300-31, Special permits, Subsections (1) through (16), below. [Amended 5-15-2013]

(1) Gasoline and/or repair service stations, with or without mini-market. An establishment for the repair, maintenance, and painting of automobiles or other motor vehicles, provided that all but minor repairs shall be conducted wholly within a building sufficiently sound-insulated and ventilated to confine disturbing noise and odors to the premises.

(2) Automobile showrooms, new and used automobile lots; vehicular dealerships, including salesroom and related dealership facilities for automobiles, boats, motorcycles, trucks, off-road vehicles or farm implements.

(3) Light manufacturing, packaging, processing and testing, including printing or publishing plant, bottling works, manufacturing establishment, or other assembling, packaging, finishing or processing use where the proposed use does not cause negative environmental or neighborhood impacts associated with noise, smoke, odors, or traffic that cannot be successfully mitigated.

(4) Warehouse or other storage facilities.

(5) Wireless communications facilities.

(6) Office building or office park, providing for one or more buildings on a lot integrated to provide for attractive and functional office space, vehicular and pedestrian circulation and overall site plan.

(7) Conference center.

(8) Outdoor recreational facilities on five acres or more, including camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses.

(9) Garage auto and truck repair.

(10) Retail establishments under 20,000 square feet in size.

(11) Lumber yard, contractor's yard, building trade supplier or other open-air establishment, under 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale, at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment, provided that any and all open storage of materials and vehicles are screened from public view.

(12) Research and development (R&D) or light manufacturing under 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or

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warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building.

- (13) Distribution facilities under 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods, provided that any and all open storage of materials and vehicles are screened from public view.
- (14) Nonresidential uses allowed by special permit in the Village District (V). (See § 300-13D.)
- (15) Nonresidential uses allowed by special permit in the Highway-Business District (H-B). (See § 300-14B.)
- (16) Any accessory use customarily incidental to any of the above uses.

### § 300-9. Commercial-Industrial-B Zoning District (C-I-B) [Amended 5-15-2013]

The purpose of the C-I-B District is to reserve an area for tax-generating nonresidential uses that can be located in Templeton without detrimental impact to the community or the surrounding neighborhood. The C-I-B District accommodates larger business and industry than in the other business districts and maintains a quality of design through vegetative buffers to residential areas and other design standards. No building or use shall be constructed, altered, or expanded without site plan approval by the Planning Board (PB) in accordance with § 300-32, Site plan review. The location of the C-I-B District shall be as described on the Zoning Map at the office of the Town Clerk.

- A. Uses allowed by right in the C-I-B District. The following uses are allowed by right in the Commercial-Industrial-B (C-I-B) District, with site plan approval from the PB in accordance with § 300-32, Site plan review.
- (1) Retail establishments with a minimum of 20,000 square feet in size.
  - (2) Lumber yard, contractor's yard, building trade supplier or other open-air establishment, at a minimum of 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale, at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment, provided that all open storage of materials and vehicles are screened from public view.
  - (3) Research and development (R&D) or light manufacturing with a minimum of 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building.
  - (4) Distribution facilities with a minimum of 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods, provided that all open storage of materials and vehicles are screened from public view.
  - (5) Restaurant and restaurant, fast-food.

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- (6) Nonresidential uses allowed by right in the Village District (V). (See § 300-13B.)
- (7) Nonresidential uses allowed by right in the Highway-Business District (H-B). (See § 300-14A.)

B. Uses allowable by special permit in the C-I-B District. No use allowed by a special permit within this section of the bylaw shall be allowed until the Planning Board has been satisfied by the applicant, agents of the applicant and/or agents of the Town of Templeton that the use that may be allowed by special permit is not injurious to any natural, cultural or historic resource within the Town of Templeton. Applicants seeking approval of a use by special permit, § 300-31, Special permits, Subsections (1) through (17), below. [Amended 5-15-2013]

- (1) Gasoline and/or repair service stations with or without mini-market. An establishment for the repair, maintenance, and painting of automobiles or other motor vehicles, provided that all but minor repairs shall be conducted wholly within a building sufficiently sound-insulated and ventilated to confine disturbing noise and odors to the premises.
- (2) Automobile showrooms, new and used automobile lots; vehicular dealerships, including salesroom and related dealership facilities for automobiles, boats, motorcycles, trucks, off-road vehicles or farm implements.
- (3) Light manufacturing, packaging, processing and testing, including printing or publishing plant, bottling works, manufacturing establishment, or other assembling, packaging, finishing or processing use where the proposed use does not cause negative environmental or neighborhood impacts associated with noise, smoke, odors, or traffic that cannot be successfully mitigated.
- (4) Warehouse or other storage facilities.
- (5) Wireless communications facilities.
- (6) Office building or office park, providing for one or more buildings on a lot integrated to provide for attractive and functional office space, vehicular and pedestrian circulation and overall site plan.
- (7) Conference center.
- (8) Outdoor recreational facilities on five acres or more, including camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses.
- (9) Garage, auto and truck repair.
- (10) Retail establishments under 20,000 square feet in size.
- (11) Lumber yard, contractor's yard, building trade supplier or other open-air establishment, under 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale, at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment, provided that any and all open storage of materials and vehicles ~~are~~ screened from public view.

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- (12) Research and development (R&D) or light manufacturing under 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building.
- (13) Distribution facilities under 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods, provided that any and all open storage of materials and vehicles are screened from public view.
- (14) Nonresidential uses allowed by special permit in the Village District (V). (See § 300-13D.)
- (15) Nonresidential uses allowed by special permit in the Highway-Business District (H-B). (See § 300-14B.)
- (16) Any accessory use customarily incidental to any of the above uses.
- (17) Uses classified as adult entertainment as per MGL c. 272, § 31 (Definitions) and all other applicable state statutes concerning the permitting of adult entertainment establishments may be allowed by a special permit from the Planning Board.

**§ 300-10. Residential-Agricultural-1 District (R-A-1). [Added 12-7-2006]**

The Residential-Agricultural-One Acre District (R-A-1) is intended for primarily residential and accessory uses, including customary home occupations, where the impact upon the R-A-1 District shall not be detrimental to the neighborhood or natural or cultural resources, where the minimum lot size shall be no less than one acre for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw in areas of the community as depicted on the Town Zoning Map located in the office of the Town Clerk. All areas of Templeton that are not specifically defined as other zones are presumed to be within the R-A-1 Zoning District.

- A. Uses allowed by right in the R-A-1 District. The following uses shall be allowed in the R-A-1 ~~zone~~District, by right, and upon issuance of a building permit:
- (1) Single family detached dwellings.
  - (2) Two-family dwellings.
  - (3) Minor home occupations.
  - (4) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling.
  - (5) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water-based recreation; and bridle paths, walking and bike trails for use by the public during the daylight hours or if illuminated for ~~night~~ nighttime use.

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- (6) Golf courses and driving ranges other than miniature golf with site plan approval.
  - (7) Accessory structures, including walls, fences, or other structures or plantings on a lot, provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts.
  - (8) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-1 District.
  - (9) Apartments contained within a single-family home where the residents are related to the residents of the primary dwelling.
- B. Special permit uses in the R-A-1 District. The following uses may be permitted by special permit at the discretion of the Planning Board or Board of Appeals, as designated below:
- (1) Multifamily residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with § 300-21, Multifamily housing.
  - (2) Conversion of a seasonal residence to year-round residence with the grant of a special permit by the Board of Appeals.
  - (3) Bed-and-breakfast for more than five rooms for rent or hire upon the grant of a special permit by the Board of Appeals.
  - (4) Hospitals, sanitariums, nursing, convalescent or rest homes, on five acres or more upon the grant of a special permit by the Board of Appeals.
  - (5) Operation and maintenance of commercial kennels on two acres or more, provided such activity is performed at least 100 feet from any property line upon grant of a special permit by the Board of Appeals.
  - (6) Nonprofit clubs and lodges on three acres or more upon grant of a special permit by the Planning Board.
  - (7) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines, upon the grant of a special permit by the Planning Board.
  - (8) Wireless communications facilities with a special permit from the Planning Board in accordance with Chapter 277, Wireless Communications Facilities and Towers, of the Town [Code/bylaws](#).
  - (9) Home occupation, major.

**§ 300-11. Residential-Agricultural-2 District (R-A-2). [Added 12-7-2006]**

The Residential-Agricultural-Two Acre District (R-A-2) is intended for primarily residential and accessory uses, including customary home occupations where the impact upon the R-A-2 District shall not be detrimental to the neighborhood or natural or cultural resources, and where the minimum lot size shall be no less than two acres for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw as depicted on the Town Zoning Map located in the office of the Town Clerk.



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- A. Uses allowed by right in the R-A-2 District. The following uses shall be allowed in the R-A-2 ~~zone~~District, by right, and upon issuance of a building permit:
- (1) Single family detached dwellings.
  - (2) Two-family dwellings.
  - (3) Minor home occupations.
  - (4) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling.
  - (5) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water-based recreation; and bridle paths, walking and bike trails for use by the public during the daylight hours or if illuminated for ~~night~~ ~~time~~ ~~use~~.
  - (6) Golf courses and driving ranges other than miniature golf with site plan approval.
  - (7) Accessory structures, including walls, fences, or other structures or plantings on a lot, provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts.
  - (8) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-2 District.
  - (9) In-law apartments contained within a single-family home where the residents are related to the residents of the primary dwelling.
- B. Special permit uses in the R-A-2 District. The following uses may be permitted at the discretion of the Planning Board or Board of Appeals as designated below:
- (1) Multifamily residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with § 300-21, Multifamily housing.
  - (2) Conversion of a seasonal residence to year-round residence with the grant of a special permit by the Board of Appeals.
  - (3) Bed-and-breakfast for more than five rooms for rent or hire upon the grant of a special permit by the Board of Appeals.
  - (4) Hospitals, sanitariums, nursing, convalescent or rest homes, on five acres or more upon the grant of a special permit by the Board of Appeals.
  - (5) Operation and maintenance of commercial kennels on two acres or more, provided such activity is performed at least 100 feet from any property line upon grant of a special permit by the Board of Appeals.
  - (6) Nonprofit clubs and lodges on three acres or more upon grant of a special permit by the Planning Board in accordance with § 300-31.

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- (7) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines.
- (8) Wireless communications facilities with a special permit from the Planning Board in accordance with Chapter 277, Wireless Communication Facilities and Towers, of the Town Code bylaws.
- (9) Home occupation, major.

**§ 300-12. Residential-Agricultural-5 District (R-A-5). [Added 12-7-2006]**

The Residential-Agricultural-Five Acre District (R-A-5) is intended for primarily residential and accessory uses, including customary home occupations where the impact upon the R-A-5 District shall not be detrimental to the neighborhood or natural or cultural resources, and where the minimum lot size shall be no less than five acres for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw as depicted on the Town Zoning Map located in the office of the Town Clerk.

- A. Uses allowed by right in the R-A-5 District. The following uses shall be allowed in the R-A-5 ~~zone~~District, by right, and upon issuance of a building permit:
  - (1) Single family detached dwellings.
  - (2) Two-family dwellings.
  - (3) Minor home occupations.
  - (4) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling.
  - (5) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water-based recreation; and bridle paths, walking and bike trails for use by the public during the daylight hours or if illuminated for ~~night~~ ~~time~~ nighttime use.
  - (6) Golf courses and driving ranges other than miniature golf with site plan approval.
  - (7) Accessory structures, including walls, fences, or other structures or plantings on a lot, provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts.
  - (8) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-5 District.
  - (9) In-law apartments contained within a single-family home where the residents are related to the residents of the primary dwelling.
- B. Special permit uses in the R-A-5 District. The following uses may be permitted at the discretion of the Planning Board or Board of Appeals as designated below:

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- (1) Multifamily residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with ~~Article XXI, § 300-21, Multifamily housing.~~
- (2) Conversion of a seasonal residence to year-round residence with the grant of a special permit by the Board of Appeals.
- (3) Bed-and-breakfast for more than six rooms for rent or hire upon the grant of a special permit by the Board of Appeals.
- (4) Hospitals, sanitariums, nursing, convalescent or rest homes on five acres or more upon the grant of a special permit by the Board of Appeals.
- (5) Operation and maintenance of commercial kennels on two acres or more, provided such activity is performed at least 100 feet from any property line upon grant of a special permit by the Board of Appeals.
- (6) Nonprofit clubs and lodges on three acres or more upon grant of a special permit by the Planning Board.
- (7) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines.
- (8) Wireless communications facilities with a special permit from the Planning Board in accordance with ~~Chapter 277, Wireless Communications Facilities and Towers, of the Town Code bylaws.~~
- (9) Home occupation, major.

**§ 300-13. Village District (V). [Added 12-7-2006]**

**A. The Village (V) Districts:**

- (1) Shall be comprised of the following four Villages: Templeton Center Village District; East Templeton Village District; Otter River Village District; and Baldwinville Village District ~~and~~, located as described on the Zoning Map available for review in the office of the Town Clerk.
- (2) Enable the development and ~~re-development~~ ~~redevelopment~~ of the Town's four Village Districts ("Villages") in harmony with the existing historical, cultural and natural assets in each Village.
- (3) Are target areas for a mix of single-family and multifamily housing and small neighborhood-scale businesses, including services, retail and meeting places.
- (4) Are intended as service and gathering spots primarily serving the immediate Village, surrounding neighborhoods and community.
- (5) Encourage upper-floor housing units to provide a mix of commercial and residential uses and diversity of housing types in Templeton.

**B. Uses allowed by right in the V District. Recognizing that village-style development entails a mixture of uses, the Planning Board, upon site plan approval (§ 300-32, Site plan review), is**

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authorized to allow a mix of residential and nonresidential uses within the same building in the Village Districts.

- (1) Single-family and two-family uses are allowed by right without site plan approval by the Planning Board, as long as a structure(s) contains less than 5,000 square feet of floor area.
  - (2) The following nonresidential uses are allowed by right, with site plan approval from the Planning Board:
    - (a) Retail sales.
    - (b) Personal service shops, including but not limited to barber, salon, cosmetologist, massage therapist.
    - (c) Business or professional offices.
    - (d) Banks and other financial institutions.
    - (e) Liquor store, including the sale of beer, wine, liquor and/or other hard spirits.
    - (f) Ice cream stands.
    - (g) Home occupation, minor.
- C. Special permit uses in the V District. The following residential uses may be permitted by special permit from the boards designated below according to § 300-31:
- (1) Multifamily dwellings (Board of Appeals, see § 300-21, Multifamily Housing).
  - (2) Floor area greater than 5,000 square feet. Construction or expansion resulting in a structure or structures containing greater than 5,000 square feet floor area on a lot shall be allowed only upon receipt of a special permit by the Planning Board.
- D. Nonresidential uses. The Planning Board may allow the following nonresidential uses only upon the granting of a special permit:
- (1) Veterinary hospitals, clinics and grooming facilities; but not including kennels. Overnight stays of animals are permitted only if associated with medical procedures.
  - (2) Gasoline and/or service stations.
  - (3) An amusement enterprise, including but not limited to bowling, theater, performing arts center, skating or fitness clubs operated for profit.
  - (4) Hotel, motel or inn.
  - (5) Small appliance or equipment repair, including but not limited to household appliances, lawnmowers, lawn mowers, chain saws.
  - (6) Dry cleaner or self-service coin-operated laundry.
  - (7) Wireless communications facilities in accordance with Chapter 277, Wireless Communications Facilities and Towers, of the Town Code bylaws.

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- (8) Home occupation, major.
- (9) Restaurant and restaurant, fast-food, but drive-up customer service facilities are prohibited.

**§ 300-14. Highway-Business District (H-B).** [Added 12-7-2006; amended 3-6-2008]

The purpose of the Highway Business (H-B) District is to maintain Templeton's character for viable business uses that can co-exist with the residential areas in which many of the Town's business districts are located. The H-B District is intended to complement the Village Districts and Residential-Agricultural Districts and the more intense Commercial-Industrial Districts. The locations of the H-B Districts are depicted on the Zoning Map located in the office of the Town Clerk. No building or use shall be constructed, altered, or expanded in the H-B District without a site plan approval by the Planning Board in accordance with this Zoning Bylaw.

- A. Uses allowed by right in the H-B District. The following uses are allowed by right in the H-B District with site plan approval by the Planning Board, so long as the new or expanded structure contains less than or equal to 5,000 square feet of gross floor area, unless otherwise specified. Where the use proposed is to be located within an existing structure and no structural changes or modification to the site plan are proposed, the Planning Board may waive the requirement for site plan approval for nonresidential uses. Structures of greater than 5,000 square feet, or other specified size, may be permitted with the grant of a special permit by the Planning Board. See the Table of Dimensional Requirements for minimum acreage and setback requirements.
- (1) Retail sales, excluding restaurants.
  - (2) Personal service shops, including but not limited to barber, salon, cosmetologist, massage therapist by a licensed practitioner.
  - (3) Business or professional offices.
  - (4) Banks and other financial institutions.
  - (5) Convenience store; grocery store or supermarket.
  - (6) Restaurant.
  - (7) Liquor store, including the sale of beer, wine, liquor and/or other hard spirits.
  - (8) Art or craft studios (public and private), gallery, museum or library open to the public.
  - (9) Post office, municipal uses up to 10,000 square feet in size; including parks, golf-courses, subject to reasonable height and bulk regulations as applied by the Board of Appeals; public utilities, but not including wireless communication towers which are allowed only by special permit.
  - (10) Ice cream stand.
  - (11) Amusement enterprises, including but not limited to dance academy, bowling alley, theater, movie cinema, performing arts center, skating, fitness clubs or place of instruction (not defined as educational use), operated for profit.

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- (12) Small appliance or equipment repair, including but not limited to household appliances, ~~lawnmowers~~~~lawn mowers~~, chain saws.
  - (13) Outdoor recreational facilities on one acre or more, including camping area, golf course, miniature golf, ski areas with accessory structures not exceeding 1,500 square feet, and other similar uses, but not including recreational motorized vehicles. Outdoor recreational facilities involving structures greater than 1,500 square feet may be permitted only upon a grant of a special permit by the Planning Board.
  - (14) Veterinary hospitals, clinics and grooming facilities; but not including commercial kennels. Overnight stays for animals are permitted only if associated with medical procedures.
  - (15) Restaurant and restaurant, fast-food.
  - (16) Accessory use customarily incidental to any of the above uses.
  - (17) Home occupation, minor.
- B. Special permit uses in the H-B District. The following uses may be allowed in the H-B District upon grant of a special permit by the Planning Board, unless otherwise specified. Where the use proposed is to be located within an existing structure and no structural changes or modification to the site plan are proposed, the Planning Board may waive the requirement for site plan approval for nonresidential uses.
- (1) Lumber yard, contractor's yard, building trade supplier or other open-air establishment not stated elsewhere herein for the storage, distribution, or sale, at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment, provided that all open storage of materials and vehicles ~~are~~ screened for public view.
  - (2) Restaurants exceeding 5,000 square feet and dispensing food to be consumed within building and to be sold and packaged for take-out and drive-throughs.
  - (3) Hotel, motel, inn or other lodging accommodations.
  - (4) Operation and maintenance of commercial kennels on two acres or more, provided such activity is performed at least 100 feet from any property line upon grant of a special permit by the Board of Appeals.
  - (5) Dry cleaner or self-service coin-operated laundry.
  - (6) Gasoline stations with or without mini-market and garage, auto and truck repair, general vehicle, and general repair.
  - (7) Wireless communications facilities ~~in accordance with Chapter 277, Wireless Communications Facilities and Towers, of the Town Code;~~ bylaws.
  - (8) Outdoor recreational facilities on one acre or more, including but not limited to camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses, but not including motorized vehicles.
  - (9) Garage, auto and truck repair.

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(10) Home occupation, major.

**§ 300-15. Airport District. [Amended 11-7-2011]**

- A. Purpose. Templeton is the host community of the Gardner Municipal Airport ("Airport"). The Airport serves the aviation needs of the surrounding region and is an important asset to the overall economic prosperity of north-central Massachusetts. The purposes of the Airport District are:
- (1) To provide for future development of the Airport so that it may better serve the aviation needs of the region.
  - (2) To protect the health, safety, and welfare of the Town of Templeton, while fostering a strong relationship between the Airport and the Town and minimizing adverse impacts on natural resources and residential neighborhoods.
  - (3) To promote the economic development of Templeton by encouraging non-airport uses that are compatible with the safe operation of the Airport.
- B. Extent of the District. The Airport District is shown on the Templeton Zoning Map and encompasses the area owned by the City of Gardner and designated as the Gardner Municipal Airport.
- C. Site plan review uses in the Airport District. The following uses are allowed by right. A change in use may be subject to site plan approval by the Planning Board pursuant to § 300-32 of the Zoning Bylaw. Approval by said Planning Board shall not be unreasonably withheld or denied.
- (1) Uses required for Airport operations, management, safety, and support services. All uses that are normally associated with air transportation facilities, including, but not limited to: runways, taxiways, ~~passenger transport or transport~~ terminals, hangars, airport administration offices, equipment garages, tie-downs, aviation fuel storage, control towers, navigational aids, weather data collection devices, and other uses and structures necessary for the day-to-day operation, management, and safety of an airport.
  - (2) Establishments providing aircraft related services such as engine repair, bodywork, aircraft design, sales of aircraft, and aircraft related equipment and services.
  - (3) Establishments providing services customarily associated with air transportation such as travel agencies, auto rentals, and taxi stands.
  - (4) Recreational services dependent upon air transportation, such as skydiving, airplane rides, glider flights, ultralight aircraft flights, hot air ballooning, etc.
  - (5) Establishments for the training of pilots, navigators, air traffic controllers, mechanics, and other air transportation related crafts, trades, and professions.
  - (6) Changes to parking areas, taxiways, runways, and other paved surfaces, except to the extent said changes are required for the safe operation of the Airport.
  - (7) Essential services as defined in Article II of the Zoning Bylaw.

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- (8) Municipal facilities as defined in Article II of the Zoning Bylaw. A change of one municipal facility to another shall require a new site plan approval of the Planning Board.
- D. Special permit uses in the Airport District. The Town recognizes the following uses may have unwanted effects on surrounding properties, abutting neighborhoods and the overall safe operation of the Airport. For these reasons the uses listed below are allowed by special permit of the Planning Board. All requirements of § 300-31 of the Zoning Bylaw shall apply.
- (1) Outdoor storage facilities.
  - (2) Hotel, motel, or inn.
  - (3) Light manufacturing operations.
  - (4) Business and professional offices.
  - (5) Research and development laboratories.
  - (6) Airfreight handlers, distribution centers, and warehousing.
  - (7) Nonprofit clubs and lodges.
  - (8) Commercial kennels.
  - (9) Motor vehicle repair and service garages.
  - (10) Indoor commercial recreation or fitness facilities.
  - (11) Solar energy facilities.
  - (12) Restaurant and restaurant, fast-food, but drive-up customer service facilities are prohibited.
- E. Gardner Airport Commission approval. Where the Gardner Airport Commission is not the applicant, each application to the Planning Board for a special permit or site plan approval shall contain a letter from the Commission stating its approval or opposition of the proposed use and its reasons therefor.
- F. Dimensional regulations.
- (1) Lot requirements. Aviation-related uses proposed by the Gardner Airport Commission on Airport property need not comply with specific dimensional standards but may be subject to reasonable regulation of the Planning Board relating to bulk, setbacks, landscaping, screening, construction materials, lighting, parking and loading, signs, aesthetics, and other measures to protect the environment and preserve neighborhood quality of life. Uses proposed by other entities on sites leased by the Commission or on parcels sold for development shall occur on lots that conform to the minimum lot area, width, buffer, and setback requirements of the Commercial-Industrial A (C-I-A) District.
  - (2) Height limits. Buildings shall not exceed one story in height unless the Planning Board grants a special permit for a greater height with full consideration for air traffic safety. Structures necessary for or incidental to Airport operations may exceed height limits



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and shall comply with statutory and regulatory requirements of the Federal Aviation Administration and the Aeronautics Division of the Massachusetts Department of Transportation.

- G. Special events. The Gardner Airport Commission may hold special events, such as model airplane rallies, automobile exhibits, trade shows, etc., without obtaining site plan approval. If the event will include temporary structures, the sponsor shall comply with the requirements of the State Building Code. The sponsor shall notify the Police Chief and Fire Chief at least 15 business days in advance of the event. The Chiefs may set reasonable requirements that are necessary for public safety and traffic control.
- H. Application. To the extent any provision or application of § 300-32 restricts the Gardner Airport Commission's custody, care, and management responsibility over the Airport or conflicts with state and/or federal statutory, regulatory, or grant assurance obligations required by the Federal Aviation Administration or the Aeronautics Division of the Massachusetts Department of Transportation, said provision or application shall not apply.

### ARTICLE IV Overlay Districts

#### § 300-16. Public water supply protection. [Amended 5-15-2013]

- A. The purpose of this bylaw is to:
  - (1) Promote the health, safety and general welfare of the community by ensuring adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Templeton.
  - (2) Preserve and protect existing and potential sources of drinking water supplies.
  - (3) Conserve the natural resources of the community.
  - (4) Prevent temporary and permanent contamination of the environment.
- B. Authority. The Water Supply Protection Overlay Districts are adopted pursuant to the authority provided by MGL c. 40A, and the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.
- C. Definitions. For the purposes of this section, the following words and phrases shall be defined as follows: (References to statutes and regulations shall be deemed a reference to such statute or regulation as of the effective date of this ~~ordinance~~ bylaw.)

**AQUIFER** — Geological formation composed of rock, sand, gravel that contains significant amounts of potentially recoverable water.

**AUTOMOBILE GRAVEYARDS AND JUNKYARDS** — An establishment or place of business which is used, maintained or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles and/or parts as defined in MGL c. 140B, § 1.

**COMMERCIAL FERTILIZERS** — Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except for ~~non-manipulated~~ nonmanipulated animal and/or vegetable manures, marl, lime, limestone, wood ash and gypsum as defined in MGL c. 128, § 64.

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~~DE-ICING~~~~DEICING~~ CHEMICALS — Sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.

EARTH REMOVAL — The removal of geologic materials such as topsoil, sand, gravel, metallic ores or bedrock.

HAZARDOUS MATERIAL — Any substance or mixture of physical, chemical or infectious characteristics posing a significant actual or potential hazard to water supplies or other hazards to human health if such a substance or mixture were discharged to land or water. Hazardous materials include without limitation synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious waste, acids, alkalis and any and all other substances defined as toxic or hazardous under MGL c. 21C and MGL c. 21E and 310 CMR 30.00, including solvents and thinners in quantities considered to be greater than that of normal household use.

IMPERVIOUS SURFACE — Material or structure on, above or below the ground that does not allow precipitation to penetrate directly into the soil.

LANDFILLS AND OPEN DUMPS — Facilities or parts of facilities for solid waste disposal (excluding transfer facilities) established in accordance with the provisions of 310 CMR 19.006.

RECHARGE AREAS — Areas that collect precipitation or surface water and carry it to aquifers.

SANITARY WASTEWATER — Any water-carried putrescible waste resulting from the discharge of water closets, laundry tubs, clothes-washing machines, sinks, showers, ~~dishwashing~~~~dish-washing~~ machines or any other source.

SOIL CONDITIONER — Any manipulated substance or mixture of substances whose primary function is to modify the physical structure of soils so as to favorably influence plant growth, except ~~non-manipulated~~~~non-manipulated~~ animal and vegetable manures, marl, lime, limestone, wood ash and gypsum as defined in MGL c. 128, § 64.

STORAGE OR LANDFILLING OF SLUDGE AND SEPTAGE — Using land to store sludge or septage as defined in 310 CMR 32.00.

SURFACE WATER — All water that is open to ~~the~~ atmosphere and subject to run-off.

SURFACE WATER SOURCE — Any lake, pond, reservoir, river, stream or impoundment designated as public water supply in the Massachusetts Water Quality Standards, 314 CMR 4.00.

WASTEWATER TREATMENT WORKS — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or ~~re-use~~~~reuse~~ of waterborne treatment, storage or disposal, all as defined and regulated by 314 CMR 5.00.

WATER SUPPLY PROTECTION DISTRICT I (W.S.P.D. I) — The protective radius required around a public water supply or well or well field as set forth in the 310 CMR 22.02 definition of "Zone I."

WATER SUPPLY PROTECTION DISTRICT II (W.S.P.D. II) — W.S.P.D. II is bound by the most extensive of the following parameters:

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- (1) That area of the aquifer that contributes water to a public water supply well or well field under the most severe pumping and recharge conditions that can realistically be anticipated as set forth in the 310 CMR 22.02 definition of "Zone II."
- (2) Interim wellhead protection areas as established in the Town and defined by 310 CMR 22.02 and the surrounding high- and medium-yield aquifers within the Town of Templeton having transmissivity of 1,350-4,000 ft<sup>2</sup>/D (potential well yield 1-300 gpm). Further, all Surface Water Protection Districts as set forth on the Town of Templeton Water Supply Protection District(s) Map as more fully set forth below shall be included in the W.S.P.D. II.

**WATER SUPPLY PROTECTION DISTRICT III (W.S.P.D. III) —** That area of land beyond the area of W.S.P.D. II from which surface water and groundwater drain into Zone II as defined in 310 CMR 22.02.

**D. Establishment of districts.**

- (1) The Water Supply Protection Overlay Districts are herein established as overlay districts and shall include all lands within the Town of Templeton as located within a 2,640-foot radius of the primary and secondary recharge areas of groundwater wells and watershed areas of reservoirs which provide public water supply. This district is shown on a plan entitled "Water Supply Protection District Plan for the Town of Templeton" prepared by Szoc Surveyors and is on file with the Town of Templeton Town offices and the Templeton Municipal Water Plant office. This plan shall be considered a Zoning Map for purposes of establishing the district under this section.
- (2) If the location of the district boundary of the Water Supply Protection District in relation to a particular parcel of land is in doubt, then the burden of proof shall be upon the owner(s) of said parcel of land to show where the boundaries should be located properly.

**E. The following land uses are prohibited in the Water Supply Protection District:**

- (1) Landfills and open dumps as defined in 310 CMR 19.006.
- (2) Landfilling and storage of sludge and septage as defined in 310 CMR 32.05.
- (3) Automobile graveyards and junkyards as defined in MGL c. 140B, § 1.
- (4) Stockpiling and disposal of snow or ice containing ~~de-icing~~ chemicals if brought in from outside of the wellhead protection area.
- (5) Manufacture, use, storage, transport or disposal of hazardous materials as a principal activity as defined in MGL c. 31E unless in a ~~free-standing~~ freestanding container within a building or above ground with secondary containment large enough to hold the entire contents of the container.
- (6) Facilities that generate, treat, store or dispose of hazardous materials and/or waste subject to MGL c. 21C and 310 CMR 30.00, except for the following:
  - (a) Very small quantity generators as defined in 310 CMR 30.00.

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- (b) Household hazardous waste centers and events as defined in 310 CMR 30.390.
  - (c) Waste oil retention facilities as required under MGL c. 21, § 52A.
  - (d) Water remediation treatment works approved by the Department of Environmental Protection for the treatment of contaminated ground~~water~~ or surface waters; V. 9, 10 petroleum, fuel oil and heating oil bulk stations and terminals, including but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC codes are established by the United States Office of Management and Budget and may be determined by referring to the publication "Standard Industrial Classification Manual" and other subsequent amendments.
- (7) Industrial and commercial uses which discharge process wastewater on -site.
- (8) Discharge to the ground of ~~non-sanitary/nonsanitary~~ wastewater, including industrial and commercial process wastewater, except:
- (a) The replacement or repair of an existing treatment works that will not result in a design capacity greater than that of the existing treatment works.
  - (b) Treatment works approved by the Department designed for the treatment of contaminated ~~group~~groundwater or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13).
  - (c) Publicly -owned treatment works.
- (9) Storage of deicing chemicals, animal manures, commercial fertilizers and soil conditioners as defined in MGL c. 128, § 64, unless such storage is within a structure that prevents the generation and escape of contaminated run-off or leachate.
- (10) Land uses that result in impervious surfaces covering greater than 15% or 25,000 feet of any lot or parcel, ~~whichever~~ is greater, unless a system of artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.
- F. Any nonconforming uses hereunder not used continuously for a period of one year shall be considered abandoned and any ~~re-use/reuse~~ must conform to ~~bethe~~ provisions of this bylaw.
- G. The provisions of this article shall be enforced by the Building Inspector, who may obtain the advice of the Templeton Board of Health. Whoever violates any of the provisions of this article shall accrue a separate offense for each day that the violation exists.
- H. Variances. There shall be no variances within the Water Supply Protection District granted through the Templeton Zoning Board of Appeals without a written advisory report from the Templeton Board of Health.

**§ 300-17. Floodplain District.**

- A. Purpose. The purposes of the Floodplain District are to protect the public health, safety, and general welfare, to protect human life and property from hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the

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floodplain, and to preserve and maintain the ~~ground-water~~groundwater table and water recharge areas within the floodplain.

### B. District delineation.

- (1) The general boundaries of the Floodplain District are shown on the Templeton Flood Insurance Rate Map (FIRM), dated 5-17-1982, as Zones A, A1-30 to indicate the one-hundred-year floodplain. The exact boundaries of the district are defined by the one-hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the Flood Insurance Study, dated November, 1981. The floodway boundaries are delineated on the Templeton Flood Boundary Floodway Map (FBFM), dated 5-17-1982, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These maps as well as the accompanying study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Board ~~of Selectmen~~.
- (2) Within Zone A, where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Conservation Commission. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with the bylaw and the State Building Code.

### C. Use regulations. The Floodplain District is established as an overlay district to all other districts. All development, including structural and ~~non-structural~~nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (~~currently Section 711~~).

- (1) Permitted uses. The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:
  - (a) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
  - (b) Forestry and nursery uses.
  - (c) Outdoor recreational uses, including fishing, boating, play areas, etc.
  - (d) Conservation of water, plants, wildlife.
  - (e) Wildlife management areas, foot, bicycle, and/or horse paths.
  - (f) Temporary nonresidential structures used in connection with fishing.
  - (g) Building lawfully existing prior to the adoption of these provisions.
- (2) Special permits. No structure ~~or~~for building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Board of Appeals. Said Board ~~of Appeals~~ may issue a special permit hereunder (subject to other applicable provisions of this bylaw) if the application is compliant with the following provisions:

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

**ARTICLE V  
Use Regulations**

**§ 300-18. General.**

- A. All multiple dwellings for residential use require a special permit from the Board of Appeals.
- B. 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 issuance of a special permit by the Planning Board, provided the Planning Board finds that the proposed accessory use does not derogate from the public good.

**§ 300-19. Nonconforming uses and structures.**

- A. Applicability. This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by MGL c. 40A, § 5, at which this bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.
- B. Nonconforming uses. The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:
  - (1) Change or substantial extension of the use;
  - (2) Change from one nonconforming use to another, less detrimental nonconforming use.

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- C. Nonconforming structures. The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alternation or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:
- (1) Reconstructed, extended or structurally changed;
  - (2) Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
  - (3) Demolition and rebuilding thereafter, as set forth in Subsection G<sub>2</sub> below.
- D. Variance required. Except as provided in Subsection E below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.
- E. Nonconforming single and two family residential structures.
- (1) Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:
    - (a) Alteration to a structure on a lot with insufficient area which complies with all current setback, yard, building coverage and building height requirements, where the alteration will also comply with all of said current requirements.
    - (b) Alteration to a structure on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements, where the alteration will also comply with all of said current requirements.
    - (c) Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.
    - (d) Alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure.
    - (e) Alteration to a nonconforming structure which will not increase the footprint of the existing structure, provided that existing height restrictions shall not be exceeded.
  - (2) In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will

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not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

- F. Abandonment or ~~non-use/non-use~~. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this bylaw.
- G. Catastrophe or demolition. Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, or after demolition, provided that such reconstruction is completed within 12 months after such catastrophe or after voluntary demolition, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure and located on the original building footprint, unless a larger volume or area or a new building footprint is authorized by special permit from the Board of Appeals. Such time for reconstruction may be extended by the Board of Appeals for good cause.
- H. Reversion to nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

**ARTICLE VI  
Dimensional Regulations  
[Amended 12-7-2006]**

**§ 300-20. Table of Dimensional Regulations.**

	District				
	C-I-A and C-I- B <sup>1</sup>	R-A-1 and V <sup>2</sup>	R-A-2 <sup>3</sup>	R-A-5 <sup>4</sup>	H-B <sup>5</sup>
Minimum lot area (acres)	1.0	1.0	2.0	5.0	1.0
Minimum lot frontage on a street (LF)	150	150	150	500	150
Minimum front yard setback (LF)	30	30	30	30	30
Minimum rear yard setback (LF)	30	30	30	30	30
Minimum side yard setback (LF)	15	15	15	15	15
Minimum lot width (LF)	50	50	50	50	50
Buffer zone between C-I-A and C-I-B Districts and abutting, non-C-I-A and non-C-I-B Districts (LF)	50	—	—	—	—
Maximum height	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF

Notes:

1 C-I-A and C-I-B - Commercial-Industrial-A and Commercial-Industrial-B Districts.



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- 2 R-A-1 and V - Residential-Agricultural District and Village Districts — 1 Acre Zone (where a minimum of 1 acre of land is required for the construction of a single-family home).
- 3 R-A-2 - Residential-Agricultural District - 2 Acre Zone (where a minimum of 2 acres of land are required for the construction of a single-family home).
- 4 R-A-5 - Residential-Agricultural District - 5 Acre Zone (where a minimum of 5 acres of land are required for the construction of a single-family home).
- 5 H-B - Highway-Business Districts.

**ARTICLE VII  
Supplemental Regulations**

**§ 300-21. Multifamily housing.**

- A. The purposes of these special multifamily housing requirements are as follows:
  - (1) To prevent overcrowding of land.
  - (2) To avoid undo concentration of population.
  - (3) To encourage housing for persons on all income levels.
  - (4) To conserve health.
  - (5) To conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment.
  - (6) To encourage the most appropriate use of land throughout the Town of Templeton.
  - (7) To ensure proper municipal review of construction of multifamily housing of three or more (but not more than six) units.
- B. Multifamily housing shall be allowed by special permit by the Zoning Board of Appeals according to the following conditions:
  - (1) The gross land area on which multifamily housing is permitted shall be not less than listed below for the number of square feet required per dwelling times the number of units per multifamily housing being proposed, with a limit of six units per building.

	With or Without Water or Sewer		Size of Lot Required
	Acres	Square Feet	
Each three or four units	200	2	87,120
Each five or six units	250	3	130,680

- (2) Each three- or four—unit building shall be erected on a lot having not less than 200 feet of frontage and two acres. Each five- or six—unit building shall be erected on a lot having not less than 250 feet of frontage and three acres. All the above frontages shall be on a way.
- (3) Multifamily buildings shall not cover more than 30% of the gross land area of the lot.
- (4) No multifamily building shall be higher than two stories or 30 feet in height.

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- (5) An unbroken yard space not less than 10 feet in depth shall be established all along the entire perimeter of the lot on which a multifamily building is located. Such yard space shall be planted and maintained by the building owner or left in a natural state. In such yard space, there shall be no off-street parking nor driveway except a driveway crossing that part of the yard as is bordered by a street.
  - (6) Paved off-street automobile parking spaces will be provided on the lot containing a multifamily housing building and each space shall be easily accessible from a paved driveway on the property. There shall be two such spaces per unit on the property. Each such space shall have minimum dimensions of 18 feet long by nine feet wide. In addition, spaces for handicapped per state requirements shall be installed.
  - (7) A minimum of 30% of the gross area of the lot on which a multifamily building is permitted shall not be built on and shall be left unpaved, landscaped and/or left in its natural state and maintained with an acceptable balance of trees, shrubs and grass.
- C. A multifamily dwelling constructed near a municipal boundary must be protected by a buffer zone from an incompatible use on adjacent land in the neighboring municipality. A one-hundred foot natural or landscaped zone shall be constructed and maintained by the multifamily building owner if the land in the neighboring municipality is used or zoned for commercial or industrial use.
- D. A fifty-foot buffer zone between proposed multifamily buildings constructed adjacent to an industrial, residential or commercial use must be created. The buffer zone must function as a physical barrier to minimize noise and to provide a visual screen to adjacent industrial, residential or commercial buildings. It may consist of existing natural vegetation, selective planting, earth berms, fences, or any combination of these arranged to enhance the aesthetic quality of the area.

### § 300-22. Major home occupations. [Added 12-7-2006; amended 3-6-2008]

Through a special permit, home occupations that exceed the "minor home occupation" criteria may be permitted by the Planning Board. This section is intended to support a work-at-home concept appropriate for a rural-suburban community, in order to allow proprietors flexibility to operate businesses out of their homes.

- A. Standards. Major home occupations shall comply with the following standards:
- (1) No more than three employees not residing on the premises shall be allowed to report to the home business site;
  - (2) The home occupation shall be clearly incidental and subordinate to the primary residential nature of the property. The principal practitioner must be the owner of the property and maintain his permanent residence in the dwelling;
  - (3) Utility areas (such as dumpsters, fuel storage facilities, etc.) and outdoor storage of equipment, vehicles, or supplies associated with the home occupation shall be adequately screened to minimize the visual intrusion on adjacent properties and views from public ways. The Planning Board may require an evergreen vegetative screen with plantings of not less than three feet in width and not less than six feet in height at commencement of the use. At the discretion of the Planning Board, fences may be used,

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which shall not exceed four feet in height in front yards or six feet in side and rear yards.

- (4) Parking needed for employees and visitors shall be located at the side or rear of the dwelling and shall be suitably landscaped to minimize the visual impact on adjacent properties. On-street parking shall not be permitted;
- (5) Signs shall be provided in conformance with this Zoning Bylaw to advertise the home occupation;
- (6) (Reserved)
- (7) Major home occupations may include the selling of products, the major portion of which are refurbished, manufactured, assembled, or produced on the premises ;
- (8) Lighting shall be appropriate to the building and its surroundings in terms of style, scale, hours, and intensity of illumination. Low wattage systems are recommended and site lighting shall be shielded, especially in developed residential areas;
- (9) The Planning Board may grant a special permit if it determines that the activities will not create a hazard to the public or natural environment, disturbance to any abutter, or injury to the neighborhood, and will not create unsightliness visible from any public way or neighboring property. The Planning Board may impose conditions deemed necessary to preserve neighborhood character and protect existing and future abutting land uses, including limitations on time and ownership. The special permit shall be granted to the owner and shall expire upon transfer of the property or business; any new owner shall apply for a new special permit. The special permit may at any time be subject to review and/or renewal by the Planning Board, and may be further conditioned or amended as necessary to ensure that the intent of this section is maintained.

### B. Process.

- (1) Applicants shall submit the required fee and nine copies of the special permit application and other information specified below to the Town Clerk. The Town Clerk shall stamp each copy with the date and time of submission. Eight copies of said application and information shall be filed forthwith by the applicant with the Planning Board.
- (2) A site plan shall be submitted to show location of buildings and structures, utility areas, parking, lighting, fencing, landscaping and buffering, location and size of sign, and access to the lot from existing public ways.
- (3) A written statement shall be provided by the applicant describing the nature of the home occupation, the number of employees, hours of operation, and other pertinent information on the operation of the business.
- (4) The applicant, within three days of the Planning Board accepting the application as complete, shall submit one copy to the Board of Appeals, Board of Health, Zoning Enforcement Officer, Conservation Commission, Highway Department, and Police and

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Fire Chiefs with a request for their review and comment. Said boards and officials shall have 35 days to submit their comments to the [Planning Board](#).

- (5) The [Planning Board](#) shall hold a public hearing in accordance with the special permit procedures described within this Zoning Bylaw and MGL c. 40A, § 9 and notice shall be given as specified by MGL c. 40A, § 11.

### § 300-23. Adult entertainment. [Added 12-7-2006]

#### A. Authority, purpose and intent.

- (1) The purpose of this section is to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, in response to studies demonstrating their deleterious effect.
- (2) This section addresses and mitigates the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime and blight, the flight of existing businesses, and adverse impacts on public health, property values of residential and commercial properties, the business climate, and the general quality of life in the community. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Templeton and its inhabitants.
- (3) This section is intended to be consistent with the provisions of MGL c. 40A and the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials that are protected by the [U.S. United States](#) or Massachusetts Constitutions, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Similarly, it is not the intent nor effect of this [chaptersection](#) to condone or legitimize the distribution of obscene or other illegal matter or materials.

#### B. Definitions specific to adult entertainment.

- (1) As used herein, and consistent with the definitions in MGL c. 40A, § 9A, adult uses shall include the following: adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre establishment, adult live entertainment, massage service establishment, sexual encounter club, adult cabaret or club, adult motel or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. Adult uses shall include an establishment with a combination of adult use materials as listed above including books, magazines, devices, objects, tools, or toys, movies, videos, and any similar audio/visual media for sale or rent, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, which in combination, is either:
  - (a) Greater than 15% of the subject establishment's inventory stock measured by volume and/or value; or

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(b) Greater than 25% of subject premise's gross floor area, or 200 square feet, whichever is greater.

(2) Terms defined. As used in this section, the following terms shall have the meanings indicated:

**ADULT CABARET OR CLUB** — A restaurant, or other establishment licensed under MGL c. 138, § 12, which, as a form of entertainment, ~~which~~ features exotic dancers, strippers, male or female impersonators or similar entertainers, or allows a person or persons to work in a state of nudity; or provides films, motion pictures, ~~video cassettes~~~~videocassettes~~, compact disks, slides, photographic reproductions, or other visual and/or audio media, regardless of form or method of presentation, which are characterized by the depiction or description of sex-related anatomical areas, or relating to any sexual activity, including sexual conduct or sexual excitement, as defined in MGL c. 272, § 31, as amended.

**ADULT MOTEL** — A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, ~~video cassettes~~~~videocassettes~~, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

**ADULT PARAPHERNALIA STORE** — An establishment having as a substantial or significant portion of its stock-in-trade devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

**ADULT USE** — A use of a building or business (whether partial or entire) for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainment depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, including adult bookstores, adult live entertainment, adult motion-picture theaters, adult paraphernalia stores and adult video stores, massage service establishments, sexual encounter clubs, adult cabaret or club, adult motel or similar establishment customarily excluding any minor by reason of age as a prevailing practice, as may be further defined in this bylaw.

**ADULT VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies, computer software, computer discs, laser discs or other film material which ~~are~~ distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

**MEMBERSHIP CLUB** — A social, sports, or fraternal association or organization used exclusively by members and their guests and which may contain bar facilities, but excluding sexual encounter clubs.

**NUDITY** — Uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered as defined in MGL c. 272, § 31, as it may be amended.

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**SEXUAL CONDUCT** — Human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse that gives the appearance of the consummation of sexual intercourse, normal or perverted, as defined in MGL c. 272, § 31, as it may be amended.

**SEXUAL ENCOUNTER CLUB** — A business or commercial enterprise, public or private, that as one of its primary business purposes, offers for any form of consideration: (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (A) or (B) are distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

**SEXUAL EXCITEMENT** — The condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity as defined in MGL c. 272, § 31, as it may be amended.

- C. Special permit. Adult entertainment uses shall be only in nonresidential zoning districts, where such uses shall be allowed only upon the grant of a special permit by the Planning Board in accordance with site plan approval by the Planning Board in accordance with this Zoning Bylaw.
- D. Filing requirements, siting criteria, conditions.
  - (1) Submission requirements.
    - (a) The application for a special permit for an adult use shall provide:
      - [1] Name and address of the legal owner of the establishment ;
      - [2] Legal owner of the property ;
      - [3] Manager of the proposed establishment ;
      - [4] Proposed number of employees ;
      - [5] Proposed security precautions ;
      - [6] Description of compliance with the siting criteria set forth in Subsection D(2); and
      - [7] Description and illustration of the physical layout of the premises.
    - (b) A special permit hearing shall be held within 45 days after an application is filed with the Town Clerk. A decision on the special permit application shall be held within 45 days after the public hearing.
    - (c) No adult use special permit shall be issued to any applicant, or the representative of an owner, operator, or manager of an adult entertainment facility who has been

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convicted of violating the provisions of MGL c. 119, § 63 (Inducing or abetting delinquency of a child) or MGL c. 272, § 28 (Crimes against chastity, morality, decency and good order), or equivalent statutes in other jurisdictions. The application shall include authorization for the Town to confirm criminal record information through the appropriate authorities.

(2) Siting criteria.

(a) Adult entertainment uses shall comply with the following siting criteria, where the distance from the developed portion of the subject site shall:

(1)(a) ~~Adult uses shall not~~Not be located closer than 100 feet ~~from to~~ a residential zoning district or residential dwelling.

(b)(2) ~~Adult uses shall not~~Not be located within 1,000 feet from a church, school, playground, play field, cemetery, public open space, youth center, day-care center.

(c)(3) ~~Adult uses shall not~~Not be located within 1,000 feet from another adult use as defined herein.

(d)(4) ~~Adult uses shall not~~Not be located within 500 feet from an establishment licensed under MGL c. 138, § 12, allowing sale of alcohol for drinking on premises.

(e)(b) ~~The distances specified in this section shall be measured by a straight line from the nearest developed portion of the premises on which the adult entertainment use is proposed (including structures proposed to contain adult uses and associated accessory structures and parking) to the nearest property line of the uses stated in D(2)(a) through (d) above.~~

(f)(c) ~~— All adult entertainment uses shall be located in the C-I-B District in accordance with Section 8.4.2(k) + § 300-32.~~

(3) Conditions. The Planning Board shall issue a special permit for an adult entertainment use if the submission requirements of Subsection D(1), the siting criteria in Subsection D(2), and the following conditions are met:

(a) No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises. All entrances to an adult entertainment business, or portion of the business displaying material of adult content, shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises or portion of the business as the case may be.

(b) All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

(c) No adult entertainment use shall be allowed to display any advertisement, sign, placard, or other matter of visual material containing or depicting nudity, sexual conduct or sexual excitement.

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- (d) Any special permit granted for an adult entertainment use shall be personal to the applicant, shall not run with the land, and shall expire upon the expiration of the applicant's lease or upon sale or transfer of the subject's property/business.
- (e) If the adult use allows for the showing of films or videos within the premises, any booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
- (f) No adult use shall be allowed within a building containing residential uses.
- (g) No adult use shall be allowed within a shopping center, shopping plaza or mall. For the purposes of this section, "shopping center," "shopping plaza," and "mall" shall be defined as an integrated group of retail establishments and associated parking, whether located on one or more parcels of land.
- (h) No loudspeakers or sound equipment shall be used by an adult entertainment business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the adult entertainment business is conducted.
- (i) An adult entertainment business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 a.m. and 10:00 a.m. of any particular day. In the case of adult bookstores, video stores, and adult paraphernalia stores, business hours shall be limited to hours between 9:00 a.m. to 10:00 p.m. These hours of operation may be further restricted in the conditions granting a special permit for an adult entertainment business.
- (j) A certificate of occupancy for an adult use shall not be issued until the applicant has first received any required license from the appropriate licensing boards.
- (k) Any adult entertainment use granted a special permit shall comply with all other Town bylaws and all statutes of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

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

**§ 300-24. Wind energy conversion systems. [Added 3-6-2008]**

- A. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.
- B. Applicability. Construction and use of a wind energy conversion system (WECS) or any part thereof shall comply with this bylaw.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

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

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

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

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

**WIND FARM** — A collection of towers in the same location. See Subsection E(4) for allowance of more than one tower on the same lot or on contiguous lots held in common ownership.

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

**D. Special permit granting authority.**

- (1) The Planning Board is hereby established as the special permit granting authority (SPGA) in connection with construction of wind energy facilities (WECS). WECS are allowed in all districts by special permit (See § 300-31, Special permits.), except the Village and Historic Districts, where they are prohibited.
- (2) The SPGA shall grant a special permit only if it finds that the proposal complies with the provisions of this bylaw and is consistent with the applicable criteria for granting special permits.

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

- (1) Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.
- (2) WECS serving neighborhoods or multiple residences are encouraged, however, proposals shall be permitted as a CWES allowed in residential districts. If applicable, any necessary easements between property owners must be recorded.
- (3) RWES and CWES shall be limited to one tower per lot, including one tower per lot on contiguous lots held in common ownership. The SPGA may exceed this limit if the applicant can demonstrate that additional number is necessary to serve the purposes of

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this bylaw and that the additional towers will not create an adverse impact in comparison to the siting of one tower as outlined in this bylaw with respect to factors including, but not limited to, noise [Subsection E(8)], shadowing/flicker [Subsection E(9)], visual impact [Subsection E(11)], and electromagnetic interference [Subsection E(12)].

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

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

- (8) Noise. The WECS and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). If deemed necessary by the SPGA, an analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
  - (a) Manufacturers specifications may be accepted when, in the opinion of the SPGA, the information provided satisfies the above requirements.
  - (b) If noise levels are determined to be excessive, the Zoning Enforcement Officer shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence.
- (9) Shadowing/Flicker. The WECS shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that a WECS does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (10) Prevention of access. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access. Climbing access to the tower shall be limited by the following methods: by placing climbing apparatus no lower than 12 feet from the ground and by installation of a six-foot high fence with locked gate set back no less than 10 feet from the base of the WECS. (See Figure B.)
- (11) Visual impact.
  - (a) The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain ~~non-reflective, nonreflective~~ muted colors without graphics or other decoration.
  - (b) The WECS shall not unreasonably interfere with any scenic views, paying particular attention to such views from the downtown business area, public parks, natural scenic vistas or historic building or districts. Furthermore, WECS are prohibited in the Historic and Village Districts. WECS shall, when possible, be sited off ridgelines where the ~~re~~ visual impact is least detrimental to scenic views and areas. In determining whether the proposed WECS will have an undue adverse impact on the scenic beauty of a ridge ~~off~~ hillside, the SPGA ~~may~~ consider, among other things, the following:

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- [1] The period of time during which the proposed WECS will be viewed by the traveling public on a public highway, public trail, or public body of water;
- [2] The frequency of the view of the proposed WECS by the traveling public;
- [3] The degree to which the view of the WECS is screened by existing vegetation, the topography of the land, and existing structures;
- [4] Background features in the line of sight to the proposed WECS that obscure it or make it more conspicuous;
- [5] The distance of the WECS from the viewing vantage point and the proportion that is visible above the skyline;
- [6] The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point, and
- [7] The sensitivity or unique value of the particular view affected by the proposed WECS.

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

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

### F. Procedural requirements.

- (1) Site plan. A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer, showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this section may be waived if, in the opinion of the SPGA, the materials submitted are sufficient for the SPGA to make a decision.
  - (a) Vegetation. Existing vegetation must be shown, including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The SPGA may also consider the height of vegetation at maturity.
  - (b) Lighting. If lighting is proposed (other than required FAA lights), the applicant shall submit a plan indicating the horizontal footcandles at grade, within the property line and 25 feet beyond the property lines. The plan shall also indicate the locations and types of luminaires proposed.

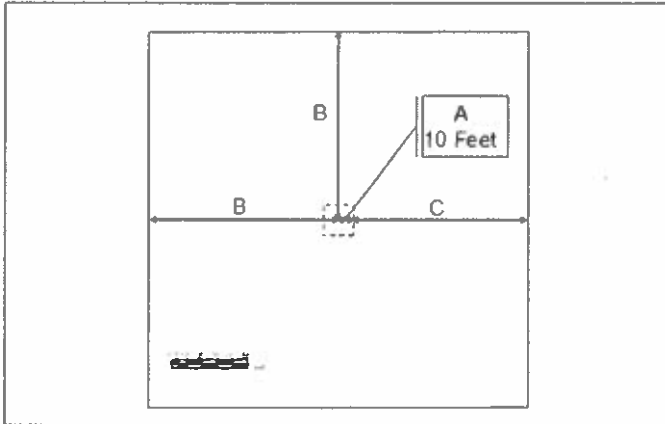
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- (c) The site plan shall be accompanied by any additional documentation necessary to provide a complete description of the WECS, including technical, economic, environmental, and other reasons for the proposed location, height and design.
- (2) Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
- (3) Compliance with FAA regulations. WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- (4) Utility notification. No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (5) Discontinuance.
  - (a) A WECS shall be considered to be discontinued if it is not operated for a period of two years. Once a WECS is designated as discontinued, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
    - [1] Removal of WECS, any equipment shelters and security barriers from the subject property.
    - [2] Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
    - [3] Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the "after" condition.
  - (b) If the applicant fails to remove the WECS in accordance with the requirements of this section, the Town shall have the authority to enter the property and physically remove the facility at the owner's cost, which may include placing a lien on the property and/or taking other actions.
- (6) Modifications. All modifications (excluding routine repairs and maintenance) to a WECS made after issuance of the special permit shall require approval by the SPGA.
- (7) Professional fees. The SPGA may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.

**FIGURE A: WIND ENERGY CONVERSION SYSTEM (Illustrative Example Only)**

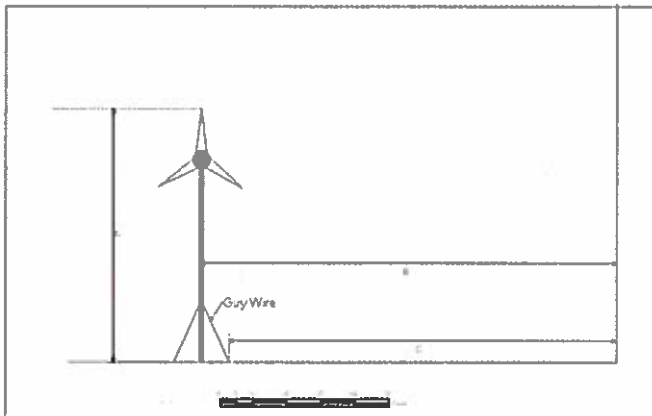
- A = Overall Height of WECS. Maximum height of a residential WECS is 150 feet and maximum height for a commercial WECS is 300 feet. Maximum height may be exceeded as part of the special permit process if there is a demonstrated need.
- B = Fall Zone Setback: A minimum of the overall engineer designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.
- C = Standard Structure Setback.

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**FIGURE B: WIND ENERGY CONVERSION SYSTEM (Illustrative Example Only)**

- A = Six-foot high fence with locked gate set back no less than 10 feet from the base of the WECS
- B = Fall Zone Setback: A minimum of the overall engineer designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant
- C = Standard Structure Setback.



**§ 300-25. Inclusionary housing. [Added 3-6-2008]**

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- A. Purpose and intent. The purpose of this bylaw is to encourage development of new housing that is affordable to households up to moderate income as defined by U.S. Department of Housing and Urban Development. At a minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in MGL c. 40B § 20 through § 24. It is intended that the affordable housing units that result from this bylaw be considered as "Local Action Units," in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD) and the most recent update of its Local Initiative Program Guidelines. Definitions for "affordable housing unit" and "eligible household" can be found in [the Subsection C, Definitions Section](#).
- B. Applicability. In the Residential-Agricultural-1 (R-A-1), Residential-Agricultural-2 (R-A-2), and Residential-Agricultural-5 (R-A-5) Zoning Districts, the inclusionary zoning provisions of this section shall apply to the following uses:
- (1) Any project that results in a net increase of seven or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or nonresidential space; and
  - (2) Any subdivision of land for development of seven or more dwelling units. This also includes lots that could potentially be developed in the future. Therefore, applicants must also show a long term phasing plan; and
  - (3) Any life care facility development that includes seven or more assisted living units and accompanying services.

C. Definitions. [As used in this section, the following terms shall have the meanings indicated:](#)

**AFFORDABLE HOUSING UNIT** — A decent, safe and sanitary housing unit created through the Local Initiative Program or other state or federal housing production programs which is restricted to occupancy by households of low or moderate income.

**ELIGIBLE HOUSEHOLD** — An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and the commonwealth's Local Initiative Program.

D. Special permit. The development of any project set forth in Subsection B (above) shall require the grant of a special permit from the Planning Board or other designated special permit granting authority (SPGA).

E. Mandatory provision of affordable units.

- (1) As a condition of approval for a special permit, the applicant shall contribute to the local stock of affordable units in accordance with the following requirements:
  - (a) At least 10% of the units in a division of land or multiple-unit development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below:
    - [1] Constructed or rehabilitated on the locus subject to the special permit (see Subsection F); or

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[2] Constructed or rehabilitated on a locus different than the one subject to the special permit (see Subsection G); or

(b) An applicant may offer donations of land in fee simple to the Town, subject to acceptance by the Town, or eligible nonprofit affordable housing developer subject to the approval of the SPGA, on- or off-site, that the SPGA in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The SPGA may require that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. On-site land donated to the Town or eligible nonprofit affordable housing developer shall scatter the donated parcels throughout the development so that the land on which affordable housing units are to be constructed are not clustered in any one part of the development. The applicant must coordinate the development of affordable housing units to be constructed by a third party (such as an eligible nonprofit affordable housing developer) so that the affordable housing units will be constructed in accordance with Subsection F(3).

(2) The applicant may offer, and the SPGA may accept, any combination of the Subsection E(1)(a) and (b) requirements, provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this bylaw.

**F. Provisions applicable to affordable housing units on- and off-site.**

(1) Siting of affordable units. All affordable units constructed or rehabilitated 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.

(2) Minimum design and construction standards for affordable units. Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units. Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.

(3) Timing of construction or provision of affordable units or lots. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<b>Market-Rate (% Complete)</b>	<b>Affordable Housing Unit (% Required)</b>
< 30%	—
30% plus 1 unit	10%
Up to 50%	30%
Up to 75%	50%
75% plus 1 unit	70%



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Up to 90%	100%
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- G. Provision of affordable housing units off-site. As an alternative to the requirements of Subsection F, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Subsection E off-site, as long as the applicant meets the minimum percent of affordable housing units in accordance with Subsection E of this ~~zoning~~ bylaw. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the special permit review and approval process.
- H. No building permits may be issued until:
- (1) The owner of the site has executed and recorded a regulatory agreement with the Town, consistent with the requirements of 760 CMR ~~4554.00~~, in a form approved by the SPGA and Town Counsel;
  - (2) The Local Action Units have received state approval under 760 CMR ~~4554.00~~ for inclusion in the Subsidized Housing Inventory for the Town; and
  - (3) The use restriction required under 760 CMR ~~4554.00~~ has been recorded.
- I. Conflict with other bylaws. The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.
- J. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

**§ 300-26. Open space residential development. [Added 3-6-2008]**

- A. Purpose and intent.
- (1) The primary purposes for this bylaw are the following:
    - (a) To allow for greater flexibility and creativity in the design of residential developments;
    - (b) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources, including aquifers, water bodies and wetlands, and historical and archaeological resources;
    - (c) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
    - (d) To minimize the total amount of disturbance on the site;

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- (e) To further the goals and policies of the Town of Templeton Comprehensive Plan and Open Space and Recreation Plan and other local and regional plans as may be applicable;
  - (f) To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
- (2) The secondary purposes for this bylaw are the following:
- (a) To preserve and enhance the community character;
  - (b) To protect and enhance the value of real property;
  - (c) To provide for a diversified housing stock;
  - (d) To control sprawl.

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

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**BASIC MAXIMUM NUMBER** — The number of units that would be allowed on a site using the standard Zoning Bylaw provisions and/or Subdivision Rules and Regulations as determined by a yield plan.

**HARD STORMWATER MANAGEMENT TECHNIQUES** — Structural stormwater management techniques including, but not limited to, catch basins, subsurface piping, stormwater inlets, and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.

**MAJOR RESIDENTIAL DEVELOPMENT** — Any new open space residential development that will create more than four residential lots. This also includes lots of ~~more than four or more~~ residential lots that could potentially be developed in the future. Therefore, applicants must also show a phasing plan if lots of four or more are held in common ownership.

**SOFT STORMWATER MANAGEMENT TECHNIQUES** — ~~Non-structural~~Nonstructural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

**C. Applicability.**

- (1) Any major residential development may be permitted by issuance of a special permit from the Planning Board for either conventional development or open space residential development (OSRD) in accordance with this bylaw. Applicants for a major residential development shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this bylaw.
- (2) Developments of four lots or smaller may also apply for an OSRD special permit subject to the following criteria:
  - (a) **Contiguous parcels.** To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are "contiguous" for the purpose of this section: if they will serve as a singular

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resource and effectively satisfy the purpose and intent of this bylaw as listed in Subsection A.

- (b) Land division. To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to MGL c. 41, § 81P; provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.

### D. Pre-application.

- (1) Conference. The applicant is required to request a pre-application review at a regular business meeting of the Planning Board. The Planning Board may conduct a pre-application review, if deemed necessary by the Planning Board. The Planning Board may invite local officials and/or representatives of local boards, commissions and committees as deemed appropriate by the Planning Board. The Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a conventional or OSRD special permit at the expense of the applicant.
- (2) Submittals. Applicants shall submit the following information:
  - (a) Site context map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features such as, but not limited to, lakes, brooks, and streams that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
  - (b) Existing conditions/site analysis map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature ~~non-degraded~~, nondegraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.
  - (c) Other information. In addition, applicants are invited to submit the information set forth in Subsection E(1) in a form acceptable to the Planning Board.
- (3) Site visit. The Planning Board and/or its agents may conduct one or more site visit(s) during the review of the proposed open space residential design plan. The Planning Board may invite local officials and/or representatives of local boards, commissions and committees as deemed appropriate by the Planning Board.

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- (4) Design criteria. The design process and criteria set forth below in Subsections F and G should be discussed by the parties at the pre-application conference and site visit.
- E. Major residential development/OSRD application for special permit. The Planning Board, acting as the special permit granting authority (SPGA), may authorize a conventional development special permit or an OSRD special permit pursuant to the procedures outlined below and in accordance with the Town of Templeton Subdivision Rules and Regulations. However, anything within the Templeton Subdivision Rules and Regulations can be waived at the discretion of the Planning Board during the OSRD special permit process.
- (1) Application. An application for the special permit shall be submitted on the form(s) provided by the Planning Board in the Templeton Subdivision Rules and Regulations, as may be amended. Applicants for OSRD shall also file with the Planning Board eight copies of the concept plan. The concept plan shall include a yield plan and a sketch plan [see Subsection E(1)(a) and (b) of this section], and shall be consistent with the Town of Templeton Subdivision Rules and Regulations. The applicant shall also submit both the site context map and existing conditions/site analysis map prepared according to Subsection D(2) above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.
- (a) Yield plan. The basic maximum number of allowable units shall be derived from a yield plan. The yield plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the basic maximum number of lots resulting from the design and engineering specifications shown on the yield plan. The yield plan shall contain, at a minimum, the following information:
- [1] Parcel boundaries, north point, date, legend, title "Yield Plan," and scale.
  - [2] The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan.
  - [3] The names, approximate location, and widths of adjacent streets.
  - [4] Existing topography at two-foot contour intervals.
  - [5] Map of soils using NRCS soils mapping.
  - [6] All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the yield plan.
  - [7] Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.
  - [8] Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.

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- [9] If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ~~ground water~~groundwater levels.
- (b) Sketch plan. The sketch plan, which details the open space residential development design, shall address the general features of the land, and give approximate configurations of the proposed lots, of unit placements if treated as a condominium, of open space, and roadways. The sketch plan shall incorporate the four-step design process, according to Subsection F below, and the design standards, according to Subsection G below, when determining a proposed design for the development. In addition to those requirements for a yield plan listed in Subsection E(1)(a), a sketch plan shall contain the following information:
- [1] The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
  - [2] The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Subsection F(1). Proposals for all site features to be preserved, demolished, or altered shall be noted on the sketch plan.
  - [3] The existing and proposed lines of streets, ways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner. Common driveways shall not be allowed.
  - [4] Proposed roadway grades.
  - [5] Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Board of Health. However, a narrative explanation shall be prepared by a Massachusetts certified professional engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
  - [6] A narrative explanation prepared by a Massachusetts certified professional engineer proposing systems for stormwater drainage and likely impacts ~~on-site~~on site and to any abutting parcels of land. For example, the narrative will specify whether soft or hard stormwater management techniques will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any

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information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.

- [7] A narrative explanation prepared by a Massachusetts certified professional engineer, detailing the proposed drinking water supply system.
  - [8] A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
  - [9] All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
  - [10] A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, condominium or cooperative documents, with an accompanying narrative explaining their general purpose.
  - [11] A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.
- (2) Procedures. Whenever an application for a conventional/OSRD special permit is filed with the Planning Board, the applicant shall also file, within five working days of the filing of the completed application, copies of the application, accompanying development plan(s), and other documentation, to the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within 35 days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period.
- (3) Site visit. Whether or not conducted during the pre-application stage, the Planning Board and/or its agent shall conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- (4) Other information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a special permit for conventional or OSRD special permit with the public hearing required for approval of a definitive subdivision plan.

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- F. Design process. At the time of the application for the special permit, in conformance with Subsection E(1), applicants are required to demonstrate to the Planning Board that the following design process was performed by a multidisciplinary team of which one member must be a certified landscape architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, and designation of all common areas and open space.
- (1) Identifying conservation areas. Identify preservation land by two steps. First, primary conservation areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and secondary conservation areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the potentially developable area shall consist of land outside identified primary and secondary conservation areas.
  - (2) Locating house sites. Locate the approximate sites of individual houses within the potentially developable area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.
  - (3) Aligning the streets and the walking and bicycle trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
  - (4) (Reserved)
  - (5) Lot lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.
- G. Design standards. Applicants shall refer and adhere to the Templeton Subdivision Rules and Regulations, as amended. In addition, the following generic and site specific design standards shall apply to all sketch plans for OSRD's and shall govern the development and design process:
- (1) Generic design standards.
    - (a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural ~~drainage ways~~drainageways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
    - (b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

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- (c) Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.
- (d) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- (e) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

### (2) Site specific design standards.

- (a) Mix of housing types. The OSRD may consist of any combination of single-family and two-family structures and multifamily residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with Article VII, Supplemental Regulations.
- (b) Parking. Each dwelling unit for single- or two-family homes shall be served by two off-street parking spaces. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two bedrooms in structures containing four or more units, the applicant shall provide two parking spaces per unit for residents' parking and 1.5 for visitors' parking that shall be marked as such. For dwelling units with ~~two or more than two~~ two or more bedrooms in structures containing four or more units, the applicant shall provide three parking spaces per unit, the third of which may be used for visitors' parking. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning Board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.
- (c) Drainage. The Planning Board may consider the use of soft stormwater management techniques and other low-impact development techniques that reduce impervious surface and enable infiltration where appropriate.
- (d) Screening and landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- (e) On-site pedestrian and bicycle circulation. Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- (f) Disturbed areas. Every effort shall be made to minimize the area of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state.

### H. Open space requirements.

- (1) Generic design standards. A minimum of 50% of the parcel(s) shown on the development plan shall be set aside as protected open space. Any proposed open space, unless conveyed to the Town or its Conservation Commission or Cemetery and Parks



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Department or appropriate nonprofit organization such as a land trust, shall be subject to a recorded restriction enforceable by the Town through a conservation restriction, provided that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes. The Planning Board may develop model documents for the applicant's use.

- (a) The percentage of the open space which is wetlands shall not normally exceed 50%. The percentage of the parcel(s) which is wetlands that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in this section. For purposes of this section, "wetlands" shall mean all areas defined as "freshwater wetlands" in the Wetlands Protection Act, MGL c. 131, § 40.
- (b) The open space shall be contiguous to other open space. "Contiguous" shall be defined as being connected and open space shall not include residential uses. Open space will be considered connected if it is separated by a roadway or an accessory amenity. The Planning Board may allow ~~non-contiguous~~ open space where such ~~non-contiguous~~ open space will promote the purposes of this bylaw and/or protect important conservation resources.
- (c) The open space shall be arranged to protect valuable natural and cultural elements, including ~~waterbodies~~ water bodies, streams, wetland buffers, ~~unfragmented~~ forest, wildlife habitat, open fields, scenic views, trails, stone walls, archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes.
- (d) The open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by accessible and suitable public access for such purposes.
- (e) The open space shall remain unbuilt upon, except that the Planning Board may permit up to 20% of the open space to be paved with permeable material, or built upon for structures accessory to the dedicated use or uses of the open space, such as pedestrian walks and bike paths.
- (f) Underground utilities. Subject to the approval of the Planning Board, underground utilities to serve the OSRD site may be located within the open space.
- (g) Wastewater facilities. Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the development, where the Planning Board finds that such use will not be detrimental to the character, quality of use of the open space, wetlands or ~~waterbodies~~ water bodies, and enhances the site plan. The Planning Board shall require adequate legal

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safeguards and covenants that such facilities shall be adequately maintained by the lot owners within the development.

- (h) Stormwater management systems. Subject to the approval of the Planning Board, stormwater management systems may be located within the required open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- (2) Ownership of the open space. The open space shall, at the Planning Board's election, be conveyed to either:
- (a) The Town of Templeton or its Conservation Commission or Cemetery and Parks Department;
  - (b) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above such as a land trust; or
  - (c) A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Templeton to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town of Templeton an easement for this purpose. In such event, the Town of Templeton shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town of Templeton may perform it. Each individual deed, and the deed or trust or Articles of Incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted with the special permit application to the Planning Board for approval, reviewed by Town Counsel, and shall thereafter be recorded. The developer shall include in the deed to such owner beneficial rights in the open space, and shall grant a perpetual open space restriction to the Town to insure that it will remain in an open state and not be used for residential purposes or accessory uses. Such restriction shall be in the form and substance prescribed by the SPGA, and may contain such additional restrictions on the use of the open space as the SPGA deems appropriate.
- (3) Buffer areas.
- (a) A buffer area equal to the minimum backyard setback required for the zoning district shall be provided at the perimeter of the OSRD parcel where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the OSRD parcel. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement:

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- [1] Where the land abutting the OSRD parcel is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least 50 feet in depth, which may include such restricted land area within such buffer area calculation; or
- [2] Where the land abutting the OSRD parcel is held by the Town for conservation or recreation purposes; or
- [3] The Planning Board determines that a smaller buffer, or no buffer, will suffice to accomplish the objectives set forth herein (e.g., if integration with neighborhood is better achieved without buffer).

(b) No person may encroach or cause another person to encroach on open space land or on any land for which a public body, a nonprofit land conservation organization, or homeowners' association holds a conservation easement interest, without the permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

(4) Encumbrances. All areas set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

I. Reduction of dimensional requirements. Applicants may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

(1) Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.

(a) ~~RA1—R-A-1: 1.0 acre w/out~~ sewer and 0.5 acre ~~w/~~with sewer and 75 LF frontage.

(b) ~~RA2—R-A-2: 1.0 acre w/out~~ sewer and 1.0 acre ~~w/~~with sewer and 75 LF frontage.

(c) ~~RA5—2-R-A-5-acre w/o~~; 2.5 acres without sewer and 2.5 ~~acre-w/acres~~ with sewer and 250 LF frontage.

(2) Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 30 feet from the roadway right-of-way, and 15 feet from any rear or side lot line. In no event shall structures be closer than 30 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 15 feet; however, the distance between structures shall be a minimum of 30 feet.

J. Increases in permissible density. Increases in density are not permissible and not waivable.

K. Decision of the Planning Board.

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- (1) Criteria for approval. The Planning Board will review all data and hold a public hearing in accordance with MGL c. 40A, § 9. The Board may grant a special permit for an OSRD, with or without conditions, if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight factors are present:
  - (a) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;
  - (b) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources, including water bodies and wetlands, and historical and archaeological resources;
  - (c) That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
  - (d) That the OSRD reduces the total amount of disturbance on the site;
  - (e) That the OSRD furthers the goals and policies of existing community planning documents, including, but not limited to, the Town's Local Comprehensive Plan, Open Space and Recreation Plan, Planned Production Strategy for Affordable Housing and EO418 Community Development Plan;
  - (f) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
  - (g) That the concept plan and its supporting narrative documentation complies with all sections of this Zoning Bylaw;
  - (h) That the proposed design does not create undo risk to public health, safety and welfare.
- (2) Relationship between concept plan and definitive subdivision plan. Any special permit for a major residential development or any special permit for OSRD that is granted a special permit and shows a subdivision must be followed by the submittal of a definitive subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD special permit shall be reconsidered if there is substantial variation between the definitive subdivision plan and the concept plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the concept plan. A substantial variation shall be any of the following:
  - (a) An increase in the number of building lots and/or units;
  - (b) A significant decrease in the open space acreage;
  - (c) A significant change in the lot layout or unit placement;
  - (d) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
  - (e) Significant changes to the stormwater management facilities; and/or

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(f) Significant changes in the wastewater management systems.

L. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

**§ 300-27. Senior housing planned community manufactured home parks.** [Added 5-17-2010]

In Residential Districts — ~~RA1R-A-1~~ and ~~RA2R-A-2~~.

- A. Purpose and intent. This section of the Zoning Bylaw is established in order to encourage the development and maintenance of attractive and filling sites for manufactured homes, so called; to protect and foster the health, safety, and welfare of the residents of manufactured home developments, and, in general, preservation of the environment and appearance of the areas within which such parks are established and maintained. It is the intent of the Town that manufactured home parks serve the needs of the elderly and retired population of moderate means, who no longer need or can maintain a larger home. In order to provide a quiet, safe, and convenient environment for the elderly residents of manufactured home parks, the special permit granting authority shall, as a condition of a special permit, provide for occupancy of manufactured home parks by persons 55 years of age and older and by members of their families. All manufactured home parks granted a special permit may be required to be licensed by the Board of Health as provided by MGL c. 140, § 32B.
- B. Special permit granting authority. Special permit granting authority (SPGA) shall be solely the responsibility of the Planning Board.
- C. Special conditions.
- (1) Except as otherwise provided herein, or in a particular special permit, the design and construction of a manufactured home park shall be in general conformity with the Rules and Regulations of the Templeton Planning Board under the Subdivision Control Law, so far as the SPGA shall deem appropriate and applicable, but dimensional and use regulations of the Zoning Bylaw shall not apply, except as specified herein. However, waivers may be granted from the Rules and Regulations as deemed appropriate.
  - (2) No home occupations, commercial, or other nonresidential uses shall be permitted as either principal or accessory uses in manufactured home parks, except for service or recreation facilities for the residents thereof.
- D. Area. No manufactured home park shall be less than 20 acres in area, including the roads and the area provided for recreation, service, and other permanent installations.
- E. Utilities. All manufactured home parks shall require public water systems.
- (1) Where an existing public sewer or water service is to be utilized, the applicant shall present such evidence as will show that such utilization is acceptable to the applicable departments for the Town of Templeton.
  - (2) When a sewage system is proposed, the applicant shall present such evidence as will show that his waste treatment system is approved by the appropriate department of the Town.

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**F. Density of use.**

- (1) There shall be no more than eight manufactured home units with accessories per acre; however, no more than 30% of the gross land mass shall be developed for a manufactured home park. Said 70% land mass shall be designated as open space and reserved for recreational purposes.
- (2) Manufactured homes shall not be located closer than 10 feet to the nearest manufactured home and 20 feet ~~from Park Street~~ to park streets.
- (3) Each manufactured home shall be located with at least a forty-foot ~~set back~~ setback from any park property boundary abutting a public street or highway or adjacent property.

**G. Parking. At least two off street parking spaces shall be provided for each manufactured home.**

**H. Street and services.**

- (1) The street system shall conform to construction standards set forth in the rules and regulations relative to the construction and paving of streets in subdivisions in the Town of Templeton, and shall have direct connection to a public street or highway sufficient to satisfy requirements for the Highway Department, the Chief of the Fire Department and the rules and regulations of the Planning Board. The maintenance of these streets shall be the responsibility of the manufactured home park owner.
- (2) There shall be provided central facilities for recreation, open space and services, which shall be available to all manufactured home park residents.

**I. Units for sale. Manufactured homes shall not be stored or displayed on park premises except when mounted on a pad on a lot. New manufactured homes displayed for sale by the park owner or operator must be sold for use within that park. Used manufactured homes offered for sale by individual manufactured home owners must be displayed on a pad on a lot ~~with in~~ within that park, but may be sold either with ~~intent to~~ intent to use within that park to an individual, the park owner or operator, ~~or~~ for use outside that park. The park owner or operator may also display those units on a pad on a lot for resale within that park premises. Nothing in this section shall be construed as permitting the storage of unoccupied units in any park, for sale in the ordinary course of business, or as inventory, or the sale of such units except in those districts, as determined by the Zoning Bylaw, wherein such commercial activity is permissible with or without permits from the proper authority.**

**§ 300-28. Large-scale ground-mounted solar photovoltaic installations. [Amended 5-23-2012]**

**A. Purpose and applicability.**

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

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- (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.
- (3) This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

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

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**LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 50 kW DC.

**ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**RATED NAMEPLATE CAPACITY** — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

**SOLAR PHOTOVOLTAIC ARRAY** — An arrangement of solar photovoltaic panels.

**C. Use standards.** Large-scale ground-mounted solar photovoltaic installations are hereby allowed by right in the following districts: Commercial-Industrial-A, Commercial-Industrial-B, and Highway Business; and allowed by special permit in the following districts: Village, Residential (~~RA1, RA2, RA5~~R-A-1, R-A-2, R-A-5) Districts, and the Airport District.

**D. General standards.**

- (1) **Permit granting authority.** It is hereby established under this bylaw that the Planning Board will be the permit granting authority under this section.
- (2) **Site plan and special permit requirements.** Ground-mounted large-scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo either site plan review or special permit review process contingent on the location of the proposed project prior to construction, installation or modification as provided in this section.
  - (a) **General.** All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
  - (b) **Required documents.** Pursuant to the site plan review process, the project proponent shall provide the following documents:
    - [1] A site plan showing:
      - [a] Property lines and physical features, including roads, for the project site;
      - [b] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

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- [c] Drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - [d] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and ~~over-current~~overcurrent devices;
  - [e] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - [f] Name, address, and contact information for proposed system installer;
  - [g] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - [h] The name, contact information and signature of any agents representing the project proponent; and
- [2] Documentation of actual or prospective access and control of the project site;
  - [3] An operation and maintenance plan (see also Subsection L);
  - [4] Zoning district designation for the parcel(s) of land comprising the project site (Submission of a copy of a Zoning Map with the parcel(s) identified is suitable for this purpose);
  - [5] Proof of liability insurance; and
  - [6] Description of financial surety that satisfies Subsection P.
- (c) Waiver. The Planning Board may waive documentary requirements as it deems appropriate.
- E. Compliance with laws, bylaws and regulations. The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
  - F. Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until written evidence has been given to the Planning Board that Templeton Light and Water has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
  - G. Building permit. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.



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### H. Fees.

- (1) At the time of an application submittal an administration fee will be required. (See the Planning Board Fee Schedule for the amount required.)
- (2) A review fee will be determined by the Planning Board before the public hearing by acquiring an estimate from the peer review engineer appointed by the Planning Board to review the project.

### I. Design standards.

- (1) Dimension and density requirements.
  - (a) Setbacks. For large scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
    - [1] Front yard. The front yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential District, the front yard shall not be less than 50 feet.
    - [2] Side yard. Each side yard shall have a depth at least 15 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential District, the ~~frontside~~ yard shall not be less than 50 feet.
    - [3] Rear yard. The rear yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential District, the ~~frontrear~~ yard shall not be less than 50 feet.
- (2) Lighting. Lighting of solar photovoltaic installations shall be consistent with any state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (3) Signage. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- (4) Utility connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

### J. Safety, emergency services and environmental standards.

- (1) The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar

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photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

- (2) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation. Any land disturbance, including earth removal or moving, and land clearing greater than one acre of land will be subject to Chapter 235, Stormwater Management, of the Town bylaws.
- K. Accessory buildings. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
- L. Operation and maintenance plans.
- (1) The project proponent shall submit a plan for the operation and maintenance of the installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
  - (2) The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. 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.
- M. (Reserved)
- N. Modifications.
- (1) All material modifications to a solar energy collection system installation made after approval of the site plan shall require a modification of the approval.
  - (2) The Planning Board shall review each site plan at intervals of not less than five years and may, after public notice and hearing, modify the approved plan to ensure the public safety and compliance with the Town bylaws and regulations.
- O. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The Municipal Light and Water ~~Plant~~ shall have the right of first refusal as to whether ~~they~~ it will choose to assume responsibly for the solar operation. If the Municipal Light and Water ~~Co-choose~~ ~~Plant chooses~~ to forgo the operation and the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the

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proposed date of decommissioning, the Town may enter the property and physically remove the installation.

- P. Financial surety. Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety either through the Planning Board or Templeton Municipal Light and Water Company/Plant before construction. If setting up a surety with the Planning Board, the form of surety must be either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. 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.
- Q. Severability. If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this bylaw.

**ARTICLE VIII  
Administration and Procedures**

**§ 300-29. Administration and enforcement; violations and penalties.**

- A. Permits. This bylaw shall be administered by the Building Inspector. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use unless in compliance with this Zoning Bylaw and all necessary permits have been received under federal, state, or local law.
- B. Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this bylaw and of permits, special permits, variances, and site plan approval issued thereunder, including notification of noncompliance and request for legal action.
- C. Penalties. The penalty for violation of any provision of this bylaw of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be \$300 for each offense. Each day that each violation continues shall constitute a separate offense.

**§ 300-30. Board of Appeals.**

- A. Establishment and membership. There shall be a Board of Appeals as provided by MGL c. 40A, § 12, as amended, which shall act on all matters within its jurisdiction under this bylaw in the manner prescribed in such section. The Board of Appeals shall consist of five members and one alternate member.

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- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this bylaw. The Board of Appeals powers are as follows:
- (1) To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of § 300-31, or as otherwise specified.
  - (2) To hear and decide appeals or petitions for variances from the terms of this bylaw, with respect to particular land or structures, as set forth in MGL c. 40A, § 10. The Board of Appeals shall not grant use variances.
  - (3) To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of MGL c. 40A, § 7, § 8 and § 15.
  - (4) To hear and decide comprehensive permits for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation, as set forth in MGL c. 40B, § 20- through § 23.
- C. Procedures. Applications shall be filed in accordance with the rules and regulations of the Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Board of Appeals.
- D. Conditions. Special permits and variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit or permit granting authority may deem necessary to serve the purposes of this bylaw.
- E. Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.
- F. Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

**§ 300-31. Special permits.**

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the Town, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this bylaw, such determination shall include consideration of each of the following:
- (1) Social, economic, or community needs which are served by the proposal;
  - (2) Traffic flow and safety, including parking and loading;
  - (3) Adequacy of utilities and other public services;

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- (4) Neighborhood character and social structures;
- (5) Impacts on the natural environment; and
- (6) Potential fiscal impact, including impact on Town services, tax base, and employment.

**C. Procedures.**

- (1) Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.
- (2) Special permits shall only be issued following public hearings held within 65 days after filing an application. When requesting a special permit from the Board of Appeals, the application shall be filed with the Town Clerk, who shall transmit the application to the Board of Appeals. When requesting a special permit from the Planning Board, the application shall be filed with the Planning Board and the applicant is responsible for transmitting a copy of the application to the Town Clerk forthwith. Failure of the Board of Appeals or the Planning Board to act within 90 days after a public hearing for a special permit shall be deemed as approval. The "Rules and Regulations of the Board of Appeals and Planning Board Concerning Special Permits" should be obtained from the Town Clerk in order to have the complete procedures concerning special permits.

**D. Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this bylaw.

**E. Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements set forth per each SPGA set rules and regulations and with in within the Templeton Zoning Bylaw herein.

**F. Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within ~~24~~36 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof) with the Town Clerk.

**G. Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this section.

**H. Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

**§ 300-32. Site plan review. [Amended 5-14-2002; 3-6-2008]**

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

- (1) Construction, exterior alteration or exterior expansion of, or change of use within any nonresidential or nonagricultural building or structure or lot.

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(2) Construction or expansion of a parking lot for any nonresidential or nonagricultural building or structure or lot.

B. Procedure. Applicants shall submit five copies of the site plan to the Planning Board for review, and within three days thereafter shall also submit a copy of the site plan to the Board of Selectmen, Board of Health, Building Inspector, and Conservation Commission for their advisory review and comments. The Planning Board shall hold a public hearing on any complete application within 60 days of its submission. Public notice of said hearing shall be given in accordance with the requirements of MGL c. 40A, § 11. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within 60 days of the closing of the public hearing, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of the Planning Board, shall be in writing, and shall be filed with the Town Clerk within 14 days thereafter. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse ~~off from~~ the closing of the public hearing without action by the Planning Board. All time limits may be extended in writing by mutual agreement of the applicant and the Planning Board.

C. Preparation of plans; contents. Applicants are invited to submit a pre-application sketch of the proposed project at a regular meeting of the Planning Board. Site plans shall be submitted on twenty-four-inch by thirty-six-inch sheets. Plans shall be prepared by a registered professional engineer, registered land surveyor, architect, or landscape architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of one inch equals 20 feet.

(1) The contents of the site plan are as follows:

(a) Six separate plans prepared at a scale of one inch equals 20 feet or such other scale as may be approved by the Planning Board. The plans are as follows:

- [1] Locus plan, at a scale of one inch equals 100 feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
- [2] Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing, and all proposed recreational facilities and open space areas.
- [3] Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage, and all wetlands, including floodplain areas.
- [4] Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.

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- [5] Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
  - [6] Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements, including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control.
- (b) The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.
  - (c) A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this bylaw.
  - (d) The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Planning Board Subdivision Regulations.
- (2) The Planning Board may waive any requirement of this Subsection C.
- D. Approval. Site plan approval shall be granted upon determination by the Planning Board that the plan meets the following standards. The Planning Board may impose reasonable conditions. New building construction or other site alterations shall be designed to:
- (1) Minimize the volume of cut and fill, the number of removed trees six inches caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
  - (2) Provide adequate access to each structure for fire and service equipment and adequate utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations;
  - (3) Maximize pedestrian and vehicular safety both on the site and egressing from it;
  - (4) Minimize obstruction of scenic views from publicly accessible locations and visual intrusion by screening parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
  - (5) Minimize glare from headlights and lighting intrusion;
  - (6) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
  - (7) Ensure compliance with the provisions of this Zoning Bylaw.

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- E. Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.
- F. Regulations; fees. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of this section. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.
- G. Appeal. Any decision of the Planning Board pursuant to this § 300-32 shall be appealed in accordance with the provisions of MGL c. 40A, § 17 to a court of competent jurisdiction.



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**REGULATIONS**

**Chapter 310**

**SUBDIVISION OF LAND**

**[HISTORY: Adopted by the Planning Board of the Town of Templeton 9-19-2000; as amended 11-20-2001 and 3-4-2008. Subsequent amendments noted where applicable.]**

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**ARTICLE I  
Purpose and Authority**

**§ 310-1. Purpose.**

These subdivision rules and regulations are hereby enacted, in accordance with the provisions of MGL c. 41, § 81M, for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the Town, by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under these regulations and the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for securing safety in the case of fire, flood, panic, and other emergencies; for ensuring compliance with the Zoning Bylaw, for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other municipal equipment, and streetlighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the Town, and with the ways in neighboring subdivisions.

**§ 310-2. Authority.**

These rules have been adopted under the authority vested in the Planning Board by MGL c. 41, § 81Q, as amended. The Planning Board shall be the agency responsible for the administration of the rules and shall have all of the powers assigned to it by MGL c. 41, § 81K to § 81GG, inclusive.

**ARTICLE II  
General Regulations**

**§ 310-3. Definitions.**

For the purposes of these rules, the following words and terms used herein are hereby defined or the meaning thereof explained, extended, or limited as stated in MGL c. 41, as amended. Other terms or words or phrases not defined herein or in the Subdivision Control Law shall be construed according to the common and approved usage of the language, but technical words and phrases and such other terms or phrases as may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.

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### ABUTTER –

- A. An owner of land sharing a common property line with the owner of land referred to in a subdivision application, and
- B. An owner of land which is directly across a way from the frontage of said subdivision land.

**APPLICANT** — The owner of the land referred to in an application filed with the Planning Board, or the owner's duly authorized representative or the applicant's assigns. [Amended 11-20-2001]

**BOARD** — ~~The Planning Board.~~

**EASEMENT** — A right acquired by a public authority or other person for use or control of property for utility or other designated public purpose.

**FRONTAGE** — Shall have the same definition as that used in the Zoning Bylaw.

**LOT** — An area of land in one ownership, with definite boundaries used, or set aside and available for use, as the site of one or more buildings.

**LOT, CORNER** — A lot which has legal frontage on both a public way and on a proposed subdivision way, and which shall be shown on a subdivision application and shall be considered a part of that plan.

**MASSACHUSETTS DEPARTMENT OF HIGHWAYS/TRANSPORTATION STANDARD SPECIFICATIONS FOR HIGHWAYS, BRIDGES AND WATERWAYS** — Shall refer to the latest edition with amendments.

**MASSACHUSETTS GENERAL LAWS ANNOTATED or MGL** — The General Laws of the Commonwealth of Massachusetts, Ter. Ed., with all additions thereto and amendments thereof. In the case of a rearrangement of the General Laws, any citation of particular sections herein set forth shall be applicable to the corresponding sections in the new codification.

**MUNICIPAL SERVICES** — Sewers, surface water drains, and other private or public utilities, including water pipes, gas pipes, electric lines, cable television lines, telephone lines, fire alarm lines, and their respective appurtenances.

**OWNER** — As applied to real estate, the person (hereinafter defined) holding the ultimate fee simple title to a parcel, tract, or lot of land, as shown by the record in the appropriate Land Registration Office, Registry of Deeds, or Registry of Probate. Twenty days prior to any and all transfer of ownership, the owner shall supply the Planning Board with the name of the new owner and proof of transfer of deed. [Amended 11-20-2001]

**PERMANENT BENCHMARK** — A permanent reference point with the elevation accurately established by stone bounds and referenced to the United States Coast and Geodetic Survey datum.

**PERSON** — An individual, partnership, corporation, or two or more individuals or a group or association of individuals, having common or undivided interests in a tract of land.

**ROADWAY OR STREET** — That portion of the way, right-of-way, or street layout which has been prepared and constructed for vehicular traffic.

**RULES** — These Subdivision Rules and Regulations of the Planning Board.

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### STREET CATEGORIES

- A. COLLECTOR — A street with anticipated traffic equivalent to that generated by 50 homes or more, or which serves abutting land zoned for business or industry.
- B. DEAD-END — A street or a combination of streets which has only one means of ingress from or egress to a collector or minor street. Only lanes shall be dead-end streets.
- C. LANE — A street which cannot serve as access to more than 10 dwelling units.
- D. MINOR — A street which cannot qualify as a lane but which can be expected to handle less traffic than a collector street and which serves no abutting land zoned for business or industry.

**SUBDIVISION** — The division of a tract of land into two or more lots and shall include ~~re-subdivision~~ ~~re-subdivision~~ and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or bylaw, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be at least 20 feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision. See MGL c. 41, § 81L.

**SUBDIVISION CONTROL LAW** — MGL c. 41, § 81K to § 81GG, inclusive, and any amendments thereof, additions thereto, or substitutions therefor.

**TOWN** — The Town of Templeton.

**WAY or RIGHT-OF-WAY** — The full strip of land designated as a way, consisting of the roadway, and any planting strips or sidewalks. A way so designated shall be available only for such uses as are customary for ways in the Town, and shall not be available for any private construction such as buildings, fuel tanks, septic systems, fences, or walls.

**YARD, FRONT** — Land extending across the required width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of the front yard shall be the minimum distance between the building and the front lot line.

**ZONING BYLAW** — The Zoning Bylaw of the Town.

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**§ 310-4. Procedures.**

**A. General.**

- (1) All plans, and all procedures relating thereto, shall comply in all respects with the provisions of these rules, unless the **Planning** Board authorizes a variation thereof in specified instances.
- (2) Any person desiring to make a subdivision within the meaning of the Subdivision Control Law of any land within the Town shall, before proceeding with the improvement or sale of lots in the subdivision, or the construction of ways, or the installation of municipal services therein, submit to the **Planning** Board a plan of such subdivision and secure approval by the **Planning** Board of a definitive plan as hereinafter provided.
- (3) The **Planning** Board shall not approve or modify and approve any plan of a subdivision of land, unless all lots and other aspects of such plan conform with the Zoning Bylaw of the Town or a variance from the terms thereof has been granted by the Board of Appeals.

**B. Issuance of building permits. The official in the Town authorized to issue building permits shall not issue any permit for erection of a building until first satisfied:**

- (1) That the lot on which the building is to be erected is not within a subdivision;
- (2) That a way furnishing the access to the lot within a subdivision as required by the Subdivision Control Law is shown on a recorded plan and that any conditions endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied; and
- (3) That all other applicable requirements have been met.

**C. Professional and technical assistance. The **Planning** Board may assign as its agents appropriate Town officials, and may hire professionals to assist in the review of plans and the inspection of improvements, at the cost of the applicant.**

**D. Modification, amendment, or rescission. The **Planning** Board, on its own motion or on the petition of any interested person, shall have the power to modify, amend, or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan, after due notice and opportunity to the owner to be heard in accordance with MGL c. 41, § 81W, as amended.**

**E. Submission of plans. Plans shall not be considered "submitted" until all required documentation has been received by the **Planning** Board, including fees.**

**F. Fees. The fees indicated in Appendix A, Planning Board Fee Schedule, shall accompany the submittal of application materials of the various plans specified in the rules, to cover costs of processing, technical review, and inspection.**

**§ 310-5. (Reserved)**

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### § 310-6. Plan believed not to require approval.

(ANR approval does not constitute compliance with zoning requirements for building purposes.)

- A. Submission. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land, and who believes that said plan does not require approval under the Subdivision Control Law, may submit to the Planning Board said plan, five prints thereof, and four copies of a properly executed Form A, Application for Endorsement of a Plan Believed Not to Require Approval, accompanied by the necessary evidence to show that the plan does not require approval. The applicant shall also submit the fee as set forth in Appendix A, Planning Board Fee Schedule, with the application form. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination. The Planning Board will review the plan to determine whether it is a subdivision and whether it conforms to the standards for endorsement.
- B. Required information. Said plan shall be of a minimum dimension of 9 1/2 inches by 14 inches but not to exceed a dimension of 24 inches by 36 inches, drawn at a scale of one inch equals 40 feet, and shall contain the following information:
- (1) Identification of the plan by the name of the owner of record and the location of the land in question;
  - (2) The statement "Approval Under the Subdivision Control Law Not Required," and sufficient space for the date, and all signatures of the members of the Planning Board;
  - (3) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan;
  - (4) In the case of creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant, if any;
  - (5) Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and special permits regarding the land or any buildings thereon;
  - (6) Names of abutters from the latest available Assessor's records unless the applicant has knowledge of any changes subsequent to the latest available records;
  - (7) Distance to the nearest permanent monument; contours at the scale of available topographical maps or where applicable, contours at a scale sufficient to demonstrate that each lot has present vehicular access from the way serving the site;
  - (8) Location of all existing buildings, including setback and side and rear yard designations and any existing structures on any remaining adjoining land owned by the applicant and dimensions of yards relating to such structures;
  - (9) Location of any easement or way, public or private, across the land, with a designation as to the use of the same.
- C. Denial of endorsement. If the Planning Board determines that the plan does require approval under the Subdivision Control Law, or does not conform to the standards for endorsement hereunder, it shall, within 21 days of submission of said plan, so inform the applicant and return the plan. The Planning Board shall also notify the Town Clerk of its determination.

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### § 310-7. Access adequacy regulations.

- A. General. Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL c. 41, § 81K through § 81GG.
- B. Standards of adequacy. Streets within a subdivision shall be considered to provide adequate access if, and only if, complying with the standards established in these rules. Ways providing access to streets within a subdivision shall be considered to provide adequate access where, prior to construction on any lots, the applicant ensures that such access will be in compliance with the Subdivision Regulations for right-of-way width, pavement width, maximum grade, and sight distance requirements applicable to ways within a subdivision.
- C. Obligations. The Planning Board may require, as a condition of its approval of a subdivision plan, that the developer construct ~~access ways~~ accessways to a width as required in these regulations, and that applicant make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.
- D. Waivers. The Planning Board may waive strict compliance with these access regulations only upon its determination, following consultation with the Selectmen, ~~Superintendent~~ Director of Streets ~~Public Works~~ Highway Superintendent, Police Chief, and Fire Chief, that the way in fact will be otherwise sufficient to serve the needs for access to serve potential uses of land abutting on or served by the way in question.

### § 310-8. Waivers.

Strict compliance with these rules may be waived when, in the judgment of the Planning Board, such action is in the public interest, not inconsistent with the Subdivision Control Law, and promotes public health and safety.

## ARTICLE III Submissions and Actions

### § 310-9. Pre-submission review.

Prior to investing in extensive professional design costs for preparation of subdivision plans, the applicant is invited to review the proposed development of the parcel of land with the Board, in order to explore general conditions involving the site and to discuss potential problems. Pencil sketches, which need not be professionally prepared, will assist in this discussion, and should show the critical features of a preliminary plan. In some cases, this pre-submission review may eliminate the need for the formal submission of a preliminary plan.

### § 310-10. Preliminary plans.

#### A. Submission.

- (1) A preliminary plan of a subdivision may be submitted by the ~~sub-dividers~~ subdivider to the Planning Board and through the Planning Board to the Board of Health for discussion and approval, modification or disapproval by the Board. Notice of submission shall be provided to the Town Clerk in accordance with MGL c. 41, § 81S. The submission of such a preliminary plan shall be made on Form B, Application for

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Approval of a Preliminary Plan, and will enable the ~~sub-dividersubdivider~~, the Planning Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify any aspects of or problems with such subdivision before a definitive plan is prepared. For this reason, the Planning Board strongly encourages the submission of such preliminary plans in every case. Nonresidential subdivisions shall submit a preliminary plan. Seventeen copies of the preliminary plan shall be submitted to the Planning Board at a regularly scheduled meeting, together with the fee set forth in Appendix A, Planning Board Fee Schedule. Copies of the plan may be examined by the public during regular business hours of the Town Hall.

- (2) When the application is deemed complete and properly submitted by the Planning Board or its agent, it shall notify the Town Clerk in writing of the final submittal date. The final submittal date shall be the date that the completed and properly submitted application is received by the Planning Board. For applications that have been deemed incomplete, the applicant must agree in writing to any new submittal date in order for any additional information or material to be considered part of the original application.

### B. Contents.

- (1) The preliminary plan may be drawn on tracing paper with pencil, preferably at a scale of one inch equals 40 feet, or other suitable scale acceptable to the Planning Board, shall be clearly designated as "preliminary plan," and shall show:
  - (a) Subdivision name, boundaries, North point, date, and scale;
  - (b) Name and address of record owner, applicant, and designer, engineer, and surveyor;
  - (c) Names of all abutters as determined from the most recent Town tax list;
  - (d) Existing and proposed lines of streets, ways, easements, and public areas within the subdivision;
  - (e) Location, direction, names, and present widths of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;
  - (f) Location, names, and present widths of streets bounding, approaching, or near the subdivision;
  - (g) Topography of the land in a general manner, including contours at a scale required by the Planning Board;
  - (h) Proposed system of drainage, including existing natural waterways, in a general manner, but including drainage both within and adjacent to the subdivision;
  - (i) Approximate boundary lines of proposed lots, with approximate areas and dimensions;
  - (j) Estimates of the grades of proposed streets or profiles, where required by the Planning Board;

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- (k) Major site features such as existing ~~stonewalls~~stone walls, fences, buildings, large trees and wooded areas, rock ridges and outcroppings, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, and other water bodies;
  - (l) Identification of any land area lying within 500 feet of any property valued under the provisions of MGL c. 61A, as amended.
- (2) The preliminary plan shall be accompanied by a statement of existing zoning, any easements, covenants, and restrictions applying to the area proposed to be subdivided, and a list of any waivers from these regulations requested by the applicant.
- (3) During discussion of the requirements set forth in Subsection B, the complete information required for the definitive plan (§ 310-11B) and the financial obligations of the applicant (§ 310-13) will be developed.
- C. Site visit. After the regular Planning Board meeting at which preliminary plan is first discussed, or a definitive plan is submitted without a prior preliminary plan, the Planning Board and/or its agent may schedule a site visit to the proposed subdivision, accompanied by the applicant and his agents or representatives. In order to facilitate inspection and review of the site of the proposed subdivision, temporary staking will be required along the center line of all proposed roads in the subdivision before said site visit, or if impractical, the Planning Board may permit a suitable alternative procedure.
- D. Decision. The Planning Board shall, in conformance with MGL c. 41, § 81S, approve such preliminary plan with or without modifications, or disapprove such preliminary plan with reasons therefor.
- (1) Approval of a preliminary plan, with or without modifications, does not constitute approval of a subdivision. Such approval normally facilitates the final approval of a subdivision through submittal of a definitive plan.
  - (2) The Planning Board shall notify the Town Clerk in writing of its decision on a preliminary plan in accordance with MGL c. 41, § 81S, as amended.
  - (3) The submission of a preliminary plan for examination by the Planning Board shall not be deemed the submission of a definitive plan of a subdivision of land for approval by the Planning Board under MGL c. 41, § 81L, and the action or decision of the Planning Board as to such preliminary plan shall not prejudice its action or decision as to the definitive plan.

### § 310-11. Definitive plans.

#### A. Submission.

- (1) A definitive plan of a subdivision may be submitted by the ~~sub-dividers~~subdivider to the Board for review and approval, modification or disapproval by the Planning Board. Notice of submission shall be provided to the Town Clerk in accordance with MGL c. 41, § 81T. The submission of such a definitive plan shall be made on Form C, Application for Approval of a definitive plan. Any person submitting a definitive plan



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of a subdivision of land to the Planning Board for approval shall file therewith the following:

- (a) Seventeen prints of the definitive plan, dark line on white background. Prints will be referred to other Town boards and departments for review;
  - (b) Accompanying statements as required in Subsections C and D, below;
  - (c) One properly executed application form and any other required forms on file with the Planning Board (see Appendix);
  - (d) The fee set forth in Appendix A, Planning Board Fee Schedule;
  - (e) A certified list of abutters signed by the Board of Assessors with business-sized envelopes, stamped and addressed to each abutter.
- (2) When the application is deemed complete and properly submitted by the Planning Board or its agent, it shall notify the Town Clerk in writing of the final submittal date. The final submittal date shall be the date that the completed and properly submitted application is received by the Planning Board or its agent.
  - (3) The applicant shall file by delivery or by registered mail written notice with the Town Clerk stating that a definitive plan has been submitted in accordance with MGL c. 41, § 81T, as amended, with the date of submission of the definitive plan, accompanied by a copy of the application form.
  - (4) The applicant shall file one copy of the definitive plan and one copy of the application form with the Board of Health.

### B. Contents.

- (1) The definitive plan shall be prepared by a registered professional engineer and/or land surveyor, and shall be clearly and legibly drawn in black India ink upon tracing cloth or Mylar, and shall be 24 inches by 36 inches in overall dimensions, with a one-inch margin left on one ~~24-inch~~twenty-four-inch edge of each sheet for filing purposes. The prints shall be at a scale of not less than one inch equals 40 feet, or such other scale as the Planning Board may prescribe as adequate to show details clearly. Profiles of proposed streets shall be drawn to the same horizontal scale as the plan, and with vertical scale 10 times larger unless otherwise permitted by the Planning Board, on separate tracing cloth or Mylar of the same dimensions as the plan sheets. If multiple sheets are used to show the subdivision, they shall be accompanied by an index sheet showing the entire subdivision.
- (2) The definitive plan shall show the following information:
  - (a) Subdivision name, boundaries, North point, date, and scale;
  - (b) A locus map at a scale of one inch equals 1,000 feet showing the proposed streets in relation to existing streets in the immediate vicinity;
  - (c) Name and address of record owner, applicant, and engineer or surveyor, with seal;

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- (d) Where the owner or ~~sub-dividers~~subdivider also owns or controls ~~un-subdivided~~unsubdivided land adjacent to or directly across the street from the land shown on the definitive plan, the applicant shall submit a sketch plan showing possible or prospective street layout in the event that such ~~un-subdivided~~unsubdivided land is developed, and shall also show the present drainage for such ~~un-subdivided~~unsubdivided land, natural and constructed;
- (e) Boundary lines of bordering adjacent land or of land across the street from property being subdivided and names of abutters thereon as determined from the certified list of abutters;
- (f) Existing and proposed lines of streets, ways, easements, and any public or common areas within the subdivision;
- (g) Location, direction, names, and present widths and grades of streets and public or private ways bounding, approaching, or within reasonable proximity of the subdivision;
- (h) Sufficient data to determine the location, direction, and length of every street and way line, lot line, and boundary line so as to establish these lines on the ground. The location of base lines and necessary data from which bearings and elevations may be determined may be furnished by the County Engineer's office. Should the Town establish a ~~co-ordinate~~coordinate system, all street corners must be tied into the nearest triangulation station. The relative error of closure of property line traverse shall not be less than one part in 12,000. A signed statement to this effect shall appear on the engineer's tracing cloth drawing. A copy of traverse notes shall be furnished to the Planning Board upon request;
- (i) Location and identification of all existing buildings and site features such as ~~stonewalls~~stone walls, fences, large trees and wooded areas, rock ridges and outcroppings, floodplain areas, wetlands within 100 feet of the subdivision, perennial streams within 200 feet of the subdivision, and other water bodies, including depth of water and direction of flow within or adjacent to the proposed subdivision;
- (j) Existing and proposed topography with two foot contours based on mean sea level datum, or at a suitable interval as required by the Planning Board. All buildings and physical features of abutting property that are within 50 feet of the boundary must be shown.;
- (k) Acreage of each lot, lot lines, bearings and length thereof in conformity with the Zoning Bylaw in each case;
- (l) Location of existing and proposed monuments, hydrants, public utility facilities, water pipes, sewer pipes, fire ponds and cisterns, and public water supply wells within the subdivision;
- (m) Park or open areas suitably located for conservation, playground, or recreation purposes within the subdivision, if any;

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- (n) Proposed storm drainage of land, including existing natural waterways and the proposed disposition of water from the proposed subdivision to either adequate natural drainage channels or artificial means of disposal thereof. Four copies of a runoff plan and calculations using the rational formula (as described in Seelye's Design Data Book for Civil Engineers, latest edition), based on a ten-year expectancy period, to determine necessary pipe sizes which can be no less than 12 inches in diameter. Roadways crossing brooks with a drainage area in excess of 10 acres shall be based on a twenty-five-year expectancy period. Pipe size, capacity, depth of flow and velocity of flow shall be included;
- (o) Location and purpose of all existing and proposed easements;
- (p) Location and species of proposed street trees, and/or individual trees or wooded areas to be retained within 40 feet of the ~~sideline~~ side lines of each street;
- (q) Street plans and profiles must show the percent of grade, radii and length of curves, the point of curvature, and the point of tangency of curves;
- (r) Street profiles on the center lines and ~~sideline~~ side lines of proposed streets at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet, or such other scale acceptable to the Planning Board. Profiles shall show elevation of sills of all existing structures. Present and proposed elevations must be shown at least every 50 feet and must refer to the Town base, mean sea level, if bench available within 2,000 feet of subdivision. Profile plans of roadways and appurtenances shall be derived from "on the ground" topography. Profile plans shall show roadway cross-sections together with locations of proposed underground utilities, including sanitary and storm sewer lines, water lines and their appurtenances, along with details of all structures, headwall, and retaining walls;
- (s) Approximate proposed location of principal building on each lot to comply with the provisions of the Zoning Bylaw, whenever uncertainty exists or upon the request of the Planning Board, the Board of Health, or the Conservation Commission;
- (t) Location of a minimum of two permanent benchmarks;
- (u) Suitable space to record the action and signatures of the Board members on each sheet of the definitive plan in the lower right hand corner;
- (v) Location of existing utilities, underground or overhead, indicating size, type, and location of easement;
- (w) An overlay at the same scale as the definitive plan showing the SCS interpretation of suitability for on-site sewage disposal, or showing USGS surficial geology, or both. Board of Health sanctioned testing required under Title 5 (310 CMR 15.00) may be substituted for this overlay. Test pit logs for locations selected by the Planning Board and shown on one of the above overlays, with not more than one pit per four proposed lots, selected to reveal general patterns of subsurface

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characteristics, after consultation with the Board of Health and the Conservation Commission;

- (x) Any subdivision with a lot boundary ~~with-in 1500~~within 1,500 feet of an existing Town sewer and or Town water services must tie in and extend those services to each and every lot ~~with-in~~within the subdivision, where connection to the public water system is not proposed, information indicating why such connection is not feasible, description of provisions to be made for water for fire fighting, and information adequate to allow determination of compliance with these regulations regarding potable water quality and quantity;
- (y) An erosion and dust control plan, indicating the erosion and dust control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, sediment basins, etc., and narrative description of how dust is to be controlled and how erosion from individual lots onto streets and into drainage systems is proposed to be controlled and, in the case of subdivision of more than 15 lots, review comments on the plan by the Conservation Commission and by the ~~Soil~~Natural Resources Conservation Service or by others acceptable to the Planning Board as expert in soil erosion;
- (z) Where located within a floodplain, base flood elevation (the level of the one-hundred-year flood) data for proposals greater than five acres;
- (aa) An engineer's estimate of materials with quantities required to construct roadway, utilities and appurtenances for plan as submitted.

C. Accompanying statements and data. The definitive plan shall be accompanied by four copies of the following written statements:

- (1) Existing zoning and any easements, covenants, and restrictions applying to the area proposed to be subdivided.
- (2) Logs of results of all test pits made.
- (3) Data and proposed arrangements for water supply, sewerage, and sewage disposal, including all appurtenances, as required by the Board of Health.
- (4) Drainage calculations prepared by the applicant's engineer, including design criteria, drainage area and other information sufficient for the Planning Board to verify the size of any proposed drain, swale, drainfield, culvert, bridge, or catch basin. Said calculations are to be made separately for each drainage facility showing its location, the total upstream drainage area, the percentage of impervious surfaces in the drainage area, the runoff per acre, the design runoff, facility size, slope and capacity, and the velocity of water through it. Describe any areas subject to ponding or flooding, existing or proposed flood control or wetland easements, estimated increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.
- (5) A complete list of any waivers requested from these rules, pursuant to § 310-8 herein.

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D. Development impact statement (DIS). The impact of the proposed subdivision is to be described according to the following criteria, except that in the case of subdivisions containing 20 or fewer units, the Planning Board will normally waive some or all of these requirements. Unless this requirement is waived by the Planning Board, the DIS shall be prepared by an interdisciplinary team including a registered landscape architect or architect, a registered professional or civil engineer, and a registered surveyor.

(1) Physical environment.

- (a) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.
- (b) Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

(2) Surface water and subsurface conditions.

- (a) Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the project.
- (b) Describe any proposed alterations of ~~shore lines~~ shorelines, marshes, or seasonal wet areas.
- (c) Describe any limitations imposed on the project by soil and water conditions and methods to be used to overcome them.
- (d) Describe the impact upon ground water and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the development.

(3) Circulation systems.

- (a) Explain the reasons for location of streets and intersections as shown on the definitive plan, with specific reference to criteria set forth in § 310-17, below.
- (b) Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the proposed subdivision per average day and peak hour. Such data shall be sufficient to enable the Planning Board to evaluate: ~~(a1)~~ existing traffic on streets adjacent to or approaching the proposed subdivision, ~~(b2)~~ traffic generated or resulting from the proposed subdivision, and ~~(c3)~~ the impact of such additional traffic on all ways within and providing access to the proposed subdivision. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

(4) Support systems.

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- (a) Water distribution. Discuss the types of wells proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.
  - (b) Sewage disposal. Discuss the type of system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface water and groundwater.
  - (c) Refuse disposal. Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.
  - (d) Fire protection. Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire-fighting equipment to confront potential fires on the proposed site.
  - (e) Recreation. Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.
  - (f) Schools. Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.
- (5) Phasing. Where development of the subdivision will require more than one year, indicate the following:
- (a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.
  - (b) Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into subdivision development.

### § 310-12. Review of definitive plans.

- A. Board of Health as to suitability of the land. The applicant shall file with the Board of Health two prints of the definitive plan. The Board of Health shall, within 45 days after filing of the plan, report to the Planning Board in writing and shall make specific findings as to which, if any, of the proposed lots shown on such plan cannot be used for building sites without injury to the public health, or is unsuitable because of drainage conditions. The Board of Health shall make specific findings and state reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof. The Board of Health shall determine the extent of soil evaluation, which may include deep test holes, percolation tests, and test borings, and shall determine the number of tests to be required. At the time of the filing of the definitive plan, the applicant shall stake all proposed lots and mark proposed lot numbers on said lots for identification to facilitate review by the Board of Health.
- B. On-site wastewater disposal. Notwithstanding Subsection A, a permit to construct an individual sewage disposal system for sanitary wastewater disposal shall be obtained from the Board of Health for each individual lot prior to the issuance of a building permit. A

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condition shall be recorded on the definitive plan as follows: "No building or structure shall be built or placed upon any lot without a permit from the Board of Health."

- C. Other Town officials. Before approval of a definitive plan is given, the **Planning Board** will obtain appropriate checks on the engineering and survey information shown on said plan, and written statements that the proposed improvements shown are laid out to the satisfaction of the official, as follows:
- (1) As to the design of the street system, location of easements, and design of sewerage, water, and drainage systems, including appurtenances: the planning consultant or engineer designated by the Board.
  - (2) As to location, size, and species of street trees: the Tree Warden.
  - (3) As to the form of easements, covenants, and performance guarantees: Planning Board legal counsel.
  - (4) As to location of hydrants, fire ponds and cisterns, and with regard to fire safety: the Fire Chief.
  - (5) As to street safety: the Police Chief.
  - (6) As to the location of streetlights: the Light Department.
- D. Public hearing. Before approval, modification, or disapproval of a definitive plan is given, a public hearing shall be held by the **Planning Board**. Notice of such hearing shall be given in accordance with the provisions of MGL c. 41, § 81T, as amended. A copy of said notice shall be mailed, by certified mail, to the applicant and to all owners of land submitted on Form D, Certified List of Abutters.
- E. Decision. After the public hearing, the **Planning Board** in due course will approve, modify and approve, or disapprove the definitive subdivision plan submitted. Criteria for action by the **Planning Board** shall be the following:
- (1) Completeness and technical adequacy of all submissions;
  - (2) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard, or other environment degradation;
  - (3) Conformity with the requirements of these rules and compliance with the Zoning Bylaw;
  - (4) Determination, based upon the development impact statement (where submitted), that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
- F. Mandatory conditions. Any definitive plan approved by the Planning Board shall contain the following conditions:
- (1) Failure by the applicant to obtain the endorsement of the Planning Board within six months of the date of the approval of the definitive plan shall result in the automatic

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rescission of this approval. The time for such endorsement may be extended for not more than one year upon the written request of the applicant, for good cause shown, prior to the expiration of said six-month period, and upon a vote of the majority of the Planning Board.

- (2) Failure by the applicant to complete the construction of the ways and the installation of the services shown on the definitive subdivision plan within three years of the date of endorsement shall result in the automatic rescission of this approval. The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of said three-year period, and upon a vote of the majority of the Planning Board.

### § 310-13. Performance and maintenance guarantees.

#### A. Final approval with bond or surety.

- (1) Before approval of a definitive plan, the ~~sub-dividers~~subdivider shall either file a performance bond, or deposit money or negotiable securities in an amount determined by the Planning Board as set forth below. Letters of credit are not acceptable. Passbooks shall be accompanied by a form assigning same to the Town. A bond estimate may be requested by the Planning Board; such estimate shall remain effective for 90 days. The estimate shall reflect the cost for the Town to complete work under adverse conditions which may necessitate legal fees, public bidding, and additional Town staff time. Ordinarily the Planning Board shall require an amount covering the total cost of construction of all roads and other improvements within and without the subdivision. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Planning Board legal counsel, and as to sureties by the Town Treasurer. Such bond or security shall be contingent on the completion of such improvements not later than three years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the definitive plan by the Planning Board, unless the Planning Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.
- (2) In determining the amount of the bond or surety, the Planning Board shall be guided by the following formula in setting the sum of the security:
  - (a) The Planning Board's estimate of the cost to complete the work; plus
  - (b) A ten-percent margin of error; plus
  - (c) An appropriate rate of inflation over a five-year period.

- #### B. Final approval with covenant. Instead of filing a bond or depositing surety, the ~~sub-dividers~~subdivider may request approval of the definitive plan on condition that no lot in the subdivision shall be sold and no building shall be erected thereon, until the improvements specified herein are constructed and installed so as to adequately serve said lot or lots. Such covenants shall be executed and duly recorded by the owner(s) of record, and shall run with the land. Proposed covenants shall be submitted with the definitive plan, and shall be approved as to form by the Town Counsel or Special Town Counsel. Such covenant shall



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state that the improvements shown on the definitive plan shall be completed not later than three years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the definitive plan by the Planning Board, unless the Planning Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period. Covenants and stated conditions therein shall be referred to on the plan and recorded in the Registry of Deeds. The subdivider shall promptly, after recording, send a copy of the covenant, showing book and page number, to the Planning Board.

- C. Converting covenant to another performance guarantee.
- (1) If the applicant desires that lots be released from a covenant and that the improvements remaining to be constructed or installed be secured by another form of performance guarantee, a formal written request shall be sent to the Planning Board by registered mail which sets forth and includes:
    - (a) The extent and scope of remaining work to be completed to satisfy the requirements for the construction or installation of all required ways and municipal services; and
    - (b) An estimate, pursuant to these regulations, which reflects all remaining costs related to the construction of all required ways and installation of all required municipal services; and
    - (c) The form and type of guarantee being given to the Planning Board to secure all remaining improvements.
  - (2) The Planning Board or its agent will make a determination as to the sufficiency of the submitted estimate, and, if such estimate is accepted, a new performance guarantee will be given to the Planning Board. Upon acceptance by the Planning Board of the new performance guarantee, all applicable lots shall be released from the covenant.
  - (3) No lot shall be released from the covenant until the first course of pavement serving such lot has been installed in accordance with the specifications of the approved definitive plan.
- D. Converting bond, deposit, or agreement to covenant. If the applicant desires to secure by means of a covenant the construction of ways and the installation of municipal services in a portion of a subdivision for which no building permits have been granted nor any lots have been sold, and to have the Planning Board release the bond, deposit of money or negotiable security, or agreement and mortgage previously furnished to secure such construction and installation, the applicant shall submit to the Planning Board a reproducible tracing and three contact prints of the reproducible tracing of the definitive subdivision plan, limited to that part of the plan which is to be subject to such covenant. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed on such section of the plan, and it shall be endorsed by the Planning Board and recorded with the covenant at the expense of the applicant. Certified copies of all documents which the applicant records at the Registry of Deeds shall be provided to the Planning Board as set forth in these regulations.

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- E. Maintenance guarantee. The Planning Board may require a maintenance bond for a reasonable period of time as a condition of the approval of a definitive plan, to secure the maintenance of stormwater management facilities, cisterns, fire ponds, or other improvements.

### § 310-14. Endorsement and recording of plans.

- A. Certificate of approval. The action of the Planning Board with respect to any definitive plan shall be by majority vote of the Planning Board as constituted, copies of which shall be certified and filed with the Town Clerk and sent by registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for such modification or disapproval. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Planning Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the Planning Board's action with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed.
- (1) After the definitive plan has been approved and endorsed, the applicant shall furnish the Planning Board with eight blueprints and the original thereof. The Planning Board, upon receipt of the blueprints and the original, shall send one blueprint to each of the following board or supervisors of the Town: Fire Department, Conservation Commission, Board of Health, Board of Assessors, Municipal Light Board, and Department of Public Works, and shall retain the original and two copies for its own files.
  - (2) Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.
- B. Recording of plan. Within 30 days after the return of an approved plan, the applicant shall cause to be recorded in the Registry of Deeds, and in the case of registered land with the recorder of the Land Court, a copy of the approved definitive plan and accompanying covenants and agreements, if any. Following plan approval, endorsement, and recording, the applicant shall provide the Planning Board with five prints of the definitive plan, one of which shall be certified by the Registry of Deeds as having been recorded, and one copy of final covenants and restrictions, noting book, page number, and date of recording for each. One copy of the definitive plan shall be forwarded to the Building Inspector by the Planning Board.

### § 310-15. Evidence of satisfactory performance.

- A. Submission. Before the Planning Board shall finally release a performance bond or a deposit, or in the case of approval with covenants, issue a final release of a covenant, all held pursuant to § 310-13 above, the applicant shall:
- (1) File with the Planning Board a certified copy of the layout plan of each street in the subdivision marked "As Built." In the case of approval with covenants, the applicant may show only the street or streets serving the lots for which a release is desired on the layout plan. Certification shall be by a registered professional engineer or land surveyor, and shall indicate that streets, storm drains, sewers, water mains, and their

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appurtenances have been constructed in accordance with said plan and are accurately located as shown thereon.

- (2) Obtain and submit to the **Planning** Board written evidence that the required improvements, as set forth herein, have been completed to the satisfaction of the official listed below:
  - (a) For the planting of any required street trees: Tree Warden.
  - (b) For the placing of monuments and construction of all other required improvements and the performance of all other required work: Planning Board and/or its designated agent.
  - (c) For streets and drainage, as in conformance with the approved definitive plan: Planning Board and/or its designated agent.
  - (d) For underground wiring, water mains, sanitary sewers, storm sewers, hydrants, fire ponds, and fire alarms, as in conformance with the approved definitive plan: Planning Board and/or its designated agent.

- B. The applicant shall submit written evidence that all of the required improvements stated in Subsection A(2) have been in place 12 months without damage, or, if damage has occurred, that such damaged improvements have been repaired to the satisfaction of the **Planning** Board.

**§ 310-16. Release of performance guarantee.**

- A. General. Upon completion of the improvements required under Article IV, or the performance of any covenant with respect to any lot, the applicant shall send by registered mail to the Town Clerk a statement, in duplicate, that said construction or installation in connection with any bond, deposit, or covenant has been completed in accordance with the requirements of Article IV. Such statement shall contain the name and address of the applicant, and the date of filing with the Town Clerk. The Town Clerk shall forthwith furnish a copy of the statement to the **Planning** Board. If the **Planning** Board determines that said construction or installation has been completed, it shall release the interest of the Town in such bond or deposit and return the bond or deposit to the person who furnished same, or issue a release of covenant in a form acceptable for recording. If the **Planning** Board determines that said construction or installation has not been completed, it shall specify to the applicant in writing the details wherein said construction or installation fails to comply with the provisions of Article IV. Upon failure of the **Planning** Board to so notify the applicant within 45 days after the receipt by the Clerk of said statement, all obligations under the bond shall cease and terminate by operation of law, and the deposit shall be returned, and any covenant shall become void. In the event that such forty-five-day period expires without notification by the **Planning** Board, or without the release and return of the bond, or the return of the deposit, or the release of the covenant, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which shall be recorded by the applicant.
- B. Ways and services. The **Planning** Board shall release from covenants only those lots for which installation and construction of ways and services has been completed, in accordance

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with these rules. The applicant shall submit the appropriate form when applying for the release of a lot from a covenant.

- C. **Pavement.** The Planning Board shall not release any bond, deposit, or covenant nor shall a building permit be granted for any lot until the first course of pavement has been installed with manhole covers and other structures set therein at the level of such first course.
- D. **Completion of work.**
  - (1) After the completion of the work described on the definitive plan and in its decision, the Planning Board shall retain a bond in the amount of 5% of total project costs. Cost estimates shall be estimated and submitted by the Planning Board's engineer. This bond shall cover any and all expenses accrued to the roadway and associated infrastructure and to protect the Town against damages sustained before being Town accepted at the Annual Town Meeting.
  - (2) Prior to the release of this bond, a deed for the roadway and associated infrastructure shall be delivered to the Planning Board. Prior to the release of this bond, as-built plans shall be provided to the Planning Board, and the Planning Board's agent shall certify that the improvements shown thereupon are as built on the site. Prior to release of this bond, the Town shall accept the roadway as Town approved. [Amended 11-20-2001]

### ARTICLE IV Required Improvements

#### § 310-17. General.

- A. **Design guidelines.** All subdivisions shall be designed, and improvements made by the developer, consistent with the requirements of Article IV, Required Improvements, and shall be designed to do the following:
  - (1) Reduce, to the extent possible:
    - (a) The volume of cut and fill;
    - (b) Area over which existing vegetation will be disturbed, particularly in those areas within 200 feet of a water body, having a slope of more than 15%, or overlying easily eroded soils;
    - (c) Number of mature trees removed;
    - (d) Extent of waterways altered or relocated;
    - (e) Visual prominence of man-made structures or uses not necessary for safety or orientation;
    - (f) Erosion and siltation;
    - (g) Flood damage;
    - (h) Number of driveways exiting onto existing streets;
    - (i) Disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs.

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- (2) Increase, to the extent possible:
    - (a) Visual prominence of the landscape;
    - (b) Legal and physical protection of views from public ways;
    - (c) Street layout facilitating south orientation of houses;
    - (d) Use of curvilinear street patterns.
  - (3) The location of proposed streets, parks and open spaces shall be designed so as to minimize the number of probable house sites located within 500 feet of any property valued under the provisions of MGL c. 61A. Where reasonable designs could substantially reduce the proximity of house sites to agricultural land but are not employed, an explanation for failure to do so shall be provided to the Planning Board by the applicant.
- B. Conformance with Zoning Bylaw. All lots shown on the plan shall conform with the requirements for area, dimensions, frontage, buildable area, and all other requirements of the Zoning Bylaw.
- C. Access to subdivisions. A way providing access to any subdivision must be within the Town limits, without requiring municipal service vehicles (including, but not limited to, fire vehicles, police vehicles, plows, school buses, emergency vehicles, and maintenance vehicles) to exit the Town in order to enter the subdivision. Any other access to a subdivision through another town requires certification by that town that the way in question is in accordance with the subdivision rules and regulations of the Planning Board of that town, that any bond posted for construction in that town is adequate, and that the way provides adequate access for police, fire, and emergency vehicles as well as the expected traffic generated by the subdivision. The Planning Board may require, as a condition of approval, written agreements indicating, if applicable, the services to be provided to the subdivision by the adjacent town.
- D. Open spaces.
- (1) Before approval of a plan, the Planning Board may require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall be of reasonable size, but generally not less than 5% of the area of the land to be subdivided, after considering the location and quality of the land to be set aside. The minimum area acceptable for later public acquisition shall be three acres. The Planning Board may, by appropriate endorsement on the plan, require that no building be erected on such park or parks without the approval of the Planning Board for a period of three years.
  - (2) Land designated for park or playground use shall not include wetlands, ledge, or other land unsuitable for recreation purposes.
  - (3) Any open space, park, or playground shall provide at least 50 feet of continuous frontage on a street. Pedestrian ways may be required by the Planning Board to provide access from nearby streets on which the open space, park, or playground has no frontage. Such parks or playgrounds may be required to have maintenance provided by

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covenants and agreements acceptable to the **Planning** Board, until public acquisition is completed, but in no case longer than three years.

- E. Wetlands protection. The **Planning** Board may condition its approval of a definitive plan upon the issuance of an order of conditions by the Conservation Commission of the Town, pursuant to the Wetlands Protection Act, MGL c. 131, § 40.
- F. General construction standards.
  - (1) All streets, street drains, catch basins, and appurtenances thereto shall be installed without expense to the Town.
  - (2) All right-of-way lines, drain lines, and underground municipal services shall be laid out as to line and grade by a registered professional engineer or a registered land surveyor.
  - (3) All construction details, materials, methods, and specifications shall conform to the current requirements of the Commonwealth of Massachusetts, Standard Specifications for Highways and Bridges, Boston, Massachusetts, as supplemented.
  - (4) Areas within the subdivision used previously for the extraction of gravel or borrow shall be ~~re-graded~~regraded, loamed, and in sod before final release of the performance guarantee is authorized by the **Planning** Board. All construction debris, refuse, and other solid waste shall be removed from the site, and all surplus construction material, before final release of the performance guarantee is authorized by the **Planning** Board.

### § 310-18. Streets.

#### A. Location.

- (1) All streets in the subdivision shall be designed so that, in the opinion of the **Planning** Board, they will provide safe vehicular travel and natural drainage with no drainage pockets, and that they are adjusted to the topography and provide the minimum number of intersections with existing and collector streets. Streets shall be continuous and in alignment with existing streets as far as is practicable. Due regard shall also be given by the applicant to the attractiveness of the street layout so as to promote the maximum livability and amenities in the subdivision.
- (2) Provision shall be made by the applicant, satisfactory to the **Planning** Board, for the proper projection of streets, or for access to adjoining property, if any, which has not yet been subdivided. In the alternative, the **Planning** Board may limit or prohibit the projection of streets to adjoining property where such action is in the public interest.
- (3) Subdivisions containing 10 or more lots shall have at least two noncontiguous street connections with a street or streets either existing or shown on an approved subdivision plan for which a performance guarantee has been filed.
- (4) Streets will ordinarily be required adjacent to parks, playgrounds, and schools, to provide proper access and policing of such areas.

#### B. Alignment.

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- (1) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at an angle less than 60°.
- (2) Intersections shall be separated by not less than 600 feet on collector streets, and 400 feet elsewhere.
- (3) Center-line offsets for intersecting streets shall not be less than 150 feet.
- (4) All intersections and approaches to intersections shall be cleared of any obstructions to the motorist's view and so maintained.
- (5) No street jogs with center-line offsets of less than 125 feet shall be allowed. The minimum center-line radii of curved streets shall conform to the following:
  - (a) Collector streets: 300 feet.
  - (b) Minor streets: 150 feet.
  - (c) Lanes: 150 feet.
- (6) Sight distances of at least 200 feet in each direction shall be provided at intersections, except that 300 feet shall be provided at intersections with state-numbered highways or collector streets or other streets having a speed limit of 40 ~~MPH~~ miles per hour or greater. At such intersections, the Planning Board may require intersection designs with longer turning radii and safe acceleration and deceleration features, including increased street width, increased curb radii, and use of traffic islands for channelization.
- (7) All reverse curves on collector streets shall be separated by a tangent at least 100 feet in length.
- (8) Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than 25 feet, except that a curb radius of not less than 15 feet may be allowed at intersections of lanes with minor streets.

### C. Widths. The minimum width of streets shall conform to the following:

- (1) Collector streets: 50 feet ~~for~~ right-of-way; 28 feet ~~of~~ pavement.
- (2) Minor streets: 50 feet ~~for~~ right-of-way; 26 feet ~~of~~ pavement.
- (3) Lanes: 50 feet ~~for~~ right-of-way; 24 feet of pavement.

### D. Grades.

- (1) ~~Center-~~The center-line grade for any street shall not be less than 0.75 of 1%.
- (2) Maximum center-line grades on continuous grades of 400 feet or less shall conform to the following; ~~on grades longer than 400 feet, reduce by 2% for each category:~~
  - (a) Collector streets: 7%.
  - (b) Minor streets: 10%.
  - (c) Lanes: 10%.

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~~(c) — On grades longer than 400 feet, reduce by 2% for each category.~~

- (3) On any street where the grade exceeds 6% on the approach to an intersection, a staging area with a slope of not more than 4% shall be provided for a distance of at least 40 feet from the nearest edge of the travelled intersecting way.
- (4) ~~The~~ proposed center-line grade shall not be more than 10% above or below existing center-line grade unless the Planning Board specifically waives this provision due to unusual topographic circumstances.
- (5) To the extent feasible, street grades shall be designed in relation to existing grades so as to approximately balance the volume of cut and fill made within the right-of-way, except to offset peat, boulders, or other unusable material required to be removed.

### E. Dead-end streets.

- (1) A dead-end street, whether temporary or permanent, shall not have a center-line length in excess of 800 feet from the traveled edge of the intersecting street to the furthest traveled edge of the dead-end street, unless the Planning Board specifically waives this provision due to unusual topography or other conditions.
- (2) A dead-end street shall not have a grade in excess of 3% for the last 100 feet of its closed end.
- (3) Dead-end streets shall be provided at the closed end with a cul-de-sac having a minimum radius of 57 feet of black top and a maximum radius of 68 feet of a property line.
- (4) Temporary dead-end streets shall also provide the ~~turn-around~~ turnaround set forth in Subsection E(3), which may be located in part on easements over lots, so long as contractual assurance is provided that, upon extension of the street in question, the ~~turn-around~~ turnaround shall be removed and replaced with proper plantings and landscaping. Turnarounds shall permit maneuvering without backing.
- (5) Only lanes may be permitted to be dead-end streets.
- (6) Permanent dead-end water mains shall not be allowed. Easements shall be provided where necessary to allow for extension or looping of mains through subsequent development.

### F. Construction of roadways.

- (1) Each street shall be constructed on the center line of the right-of-way; the center line of the paved surface shall coincide with the center line of the right-of-way. Pavement specifications shall be shown on detail plans submitted with the definitive plan.
- (2) The Planning Board may require slope easements where retention cannot be adequately handled within the required right-of-way.
- (3) The roadway shall be cleared of all obstructions of any kind for a distance equal to the sum of the specified width of the pavement, plus the required shoulder, sidewalk or



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swale on each side of the pavement. A greater width may be required at corners and on the inside of curves for visibility.

- (4) At least one week prior to commencement of street construction, the Department of Public Works shall be notified by certified mail of the intended commencement. The Department of Public Works shall, upon receipt of such notification, appoint an agent and instruct said agent to make continuing inspections of the work to ensure that the requirements listed below are adhered to. The inspecting agent shall furnish the ~~sub-dividers~~subdivider with a ~~check list~~checklist of steps to be completed. The ~~sub-dividers~~subdivider shall not proceed with any steps until all prior steps have been signed by the inspector as satisfactorily completed. The completed ~~check list~~checklist is to be returned to the Planning Board. Failure to submit the completed ~~check list~~checklist may be deemed sufficient cause for the Planning Board to withhold final approval of the roadway construction.
- (5) Forming the subgrade. All topsoil, ~~sub-soil~~subsoil, rocks, ledge and other unsuitable material shall be excavated to provide a gravel base depth of at least two feet within the traveled way, 12 inches for shoulders, and 10 inches for sidewalks. Unless a permit is granted by the Town for the removal of loam and topsoil, said material will be ~~stock-piled~~stockpiled on the premises for final landscaping of roadway shoulders and adjacent house lots. The depth of excavation may be reduced by written authorization of the Department of Public Works if the existing base is certified by the plan engineer as clean gravel meeting state specifications for construction. A greater depth of excavation may be required in any area where the subgrade material (clay, peat, etc.) will not support the roadway, or drainage conditions require more gravel to establish a firm foundation. Prior to placement of the gravel base course, the entire subgrade surface shall be thoroughly compacted by means of a three wheel roller weighing not less than 10 tons or equivalent pneumatic tired or vibratory compactors. After compacting, the surface shall show no deviation in excess of two inches from the grades indicated on the drawings. No gravel base course shall be placed in any subgrade area until said area has been inspected and approved by the Department of Public Works or its agent.
- (6) Placing and compacting base course materials. Base course gravel shall be placed in maximum lifts of eight inches compacted depth. The final lift is to be a finer gradation with no stones larger than three inches in diameter. The base course gravel shall be placed not less than two months prior to surfacing. All drainage and utilities are to be installed prior to placing base course gravel. The base course gravel, once approved, is not to be disturbed by digging without written authorization of the Department of Public Works.
- (7) Conditioning of base course prior to surfacing. The surface of the base course will be inspected and tested for tolerances by the Department of Public Works or its agent. Any deviations in excess of the required tolerances shall be corrected by the subdivider as directed. Any ruts or soft yielding areas in the base course shall be corrected by removing unsuitable material, adding suitable material, reshaping and recompacting as directed. The base course, immediately before surfacing, shall be fine graded to 3.5 inches below final grade as shown on the profiles on the definitive plan, with the grades

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of the street further apart than 50 feet. Grading shall be by means of a self-propelled road grader and such hand labor as may be required.

- (8) Application on permanent surface. A permanent type pavement of Class I bituminous concrete, Type I-1 shall be placed in strict accordance with the ~~Mass-Dept-Massachusetts~~ Department of ~~Public-Works~~ ~~Transportation~~ Standard Specifications for Highways, Bridges, and Waterways, Sections 460.0 through 460.62. Said pavement shall be laid in two courses, consisting of 2.5 inches compacted thickness of base mixture and 1.5 inches compacted thickness of top mixture. The completed pavement shall have a uniform compacted thickness of four inches. No permanent surface will be applied after November 1 unless authorized in writing by the Department of Public Works.
- (9) Drainage structure frames and utility boxes shall be set to the binder grade. The frames and boxes shall be raised to finish grade and set in a concrete collar just prior to final paving.

### G. Shoulders.

- (1) Roadways shall have shoulders in conformance with the following widths:
  - (a) Collector streets: five feet.
  - (b) Minor streets: five feet.
  - (c) Lanes: five feet.
- (2) Shoulders shall be pitched at 3/8 inch to the foot towards the curb or swale.
- (3) Shoulders shall have an eight inch gravel foundation, four inches of topsoil (after rolling), and be planted in accordance with § 310-21C.

### § 310-19. Stormwater management.

See also Chapter 235. Stormwater Management, of the Town Bylaws.

- A. General. Storm drains, culverts, swales, detention basins, and related facilities shall be designed to permit the unimpeded flow of all natural watercourses, to ensure adequate drainage at all low points along streets, to control erosion, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area being drained. Where determined to be appropriate to the Planning Board, stormwater may be carried on the surface of the ground and recharged (herein, "open system") rather than piped to surface water (herein, "closed system"). Peak storm discharge rate at the boundaries of the subdivision in a twenty-five-year-frequency storm shall be no higher following development than prior to development, unless authorized by the Planning Board after consultation with the Conservation Commission, and determination that the receiving wetlands or water bodies may absorb the increase, or that the provision of detention capacity is sufficient. In a floodplain, adequate drainage systems shall be provided to reduce exposure to flood hazards.
- B. Full build-out. Stormwater run-off calculations for proposed conditions should use general land use conditions that assume full build out within the existing zoning requirements. Less

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conservative values may be applied to determine peak storm discharge rate when coupled with enforceable land use restrictions.

- C. Location of detention basins. Detention basins shall not be located on a separate parcel. No detention basin shall be located within 50 feet of any lot line. Detention ponds shall have deeded easements to the Town. A bond shall be kept in the Town's detention ponds escrow for upkeep in case of owner's lack of maintenance.
- D. Storm drains.
- (1) Except where drainage swales are used, catch basins will be required on both sides of the roadway on continuous grades at intervals of not more than 250 feet. Storm drains and culverts shall be no less than 12 inches inside diameter and shall be of greater size if required by design considerations. All drains shall have a minimum of three-foot cover, except where reinforced concrete pipe is used and there the minimum cover shall be two feet. Pipe approved by the Massachusetts Department of ~~Highways~~ ~~(DOH Transportation (DOT))~~ shall be installed in accordance with DOH requirements. The ~~sub-dividers~~ ~~subdivider~~ shall specify the class of pipe to be used.
  - (2) Proper connections shall be made with any existing drains in adjacent streets or easements where they may exist and prove adequate to accommodate the drainage flow from the subdivision; and in the absence of such facilities, or the ~~adequacy~~ ~~inadequacy~~ of the same, it shall be the responsibility of the developer to extend drains from the subdivision as required a manner determined by the Department of Public Works, or Planning Board.
  - (3) Side drains during construction may be required by the Department of Public Works. Six-inch ~~sub-drains~~ ~~subdrains~~, five feet off the side line, may be required in all cuts over three feet.
- E. Catch basins. Catch basins shall be provided with grates installed and approved as to design by the Planning Board. Manholes shall be provided at changes in direction, whenever there is a change in size of pipe, and so as to eliminate the draining of one basin into another basin. Catch basins and manholes shall be constructed with standard concrete blocks, with brick and mortar or, if required by depth, of reinforced concrete, and shall have a two-foot-deep sump.
- F. Certificate of occupancy. No certificate of occupancy shall be issued for any dwelling unit in a subdivision until the stormwater management system is fully operational.

### § 310-20. Municipal services.

- A. Electricity and telephone service. Electricity and telephone service shall be provided to each lot. All electrical, telephone, and other utility wires shall be placed below ground in conduit, unless the Planning Board determines that such placement is not feasible or is not in the best interests of the Town.
- B. Fire protection. Provision shall be made for fire protection in the subdivision. The applicant shall review plans for fire protection with the Chief of the Fire Department and reach an agreement as to the method of providing adequate fire protection. A subdivision plan shall be approved only upon presentation of evidence to the Planning Board, subject to the

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approval of the Fire Chief, that adequate provisions for fire protection have been made. No certificate of occupancy shall be issued for any dwelling unit in a subdivision until all components of the fire protection system are fully operational.

- C. Streetlighting. Streetlighting shall be provided for those locations where the Planning Board, following consultation with the Selectmen Board and Municipal Light Board, recommends that the Town maintain lighting. Facilities shall be provided in accordance with the Municipal Light Department's specifications. Streetlights shall remain lit until Town approved. An escrow account may be required for payment of streetlights.
- D. Water. Evidence shall be submitted to satisfy the Planning Board of Health that adequate and potable water supply is available for each lot in the subdivision installed under roadway from existing road.
- (1) Whenever feasible, the water supply shall be from a public water supply system. Any subdivision with a lot boundary within 1,500 feet of existing Town water or sewer services must tie in and extend those services to each lot within the subdivision under the road. They shall be constructed to the Town's Sewer and Water Departments' specifications and shall conform to all inspections.
  - (2) Where a connection to the public water system is not feasible, the Planning Board shall approve a subdivision only upon its determination that the following provision for fire protection shall be met:
    - (a) A reliable year-round water supply readily accessible to the Fire Department shall be provided from natural or constructed bodies of water, such as ponds, streams or cisterns.
    - (b) Design, construction and capacity of natural and constructed bodies of water shall be approved by the Fire Department and shall comply with National Fire Protection Association (NFPA) Standard 1231, "Water Supplies for Suburban and Rural Fire Fighting."
    - (c) Cisterns shall have a minimum capacity of 30,000 gallons available for firefighting as provided for in NFPA 1231 (ISO requirement, Fire Chief's Handbook, p. 601).
    - (d) Cisterns shall be inspected by the Fire Department during construction.
    - (e) A dry hydrant installed in conformance with NFPA 1231 is required. The height of the suction connection must be approved by the Fire Department.
    - (f) Subdivisions in which all houses have residential sprinklers installed in conformance with NFPA 13, 13D or 13R shall not require additional fire protection.
  - (3) Where a connection to the public water system is not feasible, the Planning Board shall approve a subdivision only upon its determination that the well(s) on each lot is likely to be able to provide a sustained yield of five gallons per minute with water quality meeting DEP's "Drinking Water Regulations of Massachusetts," as may be amended from time to time. One test well may be required of the applicant per 10 potential lots,

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or the Planning Board's determination may be based upon the written statement of a ~~hydro-geologist~~hydrogeologist following his analysis of well records on nearby premises, subsurface conditions, and potential sources of contamination.

- (4) Subdivisions served by the Town's water system shall meet the following specifications:
  - (a) Hydrants shall be spaced no more than 500 feet apart.
  - (b) Hydrant locations shall be approved by the Fire Department.
  - (c) Minimum fire flow requirements (gallons per minute required to control a fire) shall meet National Fire Protection Association standards and be approved by the Fire Department.

### § 310-21. Other improvements.

#### A. Sidewalks.

- (1) Required locations. Sidewalks within street rights-of-way shall be provided as follows:
  - (a) Collector streets: both sides.
  - (b) Minor streets: one side.
  - (c) Lanes: one side.
- (2) Width and alignment. Sidewalk pavement shall be five feet wide on collector streets, and four feet wide elsewhere. Except at intersections, sidewalks shall be separated from the travelled way by not less than the required shoulder width. Pavement width may vary to reflect or protect existing topography, trees, ledge, and other site features.
- (3) Other walkways. Public off-street walkways, bikeways, or bridle paths may be required by the Planning Board to provide grounds, parks, shopping, transportation, open space, or community facilities, or to break up long blocks, or for any other reason that the Planning Board may determine. No such walkway, bikeway, or bridle path shall be a part of any lot in the subdivision.
- (4) Construction. Sidewalks shall have a foundation of eight inches or more of compacted gravel. The surface shall be cement of 1 1/2 inches thickness, with a proper cross-slope.

- #### B. Grass plots and slopes.
- Embankments outside the shoulders and swales shall be evenly graded and pitched at a rate not steeper than 2:1 in cut and 3:1 in fill. The Planning Board may require such banks and all other disturbed areas adjacent to the traveled way to be loamed and seeded to grass, or, after consideration of the surrounding vegetation and terrain, to be blended with such woods or natural surroundings as exist, with plantings chosen accordingly.

#### C. Plantings.

- (1) Unpaved areas within the right-of-way which have been stripped by the construction shall be graded to meet the adjoining property with a slope of not more than one -foot vertical to two feet horizontal and loamed with at least four inches of good-quality

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topsoil. These areas shall be thickly seeded with perennial grasses or other planting materials approved by the [Planning Board](#).

- (2) If the developer finds it necessary to remove any of the Town's trees, or if the Planning Board so requires, the developer shall replace any and all such trees at his own expense.
  - (3) Before removing any tree within the existing Town right-of-way, the Tree Warden shall be consulted and shall mark all trees that are not to be removed.
  - (4) Suitable existing trees within the right-of-way, if larger than four-inch caliper and located outside the shoulders, shall be preserved. Trees to be retained shall not have grade changed over their root areas more than 12 inches.
  - (5) Where suitable trees do not exist at intervals of less than 40 feet on each side of the street, they shall be provided by the developer.
  - (6) Trees to be planted shall be well-branched, nursery-grown stock with at least 2.5-inch trunk diameter at four feet above ground, and be free of injury, harmful insects, and diseases. They shall be long-lived species adapted to the local environment and approved by the Planning Board.
  - (7) New plantings shall be guaranteed by the developer for a period of one year from the date of planting.
- D. Curbing and berms. Bituminous concrete berms shall be installed on both sides of all roadways in conformity with the ~~"typical roadway cross-section"~~ [Typical Roadway Cross-Section](#), appended hereto, except where waived by the [Planning Board](#) where open drainage systems are being relied upon, and except at intersections with state-numbered highways or collector streets, where sloped granite curbing will be required.
- E. Driveway entrances. Driveway entrances shall be constructed so as to prevent drainage onto public ways. Driveways at intersections and culs-de-sac shall be spaced so as to facilitate snow removal.
- F. Monuments.
- (1) Monuments shall be installed at all street intersections; at all points of change in direction of curvature of the streets.
  - (2) Monuments must be granite or reinforced concrete, measure a minimum of four ~~by four~~ inches by four inches by four ~~inches by four~~ feet and project four inches above finished grade. Reference points are to be drilled in the top of each monument.
  - (3) Iron rods shall be installed at each lot corner along the street and as necessary to locate any easements to be deeded to the Town.
  - (4) Four major corners of each lot shall be marked with iron rods. Iron rods shall be 3/4-inch iron rod set to a depth of not less than four feet below finished grade and to project not more than six inches above finished grade.
  - (5) Placement and accurate location of all monuments shall be certified by a registered land surveyor, and indicated on the as built plan.

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**G. Signs.**

- (1) Street signs. As soon as a street is paved, street signs conforming to those placed by the Town shall be erected at each end of the through way and intersections. The word "Private" shall be lettered on a separate sign placed under the street sign. This separate sign shall be removed when the street is accepted by the Town, and replaced by a sign that says, "Not a Through Way" if it is a cul-de-sac.
- (2) Advertising signs.
  - (a) No advertising signs shall be erected that may prevent the clear view of motorists at intersections.
  - (b) All signs shall conform to the Zoning Bylaw of the Town.

**§ 310-22. Maintenance and clean-up.**

- A. General. The entire area of the subdivision must be cleaned up so as to leave a neat and orderly appearance free from debris and other objectionable materials, leaving no unfilled holes, and leaving no other artificially created hazards. A bond may be required to secure performance of this regulation.
- B. Right-of-way. The entire area within the right-of-way shall be properly maintained by the developer until accepted by the Town. Immediately prior to such acceptance, all catch basins shall be cleaned. Snow removal and sanding of the streets shall be the responsibility of the developer until such acceptance. An escrow account or maintenance bond may be required to secure performance of this regulation.

**§ 310-23. Easements.**

- A. Fire ponds and utilities. Easements for fire ponds and utilities across lots or centered on rear or side lines shall be provided, and shall be at least 20 feet wide.
- B. Stormwater easement. Where a subdivision is traversed by a watercourse, drainage waydrainageway, stream, or channel, the Planning Board may require that a stormwater easement or drainage right-of-way be provided of adequate width to provide for free flow of water in its natural course, for construction, or for other necessary purposes.

**§ 310-24. Floodplains.**

In a floodplain, all public utilities and facilities such as gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.

**§ 310-25. Private driveways.**

- A. Topping. All driveways extending from the completed road surface to the lot lines must have a topping of at least three inches of bituminous concrete. All driveway slopes must end at the street right-of-way, then continue forward to the completed road surface in the same grade as the sidewalk strip and/or shoulder in order to allow proper drainage of surface water.
- B. Curb cuts. Curb cuts for driveways shall be at least 10 feet wide and shall have a three-foot-radius flare at the pavement, except in nonresidential subdivisions where they shall be at least 24 feet wide and have a thirty-foot radius or meet the requirements of Section XI of

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the Massachusetts Amendments to the Manual on Uniform Traffic Control Devices and the Standard Municipal Traffic Code, dated January, 1987.

### § 310-26. Nonresidential subdivisions.

- A. General. Any street servicing land in a nonresidential zoning district as defined by the Zoning Bylaw shall be designed as a collector street.
- B. Requirements. The requirements herein shall be modified as follows: Roadway construction shall provide for ~~24~~<sup>a</sup> ~~twenty-four~~ inch gravel foundation, a base course of four inch Asphalt Institute Type IV mix, and ~~a~~ one inch Class I-1 bituminous concrete finish course, except that this requirement may be reduced where an alternative system is demonstrated to be adequate for anticipated traffic, using the methods specified by the Asphalt Institute Manual Series No. 1 (MS-1), Thickness Design.
- C. Storm drainage. Storm drainage shall be designed on the basis of at least 80% impervious coverage on all lots, and lawns rather than natural vegetation in buffers and other remaining areas, unless there are land use restrictions enforceable by the Town, assuring some lower level of impervious coverage and natural vegetation.

### ARTICLE V Administration

### § 310-27. Inspections.

For the protection of the Town and future residents of the subdivision, a series of inspections during the course of construction are required to ensure compliance with the approved definitive plan and these rules.

- A. Inspection requests. Inspections shall be requested by the ~~sub-dividers~~<sup>subdivider</sup> at least four full working days in advance by written notice to the ~~Planning~~ Board and its duly authorized representative.
- B. Inspections required. The ~~sub-dividers~~<sup>subdivider</sup> shall contact the Planning Board and its duly authorized representative for inspections regarding the following aspects of the subdivision, at the specified times:
  - (1) Roadbeds: following excavation of the roadbed, but prior to any backfilling.
  - (2) Drainage system: following installation of drain pipe, culverts, catch basins, and all related construction, but prior to any backfilling.
  - (3) Underground utilities: following laying of electric, telephone, and fire alarm cable in roadway and to individual dwellings, but prior to any backfilling.
  - (4) Finished gravel foundation: following application, grading, and compaction of gravel foundation.
  - (5) Pavement. Notice shall be given so that inspection may be conducted during and upon completion of paving.
  - (6) Final inspection: following completion of roadways, permanent ~~bench~~<sup>marks</sup>~~benchmarks~~, curbing, berming, walkways, grading, seeding, and cleanup.



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C. Backfilling. No water main, storm drain, catch basin, utility installation, road subgrade or foundation, or any other item of work designated for inspection shall be backfilled or paved over until inspected and approved by the Planning Board or its duly authorized representative.

**§ 310-28. Statutory references.**

For matters not covered by these rules, reference is made to MGL c. 41, § 81K through § 81GG, inclusive, as amended.

**§ 310-29. Severability.**

If any section, paragraph, sentence, clause, or provision of these rules shall be adjudged invalid, the adjudication shall apply only to the material so adjudged, and the remainder of these rules shall be deemed to remain valid and effective.

**§ 310-30. Amendments.**

These rules or any portion thereof may be amended, supplemented, or repealed from time to time by the Planning Board, after a public hearing, on its own motion or by petition.

